Interagency Cooperation- Criminal Prosecution

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What are our goals?

- Providing confidence within our local communities for the functioning of their elections;
- Providing confidence that credible allegations will be timely reviewed and investigated;
- Facilitating streamlined resolution of potential criminal referrals through clear communication among team members; and
- Preventing the inappropriate use of the criminal justice process to improperly influence ongoing elections or to undermine public confidence.

How do we get there?

Cultivating contacts into a cohesive team.

Using your team to build your roadmap, before you need it.

Remembering that, if you build it, they will come.

Cultivating Contacts Into a Team

- Who should I be reaching out to?
  - Local District/County Attorney Office
  - Local Police Departments
  - Local Sheriff's Office
  - Local Constables Offices
  - Other stakeholders or "conveners" for your community

The Role of a Prosecutor

"It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict, but to see that justice is done."- *Texas Code of Criminal Procedure*

Your prosecutor partners will ultimately be the one to review the available evidence and decide if criminal charges are appropriate.

The Role of a Prosecutor

Be aware that some prosecutor offices may only want to step into a case after it has been thoroughly reviewed by law enforcement with a recommendation.

In this case, law enforcement will be your primary partner in developing a system of dealing with criminal complaints.

The Role of Law Enforcement

- Your law enforcement partners will usually be the main investigatory actor in any submitted complaint.
- They should be the main actor speaking to witnesses and investigating specific law violations.
- They will gather the evidence and make a recommendation to or coordinate directly with the prosecutor's office on a final resolution to the case.

How do I develop our team?

Foster Experts Within Your Taskforce

Encourage Communication Within Your Team

Use your team to build your roadmap.

Important Questions to Guide Your Roadmap

How are you going to intake referrals?

What is the flow of referrals?

Who is doing what investigation?

At what point does an arrest decision occur?

How expedited do we want our process?

Example Protocol

Citizen Reporting

Signage/online notices direct public to report issues to elections office *AND* local law enforcement

Elections office sorts reports into:

1) procedure questions

(i.e.- how do I register?)

2) non-criminal complaints (i.e.- line moving slow)

3) potential legal violations

Elections office documents substance of communication and, in the 3rd category, refers to appropriate law enforcement agency

Pre-Intake Investigation

Law enforcement officer reviews complaint to determine whether it, if true, is a legal violation.

If the complaint would constitute a legal violation, officer contacts citizen and conducts follow-up investigation.

Once all information is collected, officer submits the case to the local prosecutor's office as a 'case-review' referral.

Prosecutor Screening

Upon receipt, prosecuting agency reviews complaint and investigation results.

Prosecutor reviews applicable law, requests any follow-up information, and makes a charging decision.

Notifies the elections office and law enforcement agency of the charging decision.

If you build it, they will come.

- Once the public knows that you have this system, expect it to be utilized, both appropriately and inappropriately.
- Be prepared for the dangers of referrals made to influence the outcome of a pending election.
  - Many citizens will seek to abuse the process by “making a report” in order to publicize that an investigation is “ongoing.”
  - Do not be surprised if the media contacts you regarding an “open investigation” stemming from a report.

If you build it, they will come.

- Because of this, all citizens making an initial report should be informed that that most complaints will be reviewed after the date of the contested election.
- Agencies should discuss having a ‘no comment’ policy regarding the receipt of a complaint or status of an investigation.
- Any procedure should leave open the flexibility for an expedited response to respond to serious and ongoing illegal conduct that could undermine or impact the results of the election.