

By Steve Miller, RealClearInvestigations  
 March 18, 2019

# RealClear Investigations

CORPUS CHRISTI, Texas – Although part of her job description is making sure elections are fair and square, Nueces County Clerk Kara Sands hadn't given much thought to ballot fraud until a constable candidate from a nearby suburb visited her office in May 2016.

The ex-cop was familiar with how voter fraud worked, Sands said, and "he was afraid that people in Robstown were using the mail-in ballots illegally" in a Democratic primary runoff.

That galvanized the Republican official, and it wasn't long before her second-floor office became a repository of voter mischief: Cardboard boxes, ballot application envelopes, voter registration lists and other papers heaped on an aged beige couch, a round wooden table and the across the floor. Atop one stack of papers: a list of mail-in ballot applications all signed and witnessed by the same person, a clue to illegal ballot-harvesting.

Because much of the fraud involves unwitting older voters and the homebound, Sands also visits local nursing homes and knocks on the doors of voters from whom she has received complaints.



"People don't even realize their votes are being stolen," Sands said. "The harvesters come along at election time and bring food, they have these neighborhoods mapped out and they can go door to door and build relationships. Mostly elderly people are being victimized and they don't even know it."

Texas leads the nation in prosecutions of election fraud – since January 2018, 33 people have been convicted of election crimes in cases brought by the state attorney general's office, and 13 more have cases pending.

Still, many election experts believe that only hints at the fraud actually taking place. Texas, then, may hold lessons as voter mischief, especially involving mail-in ballots, is receiving intense national scrutiny: Last November, legal third-party ballot harvesting in California may have helped Democrats score upsets in congressional races, while in North Carolina similar but illegal harvesting operations prompted officials to call a new election.

Texas is like every other state in that it does not have a well-financed bureaucracy responsible for safeguarding ballot integrity. Instead, this duty largely falls to – and is jealously guarded by -- local officials in each of the state's 254 counties.

county clerk: "People  
 realize their votes are

As a result, even in Texas, exposing election fraud relies on a disorganized, ad hoc group of aggrieved candidates and political partisans who suspect foul play. Even then, they must hope to find an official like Sands willing to take on the painstaking work required to identify and investigate potentially fraudulent ballots.



"Once in a while you see the secretary of state's offices take the lead in these in some states, but it's mostly just people on the ground who report incidents," said Jason Snead, senior policy analyst at the conservative Heritage Foundation. who





In policing vote fraud, "it's mostly just people on the ground who report incidents."

Andy Jacobsohn/Dallas Morning News via Associated Press

maintains a national database that tracks voter fraud cases across the country.

These tipsters usually encounter a system geared to dismiss their claims, according to Dallas attorney (and former judge) Dan Wyde, who has represented several candidates who believe they lost because of mail-in ballot shenanigans. Wyde said local officials and courts often lack the will or the resources to handle these cases.

"The judges are under pressure not to grant a new election, and to affirm or bless the system," said Wyde, who represented a justice of the peace candidate who unsuccessfully challenged a 2010

Democratic primary in Dallas County. Wyde put on 40 witnesses.

"This is the kind of thing where it has to be the candidate that is reporting it, and they have this vested interest, so it's hard to find a neutral party to come in and look and say, 'Hey, this isn't how it's supposed to go,'" Wyde said.

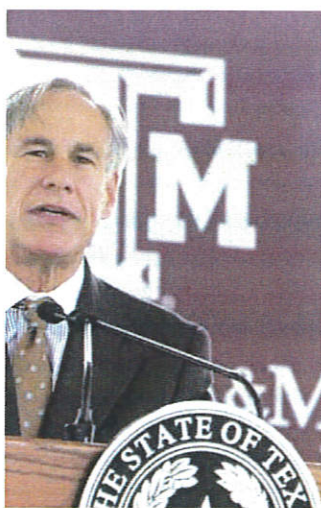
## Fraud or Voter Suppression?

Local control of elections is often an obstacle to voter fraud investigations, both in Texas and around the country. Jonathan White, an assistant attorney general and the state's top investigator of voting violations, was reminded of that in June 2017. That's when he met with officials from the Dallas County district attorney's office, including assistant DA Andy Chatham, to discuss a series of complaints from senior citizens on the west side of the city who said they had received mail-in ballots for the May municipal election that they had not requested, indicating their signatures on the application may have been forged.

