February 27, 2013

Jeff Ashton
State Attorney
Ninth Judicial Circuit
415 North Orange Avenue
Orlando, Florida 32801

The Honorable Mr. Ashton,

This letter is to serve as an official complaint and request for a criminal investigation into the 2012 Orlando municipal election, as well as individuals possibly involved, including but not limited to, Orlando Mayor Buddy Dyer, Orlando Commissioner Sam Ings, Orlando City Clerk Alana Brenner, operative Ezzie Thomas, operative Sandra Lewis, Dyer campaign manager Craig Borkon of Sunstream Strategies LLC, Geraldine Cooper, Paula Carter, other campaign staff and other Orlando city public employees.

As citizens of Orange County and the City of Orlando, we are requesting a criminal investigation to include but not be limited to the following:

- In 2005, Buddy Dyer and Ezzie Thomas were indicted and booked for election fraud involving absentee ballots in minority communities. Voting irregularities with absentee ballots in the 2012 municipal election and actions of Mayor Buddy Dyer, Commissioner Sam Ings and operatives Ezzie Thomas and Sandra Lewis mirror those described from before, where the proven relationship between Dyer and Thomas is evident. **The grand jury presentment from 2005 against Dyer is attached.**

- Thousands of absentee ballot requests were received and accepted for this municipal election that violate the following statutes:
    - 104.047 Any person who requests' an absentee ballot on behalf of an elector and any person who marks or designates a choice on the ballot of another person
    - 104.031 False Declaration to secure assistance in preparing a ballot
    - 104.045 Vote selling
    - 104.041 Fraud in connection with casting a vote
    - 104.051 Violations, neglect of duty, corrupt practices
    - 104.047 Absentee Ballots and Voting violations
    - 102.021 Inspector's and Clerks to Conduct elections
    - 101.62 Request for Absentee ballot's
    - 104.047 Absentee ballots and voting violations

- Orlando City Clerk Alana Brenner and Assistant City Attorney Amy Iennaco cited a 2002 opinion to accept questionable absentee ballot requests and mail out absentee ballots, ignoring 2011 Florida Statutes addressing proper protocol according to FS 101.62(b).
    - **See attached emails from City Clerk Brenner and a copy of Florida Statute 101.62.**
    - Absentee ballot requests must only be held for one year, meaning the requests could be destroyed by the city as early as April 4.

- Nearly 1,000 questionable absentee ballots were identified during public records searches including, but not limited to, different color inks used for the signatures and dates, bundles of deliveries from operatives, signatures that do not cover the seal of the envelope, signatures below the seal of the envelope (meaning they were signed before ballot was inserted), matching handwriting on various ballots, harvesting and other irregularities. **A description of questionable absentee ballots is included in an attached Excel spreadsheet.**

- Orlando City Clerk Alana Brenner is a political appointee of Mayor Dyer and serves as the "Supervisor of Elections" in all City of Orlando municipal elections. Brenner ordered city staff, some making between $30-40 per hour to open, handle, tabulate and prepare the absentee ballots. These city employees handled absentee ballots prior to polls closing on April 3rd and without Supervisor of Election training or supervision. (See below for names and a full description).

- City employees selected by Clerk Brenner collected their city salary and pay during their work opening, handling and preparing absentee ballots at the Supervisor of Elections office. No city employee who participated in handling the ballots prior to polls closing requested time off of their city duties or took leave during that time, and none was paid from a City of Orlando elections budget for their time, leading to a co-mingling of funds between elections and city business.

- The 2012 Vote Processing Equipment Use Agreement and Elections Service Contract for Municipal Elections between the City of Orlando and the Supervisor of Elections is attached as **Document 1**. This document details the agreement for the SOE to administer the Orlando municipal election on April 3, 2012 and it will be referenced from time to time. The contract is also supposed to represent that a clear third party administrator is being used for the municipal elections.

- The City Clerk of Orlando ordered 133,600 ballots for a municipal election with 131,121 registered voters. The City of Orlando paid $40,748 just for ballots to be used when only 15% would turn out to vote, yet the city purchased enough ballots for 102% turnout. There is also a pattern of deceptive behavior from City Clerk Brenner in responses to public records requests detailed below.
    - These figures are for both regular (used at polls and early vote) and absentee (used for mail-in) ballots. The City of Orlando ordered these ballots using a hand-written form outlining precinct-by-precinct the number of ballots desired. **This document is attached as "Document 2" below.**
    - All ballots were printed by Magnolia Press, as selected by the Orange County Supervisor of Elections per the 2012 Elections Agreement for this election.
    - The City of Orlando, ultimately responsible for ordering the ballots per the Agreement, lists as totals on **Document 2** that ballots needed for "Polls 65%" equaled 85,300 and for "Absentees 35%" equaled 48,300. Totaling 133,600 – as is noted on the document by which ever city employee prepared it. This "2012 ballots" hand-written form shows the City of Orlando rounded all precincts, sometimes upwards, to include numbers that were greater than the actual number of registered voters. The math is also wrong on these calculations, however the totals are written at the bottom by city staff.
    - In a separate public records request, the Supervisor of Elections office provided spreadsheets showing the total ballots ordered for Election Day/Polls (65% of registered voters) equaling 84,800. This file is listed as "ORL GEN2.xls" in the email "FW: Election Day Ballots" from the SOE and attached as **Document 3**.
    - In email communications between Feb. 6 and Feb. 9 between the City of Orlando and Magnolia Press, attached as **Document 4**, the city of Orlando ordered ballots on February 6, 2012 by including the hand-written Document 1. Magnolia Press responded pointing out the calculation error, and states a total of 45,700 for absentee ballots. The City of Orlando confirms that City Clerk Alana Brenner agreed to Magnolia's number: 45,700 for absentees. This was notice to the City of Orlando of errors being committed and should have raised a red flag to keep further notice on this issue.

