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Travis County District Attorney Ronald Earle today released the following statement:

Today a sharply divided Texas Court of Criminal Appeals ruled that individuals can be involved in an ongoing conspiracy to commit certain felony crimes and their conspiracy is perfectly legal.

Criminal conspiracy means three things. It means a person intends to commit a felony. It means that the person agrees that he or his co-conspirators will engage in conduct that would constitute the crime. And it means one of them performs some act in pursuit of the crime.

Under the rationale of today's majority opinion, the Legislature has blessed these criminal conspiracies as long as the felony they agree to commit is not in the Penal Code. There are many felony crimes that are contained in parts of the law other than the Penal Code.

Of course, it is illegal for them to actually commit the crime, but they can legally conspire to do it all they want.

This is a tortured result.

The public policy considerations surrounding this decision are larger than this one case. Criminal conspiracy prosecutions allow for the prevention of crime before it occurs. Under the Court's opinion today, law enforcement is powerless to intercept certain felonies before they are actually committed.

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For example, under the Court's opinion, it is legal for people to:

- agree to falsify records related to pollution of our water because that felony crime is in the Water Code.
- agree to conceal and destroy bank records because that felony crime is in the Finance Code.
- agree to generate unlawful oil and gas "waste" because that felony crime is in the Natural Resources Code.
- agree to lie on motor vehicle tax forms because that felony crime is in the Tax Code
- agree to tamper with vehicle serial numbers because that felony crime is in the Transportation Code.

These crimes are felonies; they are just contained in different books.

Because of the important policy considerations involved in protecting the public from felony criminal conspiracies of all kinds, we will seek a rehearing of this matter before the Court.