Some said a man had knocked on their door, claimed he worked for the county and was there to collect their ballots.

Chatham dashed any notion of the state's attorneys getting involved.

"This is a constitutional issue," Chatham told White, pointing to statutes that allow for witnesses and assistants in the voting process. "We can handle it, but I can tell you, there is no vast voter fraud ring in Dallas."



In this case he was right. The sleuthing in Dallas netted one suspect: Miguel Hernandez, a small-time drug offender, who pleaded guilty to filling in a single mail-in ballot. The unusual thing about this case was the sentence: Hernandez received 180 days in county jail for the misdemeanor, while the vast majority of election fraud convictions in Texas end in plea deals, probation and no jail time. Hernandez, though, was on probation for other crimes when he violated the election law.

White's heard the objection before -- there's no significant election fraud in the state. Chatham's resistance was mild in comparison to the protests of others.

Civil rights groups and others who argue for ballot access also resist voter fraud investigations.

When then Attorney General Greg Abbott announced in 2005 he was allocating \$1.4



When then-Attorney General Greg Abbott announced in 2005 he was allocating \$1.4 million of a federal crime-fighting grant to investigate alleged voter fraud, civil rights groups claimed the action targeted Democrats and minorities and newspapers ran editorials criticizing the move, insisting it would discourage voters.



General and now Texas  
eg Abbott: He's accused  
Democrats and minorities  
and enforcement.

The Monitor via AP

The Texas Democratic Party and several other plaintiffs, including a city council member in Texarkana who had previously pleaded guilty to unlawfully assisting a mail-in voter, sued the Republican Abbott, who became state's governor in 2015. They lost.

Another impediment to electoral fraud crackdowns has been the efforts, mostly led by Republicans, to pass voter ID laws to clamp down on fraudulent in-person voting. Because so little effort is spent investigating such cases, no one knows how many people vote multiple times, or how many convicted felons or illegal immigrants cast ballots. But the consensus is these are rare occurrences and the focus on this form of abuse has given ammunition to those who crusade for more liberal voting laws

and dismiss allegations of voter fraud as political interference into voters' rights.

This, in turn, reduces efforts to combat mail-in ballot fraud, an abuse that few dispute. For example, in a 2014 ruling on the constitutionality of a Texas voter ID, U.S. District Judge Nelva Gonzales Ramos noted, "[W]hile there is general agreement that voting fraud exists with respect to mail-in ballots, the same was not demonstrated to be a real concern with in-person voting."



a Democrat who teamed  
party group: "Republicans  
crap around elections,  
real."

uTube/Texas Tribune

Nevertheless, election fraud cases often start with aggrieved parties and partisan political operatives rather than eagle-eyed state officials. That's what happened in some mostly Democratic precincts of Tarrant County, which long been rumored to be a haven for mail-in ballot harvesting.

The investigation started with an unlikely alliance of former Democratic state Rep. Lon Burnam and Direct Action Texas, a Tea Party-backed operation that supports a particularly conservative wing of the state Republican Party.

Burnam was a nine-term incumbent when he was defeated in the Democratic primary in March 2014 by 111 votes. He filed a lawsuit challenging the election, but money issues forced him to drop it.

"I've always been in favor of vote-by-mail programs," Burnam said. "There's a line there that you cannot step over, and it is defined by legislation. But we need to enforce that law, and it turns out it's very hard to find out when people do cross that line."

A year later, when Burnam heard Direct Action was pulling ballot applications and poring over signatures, looking for forgeries and other inconsistencies in the May 2015 general election in Tarrant County, he called them. They were sympathetic and together these unlikely partners launched a crusade to gather mail-in ballot applications and ballot envelopes to determine just what was going on.

Burnam joined Aaron Harris, then executive director of Direct Action, and a couple of Democratic consultants and headed over the Tarrant County Elections Administration office.