- On February 13, 2012, the City Clerk's Office received an invoice from Magnolia Press for ballots, attached as **Document 5**. This invoice clearly shows Quantity Shipped as 133,600 ELECTION BALLOTS and 1,250 TEST BALLOTS. The total invoice is $40,748 taxpayer dollars. The invoice was due by March 14, 2012. No action was taken on the number of ballots charged as ordered.
- Magnolia Press delivered the Absentee Ballots on February 13, 2012 and the delivery receipt is attached as **Document 6**. The total ballots delivered totals 45,700 absentee ballots and 125 test ballots.
- Magnolia Press delivered the remaining ballots on February 15, 2012 and the delivery receipt is attached as **Document 7**. The total ballots delivered totals 85,300 ballots.
- In an email from Magnolia Press to the Orange County Supervisor of Elections on February 8, 2012, it is noted that the city of Orlando is "demanding full delivery" in just a matter of days after the order and "Is that really necessary?" The email is attached as **Document 8**. It concludes Orlando's demands would leave the printer's staffer "out on the ledge…"
- In response to a Cantone records request, on May 4, 2012 the City of Orlando emailed Magnolia Press asking for clarification on the invoice and indicated that the "City Clerk calculated 131,100 ballots." and not the 133,600 invoiced 3 months ago. Included is an updated Document 1 with new calculations hand-written in equaling the previously agreed to number of 85,300 and 45,700 ballots, totaling 131,000, not 131,100. This communication is attached as **Document 9**.
- However, when prompted by Cantone's May 9, 2012 follow up public records request to supply the invoice for ballots ordered through Magnolia Press (attached as **Document 10**), the City of Orlando also provided a document dated May 10, 2012 which is labeled a "Credit Memo" for refunded ballots totaling $793 and is attached as **Document 11**.
    - The "Credit Memo" credits 2,600 ballots and a total of $793.00 on May 10, 2012. There is no Project Number included, nor any description.
    - The "Credit Memo" does not include the same logo from any official document from Magnolia Press prior, including Documents 5, 6, 7 and all emails from their employees. It also does not contain the same company information or format from the other invoices and official forms.
- In the email from Magnolia with the "Credit Memo" it clearly states that "We have reduced your account balance by the amount shown on the credit memo." This email is attached as **Document 12**. The email is dated May 10, 2012 and was sent at 9:04am.
- The city of Orlando included in a public records request by Cantone a copy of a check from Magnolia Press, written on May 10, 2012. This check is attached as **Document 13**. However, in a follow up public records request regarding the refund, at first the City Clerk claimed Orlando "internally deposited the check" and therefore had no deposit slip. She included a new copy of the check with an unidentifiable receipt, attached as **Document 14**. Days later, 8 pages were provided from the Bank of America account showing this check deposited in BOA City account, attached as **Document 15**.
- As a recap, this now means there have been several "official ballot counts" from the City of Orlando. These include:
    - According to Supervisor of Elections records request: 84,800 ballots.
    - City Clerk order sheet: 85,300 for polls and 48,300 for absentees.
    - Magnolia/City Clerk email corrections: 45,700 absentee ballots.
    - Magnolia invoice on February 13, 2012: 133,600 total ballots.
    - City follow up email in May: 131,100 total ballots.
    - Refunded/adjusted total from Magnolia on "Credit Memo": 131,000 total.

- The City of Orlando and City Clerk Brenner refuse to allow the public to view all preserved ballots, unused ballots, absentee ballots and any other materials being stored in the City Vault.

- A new metal "ballot box" for drop-off absentee ballots OUTSIDE of the Supervisor of Elections office was installed in December 2011, in the middle of the Orlando Mayoral election, according to public records requests.
    - This action could provide an easy way for fraudulent absentee ballots to be deposited without having to drop off the ballots with a SOE staffer inside, seemingly circumventing election laws limiting the number of absentee ballots one person can drop off.
    - Due to the history of ballot harvesting as documented in the indictment of Mayor Dyer years ago, the new drop box appears to open a new avenue for harvested or collected ballots to be delivered without mailing with postage. Below, note the link in number of "dropped off ballots" and times checked-in on the absentee ballot envelope analysis. It is clear that batches of ballots were deposited at the same times from areas all over the city of Orlando from the predominantly African-American precincts in Districts 5 and 6.
    - In fact, due to the metal box being outside the office, there is also less protection of the ballots as opposed to having a deposit slip that drops ballots inside the building.

- The City of Orlando contract with the Orange County Supervisor of Elections gives the SOE all responsibility for staffing, training and equipment, however, the City adds a provision in the contract stating: "Section 14: Municipality shall provide adequate staff assistance for the **opening and handling of absentee ballots** during the counting process and shall coordinate a date for the opening and counting of such absentee ballots with the SOE."
    - We confirmed with Hillsborough County Supervisor of Elections (similar sized city to Orlando) that a contract like this does NOT exist for running city of Tampa elections and that state law says the County Supervisors administer all elections. Miami-Dade and Jacksonville (Duval) would not have similar situations as they are blended city-county governments.
    - The response from the Hillsborough Supervisor of Elections is attached as **Document 16** detailing that there is no city influence in municipal elections, nor staffed in any way by city employees. It references being governed by Florida State Statute and the Tampa charter, saying indeed the County Supervisor's office is responsible.
    - The Orange County Supervisor of Elections was unable to respond to a public records request asking to prove the chain of command of all absentee ballots for April 3rd. The Supervisor of Elections can NOT confirm chain of command, nor are they able to provide a list of who handled active ballots before poll closing. This means unknown persons handled and opened real ballots cast by voters prior to polls closing while being paid by the city of Orlando for their time. The integrity of the ballot process is lost.
    - The Supervisor of Elections sent a letter from their law firm Page, Eichenblatt, Bernbaum & Bennett, PA stating they will no longer answer any questions regarding the election and that all questions must go to the City Clerk – a Dyer appointee moving forward. City Clerk Alana Brenner was first appointed by Dyer in 2004. The letter from the law firm is dated May 14, 2012 and is attached as **Document 17**.

- The March 12, 2012 Canvassing Board meeting was made up of Alana Brenner, appointee of the Mayor, Commissioner Robert Stuart, brother of Chamber of Commerce President who made an "unprecedented" endorsement of Mayor Dyer, and Commissioner Daisy Lynum, who later resigned because of a violation of the law regarding her political activity while serving on the canvassing board.

- Daisy Lynum would eventually RESIGN from the canvassing board for **violating the law** and endorsing a candidate in District 1's race (the eventual winner along with the other incumbents) and she resigned with a one-sentence email (attached as **Document 18**). Despite violating the law, Lynum would pass 2 important measures changing procedures for handling and tabulating the vote on April 3rd:
- This is a recallable offense committed by Commissioner Lynum according to Florida Statute 100.361(d): Grounds for Recall.

- At the March 12 Canvassing Board meeting, a motion was made regarding the opening and handling of absentee ballots for the April 3rd election:
  - **MOTION: Commissioner Daisy W. Lynum moved to authorize staff to begin opening all ballots meeting the adopted criteria after the public inspection period concludes at 9 a.m. on April 3, 2012, but that the ballots would not be tallied until after 7:00 p.m. that evening. The motion was seconded by Commissioner Robert Stuart and vote carried unanimously.**
  - Why were the ballots opened by staff, provided by the City according to the contract, before polls closed on April 3, 2012? Why did they change protocol and the direction of the Florida Statute and insert city paid employees to handle ballots?
  - There is no other precedent for this procedure and no apparent need is given.

- A second motion was then made regarding this very activity:
  - **MOTION: Commissioner Robert Stuart moved to authorize staff to make an advance review of all coded absentee ballots prior to presentation of the ballots to the Canvassing board. The motion was seconded by Commissioner Daisy Lynum and vote carried unanimously.**
  - This left only two members on the canvassing board, one being a political appointee of Mayor Dyer (Brenner).
  - What is a "coded absentee" ballot? Why did Commissioner Stuart have to make this motion when the prior motion seems to make this authorization already?

- Audio recordings of the canvassing board meeting were publicly requested and City Clerk Alana Brenner declined the request stating: "There is no audio recording from the March 12, 2012 Canvassing Board meeting so there are no records responsive to your request," and her email is attached as **Document 19.** The April 3rd Canvassing Board meeting recording is in our possession. It is curious why there is no recording for the March 12th meeting and possible violation of Florida's Sunshine Law.

