

## **Federal Election Fraud Fact Sheet**

Most issues concerning the administration and conduct of elections are governed and regulated by state law and are best addressed by state and local election officials. Federal law enforcement and prosecutorial authorities have jurisdiction to investigate and, when appropriate, prosecute election fraud in the following circumstances:

### **I. Federal Criminal Jurisdiction**

Federal criminal jurisdiction over the activities described below can generally be attained when those activities take place:

- In elections where a federal candidate's name is on the ballot.
- In any election (federal or nonfederal), when the fraud involves the necessary participation of an election official acting "under color of law."
- In connection with voter registration. The fact that voter registration is "unitary" in all 50 States (one registers once to become eligible to vote for both federal and nonfederal candidates) confers federal jurisdiction regardless of the type of election.
- In connection with the misuse, or unauthorized trespass, involving a computer system used in connection with an election, to the extent that the misuse or trespass is conducted "under color of law."

### **II. Conduct Actionable as Federal Election Fraud, Intimidation, Or Suppression**

The following activities provide a basis for federal prosecution under the statutes referenced in each category:

- Paying voters to register to vote, or to vote in elections where a federal candidate's name is on the ballot (42 U.S.C. § 1973i(c), 18 U.S.C. § 597), or through the use of the mails in those States where vote buying is a "bribery" offense (18 U.S.C. § 1952), or in federal elections in those States where purchased votes or registrations are voidable under state law (42 U.S.C. § 1973gg-10).
- Preventing or impeding qualified voters from participating in election that include a federal candidate through such tactics as disseminating false information as to the date, timing, or location of federal voting activity (18 U.S.C. §§ 241, 242).

- Voting for individuals in a federal election who do not personally participate in the voting act attributed to them, or impersonating voters (42 U.S.C. §§ 1973i(c), 1973i(e), 1973gg-10).
- Intimidating voters through physical duress in any election (18 U.S.C. § 245(b)(1)(A)); or through physical or economic intimidation in connection with registration to vote or voting in a federal election (42 U.S.C. § 1973gg-10, 18 U.S.C. § 594). If the victim is a federal employee, intimidation in connection with all elections is prohibited (18 U.S.C. § 610).
- Malfeasance by election officials, acting “under color of law,” such as diluting valid ballots with invalid ones (so-called “ballot box stuffing”), rendering false vote tabulations, or preventing valid voter registrations or votes from being given effect in any election (18 U.S.C. §§ 241, 242), as well as in elections where federal candidates are on the ballot (42 U.S.C. §§ 1973i(c), 1973i(e), 1973gg-10).
- Qualifying fictitious individuals to vote in federal elections by placing fictitious names on voter registration rolls (42 U.S.C. §§ 1973i(c), 1973gg-10); or through “color of law” in any election (18 U.S.C. §§ 241, 242) .
- Registering to vote, or voting in a federal election, by persons who are not entitled to vote under applicable state law, most notably persons who have committed serious crimes, and persons who are not United States citizens (18 U.S.C. §§ 1015(f), 611, and 42 U.S.C. § 1973gg-10).
- Falsely claiming United States citizenship in connection with registering to vote or voting in any election (18 U.S.C. §§ 911, 1015(f)).
- Voting in a federal election by anyone who is not a United States citizen in those States where citizenship is a requisite for the franchise (currently all 50 States) (18 U.S.C. § 611).
- Providing false information concerning a voter’s name, address, or period of residence in order to register to vote, or to vote in a federal election (42 U.S.C. §§ 1973i(c), 1973gg-10).
- Causing the submission of voter registrations in any election, or the

submission of ballots in federal elections, that are materially defective under applicable state law (42 U.S.C. § 1973gg-10).

- Ordering, keeping, or having under one's control any troops or armed men at any polling place in a general or special election, if one is a civil or military officer or employee of the United States government (18 U.S.C. § 592).