The group inspected the applications for the mail-in ballots. Within an hour, Harris and Burnam realized that the applications were filled out in a machine-like fashion



y-aligned outfit checks  
t applications.

exas



and Burnam realized that the applications were filed out in a machine into folders, each address and name of the requestor scrawled in identical handwriting on scores of ballots.

“Republicans claim a lot of crap around elections, but this was real,” Burnam said.

## The Mechanics of Mischief

At least half of that comment was surely gratifying to one Republican, Christine Welborn. As director of election integrity for Direct Action, she spends many days at her desk in an aged bleached concrete office building in the suburbs of Fort Worth sifting through mail-in ballot applications. As she demonstrated in January, the work is simple, but laborious. Applications for a ballot by mail must be signed by the voter. Using voter registration applications, Welborn verifies the signatures of the applicant on each document. If they don't match, it's a sign of trouble and it needs to be investigated. A person other than the voter can sign as a witness, provided they indicate their relationship to the applicant, but they cannot forge that voter's name, then send it in.



edit: A detail from this  
official Texas registration

of State

Welborn shows one such instance – the signatures clearly are mismatched, and yet the ballot application is signed by a witness, as required.

“You see this ballot application, you see this signature and you see this signature,” Welborn said, poring over a stack of copied papers. “Then you look at the original signature from the voter's registration to vote. And it's clear that someone other than the voter applied for a mail-in ballot.”

Direct Action has analyzed several elections around the state, from the urban areas to rural counties and heading to points south and east. In some cases, there's nothing. When Welborn and her associates find potential issues, they send their findings to the state, which takes it from there. Tipsters rarely hear back from investigating agents. Sometimes, there is nothing to find, and dead-ends are part of the job.

Her work, though, has led to one confirmed case by the state.

Four Tarrant County women were arrested in October for providing false signatures on mail-in ballot applications for the 2016 Democratic primary, based on the initial findings of Direct Action. Among those arrested was Leticia Sanchez, a veteran vote canvasser whose name has shown up as a paid employee of several local candidates over the years. The case is still pending.

“We've done this in mostly Democratic races,” Welborn said. “Whatever party, our goal is not to choose who wins and loses, our goal is to find the fraud. You know they don't want election fraud any more than anyone else. Everyone, regardless of their politics, wants clean elections.”

Although Direct Action has filed complaints against some Republicans, its partisan bent makes it subject to attack, especially by critics who argue that its work, and its calls to reform mail-in ballots, are really aimed at suppressing minority votes.



At a press event at a park on Fort Worth's north side in the fall of 2016, shortly after Direct Action's announced its findings that resulted in the October arrests, former Democratic state Rep. Domingo Garcia, a leader in the Dallas/Fort Worth Hispanic community, made it clear he felt Direct Action's work was politically motivated, aimed

at discouraging minority voters who tend to cast ballots for Democrats.



Garcia, Hispanic  
 're trying to rig it so  
 re Latino and African-  
 n't vote."

.com

The investigation in Tarrant County, part of the large Dallas-Fort Worth area, prompted the first reform of mail-in ballot laws in over a decade. State lawmakers passed Senate Bill 5 in 2017, creating heavier penalties for tampering with mail-in ballots and applications, including a provision that would hold a candidate or party responsible if any low-level ballot harvester can be traced to them.

The measure, like Abbott's 2005 announcement of a crackdown on election fraud, drew criticism from some quarters although by now it was tempered, even timid.

"I'm kind of here to encourage the Senate to figure out not just criminal penalties," Matt Simpson, legislative director of the ACLU of Texas, said during testimony on the state senate bill. "Are there civil penalties, are there administrative penalties, are there alternatives to turning to already-filled prisons and jails?"

"We have concerns on the criminal penalty enhancements," added Yannis Banks, legislative liaison for the Texas NAACP. He worried that having political conversations, or even helping close friends, might end up in breaking the law if an encouragement to vote a specific way were made.

"It would be a shame if someone helping someone were punished," Banks said.

*This and all other original articles created by RealClearInvestigations may be republished for free with attribution.  
 (These terms do not apply to outside articles linked on the site.)*

*We provide our stories for free but they are expensive to produce. Help us continue to publish distinctive journalism  
 by making a contribution today to RealClearInvestigations.*

Support RealClearInvestigations →