- Leaks to media between 4pm-7pm, specifically Brighthouse News 13, about returns on absentee ballots further served as a voter suppression tactic to dampen after-work turnout by indicating Mayor Dyer and incumbents would cruise to victory with big leads. Unfortunately, when contacted for a copy of the newscasts, Brighthouse News 13 denied the request and said they do not provide copies of videos to the public.
  - This also served as a vote suppressant. Reports from Greg Fox on WESH News (a personal friend and college classmate of Dyer) at 5pm said "that turnout according to the Supervisor of Elections was at 15% at 4pm" (video of this news report on file).
  - Overall turnout, 3 hours AFTER this report, ended at 15.8% for the city. So in the final "rush" of post-work and post-results being leaked by Brighthouse News and possibly other media outlets, only yielded less than 1 percent of voters going to the polls. It would be very curious to see such little turnout in the final hours before the polls closed after work hours, considering more than a million dollars was spent on behalf of the Mayor's interests and for turnout. It also meant that absentee votes accounted for over 42% of the total vote. Unprecedented.

- Despite the illusion that there is an independent entity running the elections (the Supervisor of Elections), the responsibility to order ballots rests with the City of Orlando according to the contract. With city staff opening and handling absentee ballots prior to polls closing and the City ordering all ballots, there is no break between the incumbents and the ballot box.
    - Orange County Supervisor of Elections Bill Cowles confirmed to a County Watch meeting in January 2013 that City Clerk Brenner serves as the official "Supervisor of Elections" in municipal races, making her office directly responsible for the integrity of the elections.
    - City records show that City-paid staff DID NOT request time off to go to the Supervisor's office on Election Day to open and handle ballots. These staffers came from the Clerk's office, the legal department, Code Enforcement department and Economic Development departments – and made between $20-$40 per hour as their regular pay. The pure conflict of interest of city paid staff opening, counting and handling ballots while being paid by the City, and working for officials who were on the ballot, casts serious doubt on the entire process. It also is a violation of the law for use of municipal funds and staff.
    - The names of the City Staff (provided thus far by the City Clerk) who worked on Election Day opening and handling ballots include: City Clerk Alana Brenner, Monica Varnado (paralegal, Executive Offices), Tracey Duffield (Legal Secretary, Executive Offices), Ric Garcia (Code Enforcement Officer, Economic Development Dept), Michelle Bach (Code Enforcement Officer, Economic Development Dept), Amanda Green (Assistant City Attorney, Executive Offices), Carolyn Skuta (City Clerk Aide, Executive Offices), Amy Iennaco (Chief Assitant City Attorney, Executive Offices), Rudy Seda (Code Enforcement Officer, Economic Development Dept), Perez Goree (Audit Program Manager, Executive Offices), Melissa Corso (Temporary employee, Executive Offices) and possibly other unknown persons.
    - Copies of the City of Orlando employee profiles involved in the opening and handling of ballots as provided by the City of Orlando are attached as **Document 20**.
    - None of the employees who opened and handled ballots requested time off of their regular jobs and departments. This is proven by including a public records request for all leave requests in the month of April for the employees listed above as shown in **Document 21**. This means every one of these employees were being paid upwards of more than $40/hour to open and handle ballots on behalf of their boss – the incumbent Mayor.

- The County Supervisor of Elections, who was hired and contracted to administer the municipal election, is unable to provide the names of people who handled and opened absentee ballots, as discovered through a public records request. The Supervisor of Elections is also unable to provide information ensuring the chain of command of ballots tabulated for the results on April 3rd as the SOE has admitted by refusing to respond to public records requests on the matter.

- Over 850 absentee ballots submitted from District 5 and 6 (African-American districts in Orlando) match the SAME patterns from the election fraud case 9 years ago against Mayor Dyer and Ezzie Thomas.
    - **Ezzie Thomas and other paid staffers for Sam Ings in 2012 collecting absentee ballots and requests from African-American voters. However, why would a staffer of a Commissioner in District 6 collect absentee ballots in District 5 (Lynum) when she was not on the ballot. It is obvious that Ezzie Thomas was working for Ings AND Dyer.**
    - Dyer promised in their pre-trial diversions 9 years ago that they would not participate in these activities again. Ings was one of the people who sued Dyer. **See attached**

"Agreement Concerning Pre trial Diversion" Case Number: 05-CF-3206-O. Thomas' deposition remains sealed and we request it now be made public.

- Most ballots do not have a signature that breaks the seal of the envelope ensuring it was not tampered with.
- Many have dates and/or signatures UNDER the seal, meaning they were signed when the ballot envelope was not sealed, which is a violation of law if another then handles that ballot.
- Sandra Lewis was part of the 2005 investigation team against these types of practices and served as the notary for all collected statements against Ezzie Thomas. That team included Sam Ings, Timothy Love, Lawanna Gelzer, Ken Mulvaney and others. In 2012, Sandra Lewis now worked for Ezzie Thomas collecting ballots and making money in 2012. Sandra Lewis is listed on the expenses for Ings and is listed on original court documents from the first case against Dyer and Thomas.
- There are photographs of Thomas, Lewis and operatives in neighborhoods where questionable ballots were flagged.
- The same characters from the Fraud case against Dyer 9 years ago are all back in action.
- Samples of these ballot envelopes – as blacked out by the Supervisor of Elections – are attached as **Document 22**. These are samples of the ballot envelopes that were heavily examined, but are also heavily redacted outside of a full investigation should one request copies.

- Hundreds of absentee ballots were not stamped, yet all were delivered to the Supervisor of Elections at the same exact time. These ballots came from all over Districts 5 and 6, yet with no stamps they were delivered and checked in at the same time. This proves that ballot harvesting did occur and in an organized and planned way.
  - Cantone, Gelzer and Mulvaney warned of this directly a month ahead of the election.
  - Due to the new metal drop box outside the SOE office, there is no internal drop off records to see who delivered all these ballots nor any witnesses to what was being delivered or by whom.

- Dyer's campaign manager and Sunstream Strategies employee Craig Borkon did not follow proper election law in regards to spending campaign dollars and proper, transparent disclosure. Even after the campaign ended, Borkon and the Dyer campaign listed "Office Depot" and other reimbursements as expenses for supplies. However, during the campaign, all "supplies" and "postage" reimbursements were written out to paid staff, like Craig Borkon, in large amounts, totaling thousands of dollars. This adds to the doubt that the Dyer campaign was blatantly trying to hide what and where they were spending money and who was benefiting.

- In addition to paying operatives Ezzie Thomas and Sandra Lewis, among others to collect, complete, sign and date and then return absentee ballots, the Dyer campaign paid hundreds of local residents for "campaign services" such as "canvas." For example, on a review of Dyer campaign disclosure reports, Amaury Diaz was paid $135 for "canvas" (their campaign did not even spell canvass correctly). A note on Amaury is that he is a well-known Hispanic artist and it is more likely that this was payment for support. Mr. Diaz is 74 years old and very frail and soft-spoken. Dyer was paying his canvassers about $10/hour, but even if he was paying $12/hour that means Mr. Diaz canvassed door-to-door for over 11 hours or Dyer is once again misrepresenting how he was spending money. Dyer campaign reports are riddled with payments to various figures in the community.

