

	Results
1.	Some say voting law being used to scare minorities: Planned lawsuit to argue Texas AG is trying to dilute their poll strength The Houston Chronicle, September 19, 2006 Tuesday, B; Pg. 1 Metfront, 1152 words, POLLY ROSS HUGHES, Houston Chronicle Austin Bureau, Staff

[Return to List](#)

1 of 1 DOCUMENT

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3 STAR EDITION

Some say voting law being used to scare minorities; Planned lawsuit to argue Texas AG is trying to dilute their poll strength

BYLINE: POLLY ROSS HUGHES, Houston Chronicle Austin Bureau, Staff

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AUSTIN - Willie Ray, 69, said she thought she was teaching her granddaughter civic lessons in democracy, but instead the two black women in Texarkana ended up with criminal records for voter fraud.

Gloria Meeks of Fort Worth, also 69, said she stepped out of her morning bath last month and screamed.

Two voter fraud investigators from Attorney General Greg Abbott's office were peeking in her bathroom window, Meeks said in a sworn statement. Abbott's office declined to discuss specifics but said its investigation of Meeks has been "conducted professionally and properly, to the full extent allowed by law."

At issue for the women and others investigated by Abbott is a 2003 Texas law that makes it a crime to put other voters' absentee ballots in the mail or deliver them to election officials.

Backers of the law say it's needed to prevent election fraud by paid political operatives who take advantage of the elderly or even steal their votes. Detractors say the law is overly broad, goes too far in criminalizing legitimate political activity and infringes on voters' rights to assistance.

Suit alleges intimidation

This week a Washington-based voting rights attorney aligned with Texas Democrats plans to challenge the state law in federal court, arguing it violates the Voting Rights Act and the U.S. Constitution's guarantees of free speech, free association and equal protection.

Democrats complain, and the suit will argue, that Abbott is selectively enforcing the law against Hispanics and blacks to intimidate minority voters and dilute their strength at the polls.

Abbott, a Republican, said he's enforcing state law to root out an "epidemic" of fraud and to prevent "cheaters" from abusing or intimidating the elderly or disabled. For too long, he argues, Texas officials have failed to hold accountable those who undermine the electoral process.

"This has to do with breaking state law, falsifying state documents, registering illegal people to vote, casting votes for people who are dead, casting votes for other people," he said.

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Abbott announced in August the indictment of a Hispanic Port Lavaca city councilwoman on allegations she falsely registered and encouraged noncitizens to vote and told one voter how to mark a ballot. Last month a Corpus Christi woman pleaded guilty to marking ballots for other voters without their consent, a third-degree felony. And, in July 2005, another woman pleaded guilty to mailing in a ballot for her dead mother.

Legal until 2003 law

Yet, of the 13 individuals indicted on charges of voter fraud by Abbott, 10 are accused of simply possessing another's absentee ballot for delivery to election officials or to a mailbox, Democrats say. Such activities had been legal until the 2003 law turned them into crimes.

Both Democratic and Republican political activists have traditionally assisted elderly or home-bound voters who need help in voting, said attorney J. Gerald Hebert, executive director of the Washington-based Campaign Legal Center, who plans to file the lawsuit on behalf of Democrats.

"Now, merely possessing the mail-in ballot of another person is a misdemeanor. If you do it for several voters, it becomes a felony. It is my view that this is unconstitutional," said Hebert, who headed the U.S. Justice Department's voting section of the civil rights division until 1994.

Democrats also complain that of the 13 individuals indicted by Abbott for voter fraud, 12 are minority women while one is a white male. Moreover, Abbott's voter fraud indictments include no Republicans.

"I think it's evident that Abbott's practice of singling out minorities and seniors is a shallow political effort to suppress the votes," said Texas Democratic Party spokeswoman Amber Moon. "It's being done disingenuously. The majority of these cases are well-meaning folks who are simply trying to help their neighbors to vote."

Stop underhanded tactics

Former state Rep. Steve Wolens, a Democrat from Dallas, authored the 2003 law creating criminal penalties for individuals who knowingly possess or transport another voter's ballot.

It is an affirmative defense to prosecution, however, if the person assisting the voter is a relative, a registered voter living at the same address or if the individual provides his or her printed name, signature and address on the outside of the envelope carrying the ballot.

Wolens said he wrote the law to stop underhanded tactics used against him and against his wife in her first Dallas mayoral race.

"The problem I had seen was where these vote harvesters would go to old folks homes and bring empty ballots - and vote for the actual voter - and then deliver them in these sacks just like piles of stolen money," he said.

Lawyers from the Texas NAACP and the Mexican American Legal Defense and Educational Fund testified against the law.

Nina Perales, an attorney for MALDEF, said many elderly Latinos vote absentee because they fear intimidation at the polls. It is common, she said, for trusted women in the community known as *politiqueras* (political women) or *comadres* (co-mothers) to help the elderly apply for absentee ballots and return to pick them up. The women sometimes are paid by campaigns, but Perales said she sees nothing wrong with helping homebound people vote.

State Rep. Marc Veasey, D-Fort Worth, said blacks and Hispanics could fear voting in the future, especially if investigators visit their homes and ask questions about how they cast their ballots.

"You're sending a bad message to people who have already had to go through quite a bit as far as their voting rights are concerned," he said.

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Agreed to plead

Abbott's PowerPoint primer on voter fraud, "Investigating Election Code Violations," illustrates the discriminatory nature of his enforcement, Hebert argues, because it cues law enforcement to link voter fraud with black voters.

One slide alerts authorities to look for evidence of fraud on documents, especially specialty stamps. It depicts a sickle cell anemia stamp of a black woman holding a black baby, a stamp often used by blacks.

Another slide shows five black people in line for early voting, noting "all laws apply," while no white or Caucasian people are shown voting in the 71-slide presentation.

Abbot spokesman Tom Kelley said the stamp depicted was among evidence gathered in one investigation, but there was "absolutely no reason whatsoever" that the presentation only portrays blacks voting.

Willie Ray, a Texarkana city councilwoman, said she had hoped during the general election of 2004 to teach her granddaughter, Jamillah Johnson, 30, how to help the homebound.

The two agreed to plead guilty to misdemeanor charges of handling absentee ballots, but Ray wonders what effect Abbott's prosecutions will have on absentee voting this fall.

"A lot of blood has been shed for the rights of people to vote," she said. "I just hope those rights are not taken away or people are frightened so bad they won't vote."

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