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**TO: VOTER PROTECTION ATTORNEYS  
ELECTION JUDGES  
POLL WATCHERS**

**FROM: PHILIP H. HILDER  
OBAMA VOTER PROTECTION COORDINATOR  
HOUSTON AREA**

**RE: ELECTIONEERING RULES PROHIBIT TOILET PLUNGERS IN  
POLLING PLACE**

**SUBJECT: ELECTION DAY CAMPAIGN GUIDE**

**DATE: NOVEMBER 3, 2008**

Republican County Commissioner Steve Radack, in Houston, Texas has stated that he purchased over 1,000 toilet plungers to distribute at the polling places on Election Day. Mr. Radack is encouraging people to take plungers with them to the voting place, in support of *Joe The Plumber*, an Ohio plumber and associate to the McCain Campaign.

It is our position that voters who bring plungers into the polling place or within 100 feet may violate the Texas Election Code. It is the duty of an Election Judge to keep the polling place free from electioneering. That said, it is in the Campaign's desire not to be confrontational.

#### **ELECTIONEERING PROHIBITED IN POLLING PLACE AREA**

Under the Texas Election Code, § 61.003 (a) (2), **electioneering for or against any candidate within 100 feet of the polling place is prohibited during the voting period.** The "voting period" constitutes the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later. § 61.003 (b). The Code provides that the 100 feet is measured from outside a door through which any voter may enter the building in which a polling place is located. An offense under this section is a Class C misdemeanor.

Under § 61.008 (a), no person may unlawfully influence another voter. **A person commits such an offense if the person indicates to a voter in a polling place by word, sign, or gesture how the person desires the voter to vote or not vote.** §61.008 (b) **An offense under this section is a Class B misdemeanor.** §61.008 (c).

Lastly, under § 61.010 (a), no person may wear a badge in a polling place. **This rule prohibits any person from wearing a badge, insignia, emblem, or other similar**

*communicative device relating to a candidate, measure, or political party appearing on the ballot*, or to the conduct of the election, in the polling place or within 100 feet of any outside door through which a voter may enter the building in which the polling place is located. *Id.* An offense under this subsection is a Class C misdemeanor. *Id.* (c).

## **PLUNGERS REPRESENT SUPPORT FOR A PRESIDENTIAL CANDIDATE**

**The statutes outlined above were designed to keep anything associated with a candidate outside the polling area.** An association between the plunger and support John McCain was made by Steve Radack, the Harris County Commission for the Republican Party. Mr. Radack sent out releases on the internet stating: *"I am calling for a national movement in support of "Joe the Plumber" and McCain on Tuesday. Joe represents the real America. He's a hardworking, middle-class guy who is concerned about being taxed out of a job," said Radack. "I am doing this for all Americans who support Joe "The Plumber" and are concerned about small businesses surviving if Obama is elected."*