- On April 3, 2012, Republican Ken Mulvaney and Democrat Lawanna Gelzer challenged numerous absentee ballots, and their official letters are attached as **Document 23**. They were

in a rushed process to review during the public inspection. As seen in **Document 24**, emails from City Clerk Alana Brenner the day before show enthusiasm to start opening ballots shortly after 9am as the public inspection concludes. This seems to show a pre-determined effort to start the opening and handling of ballots as early as possible.

- In an email from Amy Iennaco on behalf of the City of Orlando, she makes an usual statement in a one-sentence invitation. It states: "If you are available on Tuesday, April 3rd, we have **an unusual task that wee need help with. Please see me when you get a chance and I'll explain further."**
  This email is attached as **Document 25.**
- City of Orlando employees began opening ballots while the canvassing board was in session on April 3 and while active challenges were being made.

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We are asking your office to immediately seek an investigation into the numerous voting irregularities and potential absentee ballot fraud committed during the 2012Orlando municipal elections as well as the large scope of possible public corruption. Copies of this official complaint are being sent to Governor Rick Scott, Attorney General Pam Bondi and the Florida Department of Law Enforcement.

Thank you,

Mike Cantone
Citizen and Candidate for Mayor (2012)
City of Orlando
Orange County, Florida

Lawanna Gelzer
Citizen and Candidate for City Commissioner, District 6 (2012)
City of Orlando
Orange County, Florida

Presentment of the Grand Jury from 2005 against John Hugh Dyer, Jr. AKA: Buddy Dyer

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR ORANGE COUNTY,
IN THE FALL TERM THEREOF,
IN THE YEAR OF OUR LORD, TWO THOUSAND AND FIVE.

RE: ABSENTEE BALLOT PROCUREMENT
_____/

PRESENTMENT OF THE GRAND JURY

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

the Grand Jurors of the State of Florida, empaneled and sworn to inquire and true presentment make, in and for Orange County, upon their oaths do hereby present the following report concerning the procurement of absentee ballots in Orange County.

The Grand Jury met March 9th and 10th, 2005 at the request of the Brad King, State Attorney of the Fifth Judicial Circuit, to inquire into alleged of violations of Florida Statute 104.047.

For the public to understand the Grand Jury's role in this matter, we feel compelled to respond to the suggestion raised in the press that the grand jury "would indict a ham sandwich" if told to by the prosecutor. So that the public will know, the twenty one members of the grand jury are all citizens of Orange County who live, work, and have a substantial stake in our community. In evaluating the cases that come before us, we take our obligation to review facts and determine whether other citizens should be charged with crimes very seriously. In this particular investigation, we are well aware that we have no legal duty to hear and resolve this case. We choose to look into the matter of absentee ballot procurement, as that term is defined below, because we are concerned about the our elective process. We evaluated this matter based on the facts that were presented, the

FILED IN OPEN COURT
THIS 10 DAY OF March, 2005
Lydia Gardner, Clerk
BY Mfelton D.C.
Sealed 4:57pm

law as the State Attorney explained it to us, and our own common sense and good judgement. We brought to this matter our collective wisdom and concern about our community. We are offended that the uninformed would suggest that we, as a body or individually, would be led or told by anyone to make such an important decision as this which is not in keeping with our own sense of justice and fairness based upon the law and the facts. Our legal advisor has put before us the testimony of those persons with knowledge of this matter and has shown and explained to us the law that applies to this case; both as to criminal charges that could be brought and instructions concerning the weighing of evidence and determining the credibility of witnesses. He has also laid out for us our various courses of action that we can determine to take in this matter. While some or all of the competing interests or groups in this matter may be happy with our determination, we wish to make clear that our obligation is not to make any group satisfied. Our obligation is to determine what the facts are and apply those facts to the law using our collective sense of what is fair and right. We have done this knowing that our actions have serious and potentially life altering impact on those persons whose actions we have been required to judge.

Florida statute 104.047 on its face prohibits persons from giving or receiving pecuniary benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots. Hereafter we will generally refer to these various different activities of distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots as "absentee ballot procurement".

The Grand Jury heard from more than 10 witnesses regarding this matter. In summary it is clear that the campaigns of various political candidates at the municipal, county, circuit, and state

levels from 1998 forward gave pecuniary benefit, directly or indirectly, to campaign workers who were involved in the process of assisting absentee voters request from or deliver back to the supervisor of elections of Orange County their absentee ballots. At the heart of this controversy are the activities of Mr. Ezzie Thomas. By his own account he worked for a fee in political campaigns where his main function was to encourage older African American voters to participate in the elective process by absentee ballots. He did this by contacting voters that he had come to know would vote by absentee ballot and encourage them to order, vote and return their absentee ballots. In the course of this activity he assisted in ordering, requesting, collecting and possessing absentee ballots. The campaigns of Mayor Buddy Dyer, Circuit Judge Alan Apte, Senator Gary Siplin, and candidates clearly paid money to Mr. Thomas for him to work in their campaigns. Since the statute of limitations precludes criminal action on any activity that occurred prior to March, 2002, several of the earlier instances of this activity were not addressed by us.

INTERPRETATIONS OF FLORIDA STATUTE 104.047

It has been suggested that the actions of Mr. Thomas, even if known to the various campaigns or candidates who paid him, would not have violated Florida Statute 104.047. This suggestion is clearly unfounded given the straight forward wording of the statute. The statute by its clear language makes it a crime for a person to provide or accept any pecuniary gain or benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots. Given the wide dissemination of this controversy, we expect future candidates to heed the prohibitions contained herein or seek a definitive determination of the matter in the courts.

ELECTED OFFICIALS NOT ASSISTING US

As a final note, we express our great concern with the decision of Judge Apte and Senator Siplin not to come forward and assist our determination of this matter. While we understand that persons accused of crimes have the right not to testify against themselves, we believe also that obtaining a position of public trust, especially when that trust involves making or ruling on the law brings with it higher obligations. We were informed that Judge Apte was too "busy" with his workload to assist us unless subpoenaed to testify. We see through this subterfuge. Senator Siplin refused to testify without a subpoena. When that subpoena was issued by the State Attorney, Senator Siplin claimed that his service in Tallahassee was more important that his appearance before us and asked us to continue our investigation to a time convenient to him. We believe his obligation here to be of greater significance that the third day of legislative session. We are offended that while we gave time and energy at the expense of our own private occupations to hear this matter, Judge Apte and Senator Siplin were not considerate of our efforts to serve the court system.

OTHER ISSUES TO BE INVESTIGATED

We heard testimony that causes us concern that Councilwoman Wyman regularly used her office at city hall for campaign purposes in the 2004 election. Although the councilwoman denied these statements we believe that there is sufficient testimony to warrant an investigation into the use of her office for campaign purposes.

SUMMARY

In this report, we have tried to clearly explain our decisions in this matter. We are not allowed to detail the testimony of the persons who appeared before us nor are we allowed to name and criticize ordinary citizens who are called before us to give testimony unless they are charged with a crime by us. We recognize that the report may not answer every question that every person may have concerning this matter. We have done our best to resolve and explain the matters as they were before us. The secrecy provisions of grand jury proceedings prohibit the grand jurors from ever commenting publicly on this matter except for this official report.

