

**Watchers at Polls
§ 102.031(3)(a), 106.23(2) Florida Statutes**

To: The Honorable Donna Bryant, Supervisor of Elections, Osceola County Elections Office, 330 N. Beaumont Avenue, Kissimmee, Florida 34741

Prepared by: Division of Elections

Dear Ms. Bryant:

This is in response to your request for an advisory opinion regarding the presence of watchers at an upcoming election. You are the Supervisor of Elections for Osceola County and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you. You essentially ask the following:

Do the provisions of section 102.031(3)(a)6., Florida Statutes, apply to Department of Justice personnel who wish to enter the polling place during an election?

Section 102.031(3)(a), Florida Statutes, provides that "[n]o person may enter any polling room or polling place where the polling place is also a polling room, during voting hours." This section also provides for seven exceptions, including "[l]aw enforcement officers or emergency service personnel there with the permission of the clerk or a majority of the inspectors." 102.013(3)(a)6., Florida Statutes.

The Attorney General is the head of the Department of Justice. 28 U.S.C.A. § 503. In this capacity, the Attorney General is vested with all functions of other officers of the Department of Justice as well as functions of agencies and employees of the Department of Justice and may delegate any of these functions. 28 U.S.C.A. § 509, 510. It is within these vested functions as well as the delegation authority that attorneys serving under the Attorney General may also act as law enforcement officers. For example, a United States Attorney, appointed by the President and confirmed by the Senate, is the chief federal law enforcement officer for the judicial district in which he or she serves. 28 U.S.C.A. § 541, 547. Attorneys appointed by the United States Attorney aid the United States Attorney in carrying out his or her duties. 28 U.S.C.A. § 542. It would follow that the Department of Justice attorney and his staff that you are referring to, who, in the course of their duties are acting on behalf of the Department of Justice and the Attorney General, would qualify under section 102.031(3)(a)6., Florida Statutes.

However, in order for any Department of Justice employee to enter the polls, he or she must have an introduction letter from the Supervisor of Elections to present to the clerk in the precincts identifying who he or she is and noticing that he or she must not in any way interfere or engage in any activity that involves solicitation. He or she must also obtain the clerk's permission to enter the polls subject to section 102.031(3)(a)6., Florida Statutes. It should also be noted that "[e]ach election board shall possess full authority to maintain order at the polls and enforce obedience to its lawful commands

during an election and the canvass of votes." 102.031(1), Florida Statutes.

SUMMARY

In summary, yes, section 102.031(a)6., may apply to the Department of Justice attorney and his staff. However, these particular Department of Justice employees are still subject to the rules and order within a polling place as these procedures are enforced by the election board.

Sincerely,

L. Clayton Roberts
Director, Division of Elections

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