

Question and Answer: Election Integrity

Q: What is considered “election fraud?”

A: People use the term differently, but there are specific practices relating to elections that are illegal under Wisconsin law. Some of these practices fit a general understanding of “fraud,” but others do not. The Department of Justice’s efforts are intended to prevent and address any type of illegal activity. See Wisconsin Statutes, [Chapter 12](#) "Prohibited Election Practices".

(Chapters 5 through 12 of Wisconsin statutes also address election-related laws)

Q: Why is the Department of Justice (DOJ) dispatching election monitors? Aren’t elections officials responsible for handling election activities and ensuring compliance with the law?

A: The goal of election monitors is to provide assistance to local officials and to help ensure that Wisconsin law is followed. In addition, while local officials have the primary, initial authority to address local matters, the DOJ also has the statutory authority to take action regarding actual or potential election law violations and, in that capacity, is better able to identify and address matters of statewide concern. Having DOJ staff in the field allows for a quicker response to any reported problems.

Q: What will these Assistant Attorneys General and special agents with the Division of Criminal Investigation (DCI) actually be doing?

A: The election monitors from the DOJ (AAGs and DCI agents) will visit polling locations, and at each location, the monitors will confirm that required notices and signs are in place, confirm that election officials have received -- and are using -- appropriate voting lists and other materials. Monitors also will check in with the chief election official at the site to identify themselves.

The visits provide an opportunity to conduct “spot checks” to see if any illegal activity may be occurring such as voter intimidation or campaigning at, or near, the poll site. In addition, the presence of the monitors provides local officials with a resource in the event that issues have occurred or are occurring. If a DOJ monitor identifies an issue, the monitor is to notify the chief election officials or local law enforcement so that they may address the situation. Information also is reported back to staff at the DOJ so that any issues that may exist statewide can be identified and addressed as early as possible.

In some cases, alleged violations may require legal action by the DOJ, under Wis. Stat. Sec. 5.07, which reads, “Whenever a violation of the laws regulating the conduct of elections or election campaigns occurs or is proposed to occur, the attorney general or the district attorney of the county where the violation occurs or is proposed to occur may sue for injunctive relief, a writ of mandamus or prohibition, or other such legal or equitable relief as may be appropriate to compel compliance with the law. No bond is required in such actions.”

Q: What problems have arisen in prior years?

A: DOJ staff have encountered a variety of problems and issues such as electioneering, allegations of double voting, malfunctioning machines, the use of provisional ballots, and the location and behavior of election observers. In addition, a wide variety of criminal election fraud, including felon voting, double voting, and registration fraud have been criminally prosecuted. The primary purpose of election monitoring is to prevent and deter illegal activity and assist local officials in ensuring the fair and regular administration of elections.

The primary purpose is not to identify cases for eventual prosecution, although if observers see evidence of criminal election fraud, it will be investigated and prosecuted as appropriate.

Q: If a complaint were to be forwarded for prosecution, how would the process work?

A: Having primary criminal jurisdiction, the district attorney's office in the county where the complaint originates, is the primary clearinghouse for election-related complaints. The DOJ is available to assist the local district attorney's office with the initial screening and prioritizing of complaints to determine which should be referred for further, joint investigation.

Upon the completion of the investigation, representatives of the district attorney's office and the DOJ review the investigation's results and determine if charges are warranted. At that point, if charges are warranted, a determination is made as to which agency will be the lead prosecutor, or whether the case will be handled jointly. In cases where the DOJ handles the prosecution, it acts as special prosecutor upon request of the district attorney or by court appointment.

Q: Does the DOJ consider election fraud a big problem?

A: Every lawful vote is diluted and undermined when people engage in unlawful voting or commit other election fraud. The Attorney General and the DOJ have an obligation to make certain our election system is fair and legal both to make sure that legal votes are not diluted and to make sure that people have confidence in the integrity of our elections.

Q: Attorney General Brad Schimel ran for office as a Republican. Is this a political effort?

A: No. As stated above, the goal is to provide assistance to local officials and to help ensure that the law is followed. The program is being conducted in cooperation with elected district attorneys throughout the state, including both Republicans and Democrats. The individual DOJ employees who assist do so without regard to any personal or political views they might have.

DOJ began providing election integrity efforts in 2004, under Attorney General Peg Lautenschlager, and were continued in the 2008, 2010, 2012, and 2014 general elections, and the 2012 recall election, under Attorney General J.B. Van Hollen.