A TRUE PRESENTMENT

FOREMAN OF THE GRAND JURY

I HEREBY CERTIFY that as authorized and required by law, I have advised the Grand Jury returning this Presentment.

Brad King

BRAD KING
ASSIGNED STATE ATTORNEY
FIFTH JUDICIAL CIRCUIT OF FLORIDA
19 NW PINE AVE
OCALA, FL 34475
352-620-3700
Florida Bar No. 341045

PRESENTED AND FILED in Open Court this 10 day of March, 2005.

LYDIA GARDNER
CLERK OF THE COURT

BY: M Felton D.C

Agreement Concerning Pre trail Diversion from 2005 case sign by John Hugh Dyer, Jr. AKA: Buddy Dyer

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR ORANGE COUNTY

THE STATE OF FLORIDA	CASE NUMBER: 05 - CF - 3206 - O
VS.	INDICTMENT FOR: PROVIDING PECUNIARY GAIN FOR ABSENTEE BALLOT POSSESSION OR COLLECTION
JOHN HUGH DYER, JR. AKA: BUDDY DYER	

_____/

Agreement Concerning Pre trial Diversion

The State of Florida, through its assigned State Attorney and the Defendant, personally and through counsel hereby agree to the following regarding the disposition of the above styled cause.

The State of Florida will dismiss the indictment filed in the above styled case.

While Mr. Dyer disagrees with the interpretation of Florida Statute 104.047 taken by prosecution in this case which is set forth in a separate letter, he voluntarily agrees that he and any of his future election campaigns will abide by the state's interpretation until there is a definitive Court ruling or legislative clarification of the matter.

John Dyer, Jr, agrees not to seek reimbursement from the State of Florida or Orange County, Florida for his costs and fees. John Dyer, Jr, agrees to reimburse the Florida Department of Law Enforcement the sum of $500 for a portion of the investigative costs expended in this case.

John Dyer, Jr, agrees to waive his rights to a speedy trial under Florida Rule of Criminal Procedure 3.191 and the Constitutions of the United States and the State of Florida.

John Dyer, Jr.

Brad King
Assigned State Attorney
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Ocala, Fl. 34471
(352) 620-3704
Florida Bar Number 341045

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(704) 849 - 6161
Orlando, Fl. 32801
Florida Bar Number

Harrison T. Slaughter, Jr.
Counsel for John Dyer, Jr.
111 North Orange Ave. Suite 700
(704) 849 - 6161
Orlando, Fl. 32801
Florida Bar Number

Certificate of Service

I hereby certify that a copy of the forgoing has been delivered to Robert A. Leventhal, 111 N. Orange Ave. Orlando, Fl. 32801 as co-counsel for the defendant the 20th day of April, 2005.

Brad King, Assigned State Attorney

Emails Attachment from City Clerk, Alana Brenner and a copy of Florida Statute 101.62.

From: Alana Brenner <alana.brenner@cityoforlando.net>
To: ken <ken@mulvaneyformayor.com>; Brian Mulvaney <bmmul@msn.com>; LawannaGelzer <LawannaGelzer@aol.com>
Cc: Bill Cowles <bill@ocfelections.com>
Subject: Fwd: Sec. 101.62(b)
Date: Tue, 28 Feb 2012 3:08 pm
Attachments: DOC022812.pdf (100K)

Good afternoon. I am forwarding an email that I received from my attorney regarding the issues that you raised this morning. Based on the information contained therein and that advice, I have authorized Mr. Cowles to proceed with the scheduled mailing of the absentee ballots. Although there are some limited exceptions (i.e. those who had a valid, standing absentee ballot request from a prior election), ballots are not being mailed to those requestors whose signatures did not match those on file with his office.

---------- Forwarded message ----------
From: **Amy Iennaco** <amy.iennaco@cityoforlando.net>
Date: Tue, Feb 28, 2012 at 2:17 PM
Subject: Sec. 101.62(b)
To: Alana Brenner <alana.brenner@cityoforlando.net>

Alana,
This morning you made me aware of a complaint from two candidates about absentee ballot requests that had been sent to the Orange County Supervisor of Elections by facsmile. Specifically, the candidates thought that the practice of sending in absentee ballot requests from electors via facsimile violated Section 101.62(b), Florida Statutes. That section provides in part that: "the supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian." After your meeting with the candidates, we spoke with Orange County Supervisor of Elections Bill Cowles and asked him not to mail out the absentee ballots today until I had an opportunity to research the issue that they raised. Mr. Cowles also confirmed that it is their practice to honor written requests signed by electors which are received via facsmile.

I also reviewed the statutory section and researched to determine if there was any case law or opinions on point. I located Division of Elections opinion # 02-12. That opinion was issued to the Republican Party of Florida Chairman Al Cardenas on August 27, 2002. The relevant statutory provision is unchanged in the time since the opinion was issued. Mr. Cardenas asked:

Are there any limitations on the delivery by a third party to the supervisor of elections of absentee ballots requests which have been duly completed and executed by the elector or a member of the elector's immediate family or legal guardian?

The Director of the Division of Elections responded that the "question you proposed is answered in the negative. The absentee ballot provisions do not prevent a third party from delivering a completed absentee ballot request to the supervisor of elections either in mail or in person." Because the opinion did not specifically mention transmittal via facsmile, I telephoned the Division of Elections and spoke with attorney Maria Matthews. I reviewed the facts with her including the specifics of the complaint made to you this morning and asked her if DE 02-12 would continue to control. She indicated that they have consistently interpreted Section 101.62(b) FS to mean that the **request** should be by the

elector but that it could be delivered by a third party. Ms. Matthews and I also discussed the fact that the request is from the elector is confirmed through the process that the Supervisor's staff goes through to verify that the signature on each request it receives matches the signature of the voter on his or her registration application. Mr. Cowles and his staff confirmed to us that if the signature on the absentee ballot request does not match that of the one on file, that the voter is not mailed an absentee ballot.

Based on my review, I recommend that you authorize Mr. Cowles to proceed with the mailing of the absentee ballots to the voters who have requested them.

Amy T. Iennaco
Chief Assistant City Attorney
City of Orlando
400 S. Orange Avenue
Orlando, FL 32801
407-246-3481

Florida has a very broad public records law. As a result, any written communication created or received by the City of Orlando officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, email addresses are public records.

If you do not want your email address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

--

Alana C. Brenner
City Clerk
400 S. Orange Avenue, 2nd Floor
Orlando, Florida 32801
407-246-2251 (phone)
407-246-3613 (fax)

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DE 02-12 - August 27, 2002

Requesting and Delivering Absentee Ballots
§ 101.62, 101.64, Florida Statutes

To: Mr. Al Cardenas, Chairman, Republican Party of Florida, Post Office Box 311, Tallahassee, Florida 32302

Prepared by: Division of Elections

Dear Mr. Cardenas:

This is in response to your request for an advisory opinion regarding absentee ballot requests. You are the Chairman of the Republican Party of Florida. Therefore, pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to render this opinion to you. You are asking for clarification as to what information is required in order for an elector, the elector's immediate family or legal guardian to properly request an absentee ballot. In addition, you are requesting information regarding the return of absentee ballot requests and completed absentee ballots. You have asked the following questions:

1. What information must an elector, or a member of the elector's immediate family or legal guardian, provide to a supervisor of elections in order to properly request an absentee ballot?
2. Are there any limitations on the delivery by a third party to the supervisor of elections of absentee ballot requests which have been duly completed and executed by the elector or a member of the elector's immediate family or legal guardian?
3. Are there any limitations on the delivery by a third party of completed absentee ballots to the supervisor of elections?

