



Prosecutor Accountability in Texas

County and district attorneys operate under a level of accountability unmatched by perhaps any other elected officials in Texas. Existing checks against prosecutorial misconduct span the legal and political system and include statutory removal from office, criminal prosecution, civil lawsuits, courts of inquiry, contempt of court, State Bar discipline, *quo warranto* actions, and the ballot box. Here is what that system of checks and balances looks like in practice

REMOVAL FROM OFFICE

Texas law provides a clear remedy when an elected prosecutor fails to serve competently. Under the Texas Constitution, county attorneys (CAs) and district attorneys (DAs) must be elected by the voters of their county or district ([Article 5, Section 21](#) and [Section 30](#)) and may be removed from office only by a judge after a jury has recommended removal ([Article 5, Section 24](#)). [Local Government Code Chapter 87](#) establishes the formal judicial process to remove prosecutors (and other locally elected officials) for incompetence or misconduct. Contrary to claims that this process is flawed or goes unused, Chapter 87 removals have been used to hold prosecutors accountable in these recent cases:

- a former Montague County DA who resigned in lieu of removal and was later convicted for misappropriating public property (2025);
- a former Nueces County DA who resigned after a removal petition alleged negligence and misconduct in the mishandling of cases by his office (2023);
- a former El Paso County DA who resigned after a removal petition alleged that her office missed deadlines and mishandled serious violent felony cases (2022).

Locally elected officials in Texas are removed from office every year for incompetence or misconduct. This constitutionally approved removal process is effective because it uses a non-partisan fact-finding process that protects the rights of both the public and the officials they elected to serve them.

CRIMINAL PROSECUTION

Just like other public officials, prosecutors are subject to state or federal criminal prosecution for misconduct in office. If convicted, a prosecutor may also be removed from office under Local Gov't Code Ch. 87. Examples include:

- a former Montague County DA convicted of misappropriating public property and sentenced to state jail (2025);
- a former Cameron County CA convicted of bribery and sent to federal prison (2014);
- a former Kleberg County CA convicted of official misconduct (2011).

CIVIL LAWSUITS

While prosecutors have immunity for certain acts, they are not immune from being sued for federal civil rights violations (42 U.S.C. §1983), as in these recent cases:

- the current Travis County and Williamson County DAs are being sued by a former sheriff for alleged malicious prosecution (2026);
- the current Collin County Criminal DA was sued for alleged harassment and retaliation (settled before trial, no finding of liability) (2021);
- a former Travis County DA was sued by alleged victims of sexual assault (settled before trial, no finding of liability) (2019).

COURTS OF INQUIRY

In addition to traditional criminal investigations, prosecutors' actions are subject to review by a court of inquiry, which is similar to a grand jury investigation conducted in public by a district court judge pursuant to [Code of Criminal Procedure Chapter 52](#). Such inquiries have been convened at least five times since 2000, with one resulting in a criminal charge (a former Williamson County DA was convicted of criminal contempt in the wake of Michael Morton's exoneration [2013]). Although frequently abused for political reasons, courts of inquiry are another accountability tool for prosecutors and other locally elected officials.

CONTEMPT OF COURT

Judges do not need to convene a court of inquiry to hold prosecutors accountable through their contempt power. As officers of the court, prosecutors are subject to contempt sanctions from a judge that may include a fine and/or confinement for misconduct that occurs in a courtroom or which violates a court order.

DISQUALIFICATION

A judge may disqualify a prosecutor from representing the State in a specific case in which the prosecutor has a legal or ethical conflict, as laid out in [Code of Criminal Procedure Articles 2A.104 and 2A.105](#). These disqualifications are generally limited to situations in which the prosecutor's involvement would constitute a due process violation of a defendant's constitutional rights.

STATE BAR DISCIPLINE

As lawyers, prosecutors are subject to discipline by the State Bar of Texas for ethical violations. Prosecutors are also subject to a disciplinary rule imposing ethical duties upon them that no other lawyers must follow ([Rule 3.09](#)). Under those rules, the State Bar has sanctioned prosecutors through disbarment (a former Burleson County DA [2015]), resignation of license in lieu of disbarment (a former Williamson County DA [2013]), public reprimands, and fines and probated license suspensions (including the current Starr County DA [2024], for bringing charges that lacked probable cause).

QUO WARRANTO ACTIONS

Quo warranto (“by what warrant”) is a means by which the State may challenge a person’s qualifications for holding a public office. As laid out in [Civil Practices & Remedies Code Chapter 66](#), this cause of action is directed not at *how* a person performs the duties of that office, but whether the person *is authorized* to perform those duties. For instance, state law requires a prosecutor to be licensed to practice law by the State Bar; should a non-lawyer be elected or appointed to such an office, a *quo warranto* action would be brought to remove that unqualified person from office.

THE BALLOT BOX

Prosecutors face a public evaluation by their constituents every four years, as required by the Texas Constitution. Texas voters have never shied away from voting out prosecutors who have lost their support. This is exactly how our democratic system of local control through direct elections is designed to work, and it provides a reliable safeguard for the voting public.

CONCLUSION

Texas prosecutors answer to an extensive framework of constitutional, statutory, judicial, and ethical oversight. The drafters of our Texas Constitution purposely insulated locally elected officials—including prosecutors—from attempts to overturn their lawful elections absent a jury’s finding of incompetence or misconduct, but when the facts merit it, those officials have been removed from office. State and federal laws also provide multiple ways to hold prosecutors accountable for questionable conduct that exceeds the scope of their official discretion. The historical record proves that Texas possesses an effective, time-tested system to remedy prosecutorial misconduct while preserving the right of local communities to self-govern.

*[This summary was originally prepared in 2012 and updated in 2022 and 2026.
For general questions about this topic, please contact TDCAA.]*