The Florida Election Reform Act, Chapter 2001-40, Laws of Florida, made many changes to the law regarding absentee ballots. Pursuant to section 101.62(1)(b), Florida Statutes, the following information must be provided by an *elector* to a supervisor of elections in order to properly request an absentee ballot: the name of the elector, the elector's date of birth, the elector's address and the elector's signature, if it is a written request. The following information must be provided by a *member of an elector's immediate family or legal guardian* to a supervisor of elections in order to properly request an absentee ballot: name of the elector for whom the ballot is requested, the elector's address, the elector's date of birth, the requester's name, the requester's address, the requester's driver's license number, if available, the requester's relationship to the elector and the requester's signature if it is a written request. Section 101.62(1)(b), Florida Statutes.

The second question you proposed is answered in the negative. The absentee ballot provisions do not prevent a third party from delivering a completed absentee ballot request to the supervisor of elections either by mail or in person.

Your third question is also answered in the negative. The Florida Election Reform Act repealed section 101.647, Florida Statutes. This section of law previously limited the return of absentee ballots by someone other than the elector to no more than two absentee ballots per election. However, effective January 1, 2002, this section of law was repealed. Therefore, there is no limit on the number of completed absentee ballots a third party may deliver to a supervisor of elections.

SUMMARY

Electors must provide their name, address, date of birth and signature (if it is a written request) to their supervisor of elections in order to properly request an absentee ballot. An elector's immediate family or legal guardian must provide the elector's name, address, and date of birth, as well as the requester's name, address, driver's license number (if available), relationship to the elector and the requester's signature (if it is a written request). Third parties may provide absentee ballot request forms to electors in order that the elector can complete the form and return it to the supervisor of elections by mail, in person or by delivery to a third party for transmittal to the supervisor. In addition, there are no limitations on the delivery by a third party of completed absentee ballots to supervisors of elections.

Sincerely,

Edward C. Kast
Director, Division of Elections

Prepared by:
Amy Tuck Whitman
Assistant General Counsel

EK/ATW/ees

101.62 Request for absentee ballots.—

(1)(a) The supervisor shall accept a request for an absentee ballot from an elector in person or in writing. One request shall be deemed sufficient to receive an absentee ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector's address.
3. The elector's date of birth.
4. The requester's name.
5. The requester's address.
6. The requester's driver's license number, if available.
7. The requester's relationship to the elector.
8. The requester's signature (written requests only).

(c) Upon receiving a request for an absentee ballot from an absent voter, the supervisor of elections shall notify the voter of the free access system that has been designated by the department for determining the status of his or her absentee ballot.

(2) A request for an absentee ballot to be mailed to a voter must be received no later than 5 p.m. on the sixth day before the election by the supervisor of elections. The supervisor of elections shall mail absentee ballots to voters requesting ballots by such deadline no later than 4 days before the election.

(3) For each request for an absentee ballot received, the supervisor shall record the date the request was made, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier, the date the ballot was received by the supervisor, and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division. This information shall be confidential and exempt from the provisions of s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees or registered committees of continuous existence, for political purposes only.

(4)(a) No later than 45 days before each presidential preference primary election, primary election, and general election, the supervisor of elections shall send an absentee ballot as provided in subparagraph (c)2. to each absent uniformed services voter and to each overseas voter who has requested an absentee ballot.

Letter to
The Governor Rick Scott,
Dated February 28, 2012

RE: Request for Investigation into election law violations of Florida Statutes

February 28, 2012

The Honorable Rick Scott
Governor
The State of Florida
The Capitol
Tallahassee, Florida

RE: Request for Investigation into election law violations of Florida Statutes

Dear Governor:

On April 3, 2012 an election has been scheduled for the City of Orlando that includes the Mayor and three (3) city council seats.

As candidates for several of those positions, it has come to our attention that several election laws as established by Florida Statute are being violated.

Specifically, over 2,000 absentee ballot requests have been received by the Orange County Supervisor of Elections (acting on behalf of the City Clerk of Orlando) by two paid political operatives, Ms. Sandra Lewis and Mr. Ezzie Thomas, that are violative of the following statutes:

1) Over six hundred (600) absentee ballot requests have been obtained by several political operatives that are operating for the campaigns of Mayor Buddy Dyer and Commissioner Sam Ings. These absentee ballot requests have been collected and faxed in by one or two individuals, neither one have been established as a 'designee' authorized to collect absentee ballot requests from relatives that are electors.
   a. This activity violates FS101.62(b)that clearly establishes the procedure for collecting up to two (2) absentee ballot requests as a designee.
   b. If Ms. Lewis is the 'designee' she is prohibited from collecting more than 'two' requests from electors. This activity also violates FS101.62.
   c. NO affidavits have been received from any elector designating either Ms. Lewis or Mr. Ezzie Thomas as 'designees."
2) Nearly 2,000 absentee ballot requests have been received for this election that violate the following statutes:
   a. 104.047 - Any person who requests' an absentee ballot on behalf of an elector.

b. 104.031 False Declaration to secure assistance in preparing a ballot.
c. 104.045 Vote selling
d. 104.041 Fraud in connection with casting a vote
e. 104.051 Violations, neglect of duty, corrupt practices
f. 104.047 Absentee Ballots and Voting violations
g. 102.021 Inspector's and Clerks to Conduct elections
h. 101.62 Request for Absentee ballot's
i. 104.047 Absentee ballots and voting violations

Officials at both the Orange County Supervisor of Elections and the Honorable Alanna Brenner, City Clerk for Orlando have been made aware of these violations and have not acted to either correct the situation nor to prevent the mailing of absentee ballots that have been clearly obtained by corrupt practices and unclean hands.

This election is clearly 'tainted' at this point and as Governor you are charged with the administration of laws, therefore we request a formal investigation by the Florida Department of Law Enforcement into the actions of paid operatives for Mayor Buddy Dyer and Commissioner Sam Ings.

Sincerely,

Ken Mulvaney
Candidate for Mayor

Mike Cantone
Candidate for Mayor

Lawanna Gelzer
Candidate for City Commissioner
District 6

Attachments:

1) Applicable Florida Statutes
2) Sample copies of actual absentee ballot requests showing violation
3) Campaign reports showing payments to campaign agents collecting the illegally obtained absentee ballot requests
4) Pre-trial intervention agreement showing that Mayor Buddy Dyer is prohibited from engaging in this illegal activity as a condition for the dismissal of Grand Jury Indictments against him and Mr. Ezzie Thomas for identical activities.

A Compilation of

THE ELECTION LAWS

of the
State of Florida

September 2011

FLORIDA DEPARTMENT OF STATE
Division of Elections

104.013 Unauthorized use, possession, or destruction of voter information card.—

(1) It is unlawful for any person knowingly to have in his or her possession any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued voter information card unless possession by such person has been duly authorized by the supervisor.

(2) It is unlawful for any person to barter, trade, sell, or give away a voter information card unless said person has been duly authorized to issue a voter information card.

(3) It is unlawful for any person willfully to destroy or deface the information card of a duly registered voter.

(4) Any person who violates any of the provisions of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 76-49; s. 1, ch. 77-174; s. 34, ch. 77-175; s. 3, ch. 91-224; s. 40, ch. 94-224; s. 1395, ch. 95-147; s. 24, ch. 98-129; s. 44, ch. 2005-278.

104.031 False declaration to secure assistance in preparing ballot.—Any person who makes a false declaration for assistance in voting, or in the preparation of his or her ballot, in any election is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 49, ch. 4328, 1895; GS 3829; RGS 5892; CGL 8156; s. 8, ch. 26870, 1951; s. 22, ch. 71-136; s. 35, ch. 77-175; s. 4, ch. 91-224; s. 613, ch. 95-147.

Note.—Former s. 99.31.

104.041 Fraud in connection with casting vote. Any person perpetrating or attempting to perpetrate or aid in the perpetration of any fraud in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 4, ch. 22014, 1943; s. 1, ch. 25385, 1949; s. 8, ch. 26870, 1951; s. 23, ch. 71-136; s. 35, ch. 77-175.

Note.—Former s. 101.14.

104.045 Vote selling.—Any person who:

(1) Corruptly offers to vote for or against, or to refrain from voting for or against, any candidate in any election in return for pecuniary or other benefit; or

(2) Accepts a pecuniary or other benefit in exchange for a promise to vote for or against, or to refrain from voting for or against, any candidate in any election,

is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 81-107; s. 25, ch. 98-129.

104.047 Absentee ballots and voting; violations.

(1) Except as provided in s. 101.62 or s. 101.655, any person who requests an absentee ballot on behalf of an elector is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who marks or designates a choice on the ballot of another person, except as provided in s. 101.051, s. 101.655, or s. 101.661, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 26, ch. 98-129; s. 34, ch. 99-2; s. 57, ch. 2001-40; s. 54, ch. 2005-278.

104.051 Violations; neglect of duty; corrupt practices.—

(1) Any official who willfully violates any of the provisions of this election code shall be excluded from the polls. Any election official who is excluded shall be replaced as provided in this code.

(2) Any official who willfully refuses or willfully neglects to perform his or her duties as prescribed by this election code is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any official who performs his or her duty as prescribed by this election code fraudulently or corruptly is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any supervisor, deputy supervisor, or election employee who attempts to influence or interfere with any elector voting a ballot commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 30, ch. 4328, 1895; s. 10, ch. 4537, 1897; s. 16, ch. 14715, 1931; s. 4, ch. 18407, 1937; GS 215, 3824; RGS 259, 5885; CGL 315, 8148; 1936 Supp. 8151(1); 1940 Supp. 7476(8); ss. 3-E, 4, 7, 8, ch. 22018, 1943; s. 8, ch. 26870, 1951; s. 42, ch. 28156, 1953; s. 24, ch. 71-136; s. 35, ch. 77-175; s. 21, ch. 90-315; s. 614, ch. 95-147; s. 27, ch. 98-129.

104.0515 Voting rights; deprivation of, or interference with, prohibited; penalty.—

(1) All citizens of this state who are otherwise qualified by law to vote at any election by the people in this state or in any district, county, city, town, municipality, school district, or other subdivision of this state shall be entitled and allowed to vote at all such elections without distinction according to race, color, or previous condition of servitude, notwithstanding any law, ordinance, regulation, custom, or usage to the contrary.

(2) No person acting under color of law shall:

(a) In determining whether any individual is qualified under law to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under law to other individuals within the same political subdivision who have been found to be qualified to vote; or

(b) Deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under law to vote in such election. This paragraph shall apply to absentee ballots only if there is a pattern or history of discrimination on the basis of race, color, or previous condition of servitude in regard to absentee ballots.

(3) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

CHAPTER 102

CONDUCTING ELECTIONS AND ASCERTAINING THE RESULTS

102.012 Inspectors and clerks to conduct elections.
102.014 Poll worker recruitment and training.
102.021 Compensation of inspectors, clerks, and deputy sheriffs.
102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.
102.071 Tabulation of votes and proclamation of results.
102.091 Duty of sheriff to watch for violations; appointment of special officers.
102.101 Sheriff and other officers not allowed in polling place.
102.111 Elections Canvassing Commission.
102.112 Deadline for submission of county returns to the Department of State.
102.121 Elections Canvassing Commission to issue certificates.
102.131 Returns before canvassing commission.
102.141 County canvassing board; duties.
102.151 County canvassing board to issue certificates; supervisor to give notice to Department of State.
102.155 Certificate of election.
102.166 Manual recounts of overvotes and undervotes.
102.168 Contest of election.
102.1682 Judgment of ouster; revocation of commission; judgment setting aside referendum.
102.1685 Venue.
102.169 Quo warranto not abridged.
102.171 Contest of election to Legislature.

102.012 Inspectors and clerks to conduct elections.—

(1)(a) The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint an election board comprised of poll workers who serve as clerks or inspectors for each precinct in the county. The clerk shall be in charge of, and responsible for, seeing that the election board carries out its duties and responsibilities. Each inspector and each clerk shall take and subscribe to an oath or affirmation, which shall be written or printed, to the effect that he or she will perform the duties of inspector or clerk of election, respectively, according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election. The oath may be taken before an officer authorized to administer oaths or before any of the persons who are to act as inspectors, one of them to swear the others, and one of the others sworn thus, in turn, to administer the oath to the one who has not been sworn. The oaths shall be returned with the poll list and the returns of the election to the supervisor. In all questions that may arise before the members of an election board, the decision of a majority of them shall decide the question. The supervisor of elections of each county shall be responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.

(b) If two or more precincts share the same building and voting place, the supervisor of elections may appoint one election board for the collocated precincts. The supervisor shall provide that a sufficient number of poll workers are appointed to adequately handle the processing of the voters in the collocated precincts.

(2) Each member of the election board shall be able to read and write the English language and shall be a registered qualified elector of the county in which the member is appointed or a person who has preregistered to vote, pursuant to s. 97.041(1)(b), in the county in which the member is appointed. No election board shall be composed solely of members of one political party; however, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party. Any person whose name appears as an opposed candidate for any office shall not be eligible to serve on an election board.

(3) The supervisor shall furnish inspectors of election for each precinct with the list of registered voters for that precinct. The supervisor shall also furnish to the inspectors of election at the polling place at each precinct in the supervisor's county a sufficient number of forms and blanks for use on election day.

(4) The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment. The election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011.

History.—s. 20, ch. 3879, 1889; RS 174; s. 24, ch. 4328, 1895; s. 8, ch. 4537, 1897; GS 205; RGS 249; s. 1, ch. 8587, 1921; CGL 305; s. 2, ch. 17898, 1937; s. 2, ch. 25384, 1949; s. 6, ch. 26870, 1951; s. 38, ch. 28156, 1953; s. 25, ch. 29934, 1955; s. 10, ch. 57-166; s. 1, ch. 63-53; s. 1, ch. 65-416; s. 1, ch. 67-168; s. 1, ch. 67-385; s. 1, ch. 73-151; s. 25, ch. 77-175; s. 43, ch. 79-400; s. 1, ch. 80-264; s. 50, ch. 81-259; s. 19, ch. 84-302; s. 1, ch. 89-46; s. 596, ch. 95-147; s. 22, ch. 98-129; s. 3, ch. 2000-249; ss. 27, 65, ch. 2001-40; s. 52, ch. 2005-277; s. 43, ch. 2005-278; s. 11, ch. 2010-167; s. 4, ch. 2011-4.

Note.—Former s. 99.03.

102.014 Poll worker recruitment and training.

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. The Division of Elections shall develop a statewide uniform training curriculum for poll workers, and each supervisor shall use such curriculum in training poll workers. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on an

(3) The return mailing envelope shall contain a statement in substantially the following form:

VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a qualified voter in this election and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

(Signature)

(Residence Address)

(4) If the ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the supervisor of elections as provided in this subsection. An elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost, or not received and present such statement to the supervisor of elections prior to 7 p.m. on the day of the election. The supervisor of elections shall keep a record of each replacement ballot provided under this subsection.

(5) A ballot shall be counted only if:

(a) It is returned in the return mailing envelope;

(b) The elector's signature has been verified as provided in this subsection; and

(c) It is received by the supervisor of elections not later than 7 p.m. on the day of the election.

The supervisor of elections shall verify the signature of each elector on the return mailing envelope with the signature on the elector's registration records. Such verification may commence at any time prior to the canvass of votes. The supervisor of elections shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. If the supervisor of elections determines that an elector to whom a replacement ballot has been issued under subsection (4) has voted more than once, the canvassing board shall determine which ballot, if any, is to be counted.

(6) The canvassing board may begin the canvassing of mail ballots at 7 a.m. on the sixth day before the election, including processing the ballots through the tabulating equipment. However, results may not be released until after 7 p.m. on election day. Any canvassing board member or election employee who releases any result before 7 p.m. on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) With respect to absent electors overseas entitled to vote in the election, the supervisor of elections shall mail an official ballot with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each such elector on a date sufficient to allow such elector time to vote in the election and to have his or her marked ballot reach the supervisor by 7 p.m. on the day of the election.

(8) A ballot that otherwise satisfies the requirements of subsection (5) shall be counted even if the elector dies after mailing the ballot but before election day, as long as, prior to the death of the voter, the ballot was:

(a) Postmarked by the United States Postal Service;

(b) Date-stamped with a verifiable tracking number by common carrier; or

(c) Already in the possession of the supervisor of elections.

History.—s. 1, ch. 87-364; s. 585, ch. 95-147; s. 42, ch. 2005-277; s. 29, ch. 2007-30.

101.6104 Challenge of votes.—If any elector present for the canvass of votes believes that any ballot is illegal due to any defect apparent on the voter's certificate, the elector may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of such ballot, specifying the reason he or she believes the ballot to be illegal. No challenge based upon any defect on the voter's certificate shall be accepted after the ballot has been removed from the return mailing envelope.

History.—s. 1, ch. 87-364; s. 586, ch. 95-147.

101.6105 Absentee voting.—The provisions of the election code relating to absentee voting and absentee ballots shall apply to elections under ss. 101.6101-101.6107 only insofar as they do not conflict with the provisions of ss. 101.6101-101.6107.

History.—s. 1, ch. 87-364.

101.6106 Application of other election laws.—All laws that are applicable to general elections are applicable to mail ballot elections to the extent applicable.

History.—s. 1. ch. 87-364.

101.6107 Department of State to adopt rules.—The Department of State shall adopt rules governing the procedures and forms necessary to implement ss. 101.6101-101.6107.

History.—s. 1, ch. 87-364.

101.62 Request for absentee ballots.—

(1)(a) The supervisor shall accept a request for an absentee ballot from an elector in person or in writing. One request shall be deemed sufficient to receive an absentee ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector's address.
3. The elector's date of birth.
4. The requester's name.
5. The requester's address.

6. The requester's driver's license number, if available.

7. The requester's relationship to the elector.

8. The requester's signature (written requests only).

(c) Upon receiving a request for an absentee ballot from an absent voter, the supervisor of elections shall notify the voter of the free access system that has been designated by the department for determining the status of his or her absentee ballot.

(2) A request for an absentee ballot to be mailed to a voter must be received no later than 5 p.m. on the sixth day before the election by the supervisor of elections. The supervisor of elections shall mail absentee ballots to voters requesting ballots by such deadline no later than 4 days before the election.

(3) For each request for an absentee ballot received, the supervisor shall record the date the request was made, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier, the date the ballot was received by the supervisor, and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division. This information shall be confidential and exempt from the provisions of s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees or registered committees of continuous existence, for political purposes only.

(4)(a) No later than 45 days before each presidential preference primary election, primary election, and general election, the supervisor of elections shall send an absentee ballot as provided in subparagraph (c)2. to each absent uniformed services voter and to each overseas voter who has requested an absentee ballot.

(b) The supervisor of elections shall mail an absentee ballot to each absent qualified voter, other than those listed in paragraph (a), who has requested such a ballot, between the 35th and 28th days before the presidential preference primary election, primary election, and general election. Except as otherwise provided in subsection (2) and after the period described in this paragraph, the supervisor shall mail absentee ballots within 2 business days after receiving a request for such a ballot.

(c) The supervisor shall provide an absentee ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor or any other address the elector specifies in the request.

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters. The absent uniformed services voter or overseas voter may designate in the absentee ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the absentee ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.

4. By delivery to a designee on election day or up to 5 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

(5) If the department is unable to certify candidates for an election in time to comply with paragraph (4)(a), the Department of State is authorized to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters.

(6) Nothing other than the materials necessary to vote absentee shall be mailed or delivered with any absentee ballot.

History.—s. 2, ch. 7380, 1917; RGS 369; CGL 430; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 32, ch. 28156, 1953; s. 21, ch. 29934, 1955; s. 2, ch. 59-213; s. 32, ch. 65-380; s. 1, ch. 67-33; s. 2, ch. 69-136; s. 4, ch. 69-280; s. 2, ch. 70-93; ss. 1, 2, ch. 71-149; s. 5, ch. 73-157; s. 39, ch. 73-333; s. 2, ch. 75-174; s. 21, ch. 77-175; s. 40, ch. 79-400; s. 2, ch. 83-16; s. 6, ch. 83-251; s. 1, ch. 85-226; s. 4, ch. 86-199; s. 4, ch. 87-363; s. 2, ch. 87-538; s. 28, ch. 89-338; s. 20, ch. 90-360; s. 587, ch. 95-147; s. 3, ch. 96-57; s. 25, ch. 96-406; s. 13, ch. 98-129; s. 32, ch. 99-2; s. 6, ch. 99-140; s. 52, ch. 2001-40; s. 5, ch. 2001-75; s. 18, ch. 2003-415; s. 6, ch. 2004-33; s. 43, ch. 2005-277; s. 37, ch. 2005-278; s. 16, ch. 2005-286; s. 30, ch. 2007-30; s. 7, ch. 2010-167; s. 37, ch. 2011-40.

Note.—Former s. 101.02.

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form: