

**The original documents are located in Box 44, folder “President - Campaign Justice Department Election Day Procedures” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.**

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DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

October 4, 1976

MEMORANDUM NO. 836

TO ALL UNITED STATES ATTORNEYS

Subject: Federal Election Laws and Election Day Procedures

As you are aware, on May 11, 1976, President Ford signed into law the Federal Election Campaign Act Amendments of 1976 (Public Law 94-283), which changed the substance and enforcement procedures pertaining to most of the Federal statutes dealing with unfair campaign practices and campaign finance.

Most significantly, this recent legislation prospectively repealed 18 U.S.C. 608 through 617 inclusive; transferred the substance of these statutes to the Federal Election Campaign Act, where they have been codified as 2 U.S.C. 441a-441i inclusive; amended the enforcement section governing the FECA (2 U.S.C. 437g) by adding thereto several new civil and non-judicial remedial procedures for unintentional violations of the Act; repealed the FECA's old criminal penalty (2 U.S.C. 441); and replaced it with a new criminal sanction which applies only to violations of the FECA which are aggravated in both amount and the manner in which they were committed (2 U.S.C. 441j).

18 U.S.C. 608 through 617 remain effective with respect to conduct occurring before May 11, 1976, while their reincarnation in the FECA governs violations that take place after that date. The Criminal Division and the United States Attorneys will retain prosecutive jurisdiction and the Federal Bureau of Investigation will retain investigative jurisdiction over violations of 18 U.S.C. 608 through 617 (which occurred prior to May 11, 1976) as well as over conduct occurring after May 11th which violates the Federal Election Campaign Act and its new criminal penalty section (2 U.S.C. 441j).

We are enclosing herewith a publication prepared by the Federal Election Commission setting forth a codification of the amended Federal Election Campaign Act, showing additions thereto and deletions therefrom effected through Public Law 94-283. In addition, we are presently in the process of producing a manual for your use explaining in detail all of the Federal election laws as they exist following the adoption of Public Law 94-283, as well as enforcement procedures

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which United States Attorneys should follow in these matters. This manual will be sent to you shortly.

On September 27, 1976, the Elections Unit of the Criminal Division was transferred from the Fraud Section to the Public Integrity Section, along with the three Criminal Division attorneys who have heretofore handled these statutes: Robert A. Hickey, Craig C. Donsanto and Randall B. Miller. Any question which you may have concerning enforcement of the FECA, should be directed to them at FTS telephone numbers 739-4201, 4202 and 4204.

With respect to Election Day procedures, the Public Integrity Section of the Criminal Division will remain open on Election Day, November 2, 1976, until all polls are closed. Should an election law matter arise which merits immediate consideration, the above attorneys may be dialed directly at the telephone extensions noted. An Assistant United States Attorney should be assigned by you to remain on duty until the balloting is completed in your District. A public statement to this effect, and noting the telephone where you or your representatives may be reached should be made by you prior to Election Day.

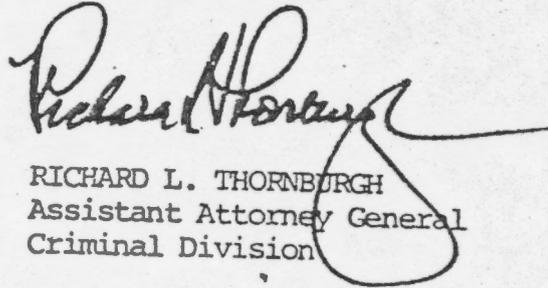
Primary responsibility for the conduct and supervision of elections rests with the States and their respective officials. There are, however, several Federal statutes dealing with corruption of the Federal franchise which are apt to give rise to Election Day complaints that are the investigative and prosecutive responsibility of the Department of Justice. Most notable among these are 18 U.S.C. 241 and 242, which prohibit among other things the corruption or deprivation of the Federal franchise through ballot box "stuffing" and illegal casting of absentee ballots. In addition, there are 18 U.S.C. 594, which specifically prohibits intimidation or coercion of voters in connection with their right to vote for a candidate for Federal office; 18 U.S.C. 597, which specifically prohibits vote-buying in connection with the exercise of their Federal franchise; and 42 U.S.C. 1973(i)(c), which, among other things, prohibits the giving of certain types of false information to voter registration officials for the purpose of securing the franchise in an election in which there are Federal candidates on the ballot. Investigative jurisdiction over these statutes rests solely with the Federal Bureau of Investigation.

It should be noted that Federal laws make no provision for enjoining illegal activities that may take place on Election Day at the polls, even if they are violative of one of the Federal laws discussed above, unless there is evidence of



racial discrimination. If racial discrimination is involved, the Voting Rights Section of the Civil Rights Division has jurisdiction. Investigations of apparent violations that are reported to you on Election Day should be prompt and impartial, with the Federal Bureau of Investigation being requested to interview complainants immediately. Investigative efforts on Election Day will, however, be for the sole purpose of determining whether or not a potential violation of Federal law has occurred, and no criminal charges should be filed, or grand jury process served, without prior approval from the Public Integrity Section of this Division.

Finally, you should be aware that under the present status of the law in every State except Illinois, Federal law enforcement officers are not permitted to enter the polls on Election Day either to observe, conduct interviews or any other type of investigation. Accordingly, the Federal Bureau of Investigation, the U. S. Marshals Service, or other Federal personnel may not serve as poll watchers or monitors on Election Day.



RICHARD L. THORNBURGH  
Assistant Attorney General  
Criminal Division

Enclosure





# Department of Justice

FOR IMMEDIATE RELEASE  
TUESDAY, OCTOBER 26, 1976

CRM  
202-739-2014

Attorney General Edward H. Levi announced today that the 94 U.S. Attorneys have been instructed to keep their offices open on election day, November 2, until all polls are closed and to give immediate attention to allegations of violations of the Federal election laws.

The Attorney General stated that the Department of Justice was determined to see that every reasonable step was taken to insure the absolute integrity of the Federal electoral process in this year's election.

In a memorandum to the U.S. Attorneys, Assistant Attorney General Richard L. Thornburgh, head of the Criminal Division, emphasized that while the conduct and supervision of elections are the prime responsibility of state and local governments, U.S. Attorneys in each of the nation's 94 judicial districts should give the highest priority to enforcing Federal statutes.

Mr. Thornburgh noted that specific Federal laws prohibit conduct that denies voting rights, and bar vote buying, voting by ineligible individuals, ballot box "stuffing," and miscounting of votes.



If racial discrimination is involved, the Department's Civil Rights Division will investigate.

Mr. Thornburgh's memorandum instructed the U.S. Attorneys to alert the public to the precautions being taken by the Department of Justice against fraud and to assign a specific number of the U.S. Attorney's staff to handle election day matters.

Assistant U.S. Attorneys are to remain on duty in each U.S. Attorney's office until balloting is completed, and the Department has also directed that the Washington, D. C., offices of the Department, manned by attorneys experienced in Federal election law matters, remain operating until all polls are closed. Any allegations of wrongdoing are to be reported immediately to the Department, Mr. Thornburgh said.

In addition, the Federal Bureau of Investigation will receive complaints and initiate investigations immediately and impartially where warranted.

The Attorney General also noted that he has been advised that Federal Election Commission personnel would be on duty on election day to receive and deal with allegations of violations falling within its jurisdiction.

A copy of Mr. Thornburgh's memorandum to the U.S. Attorneys is attached.

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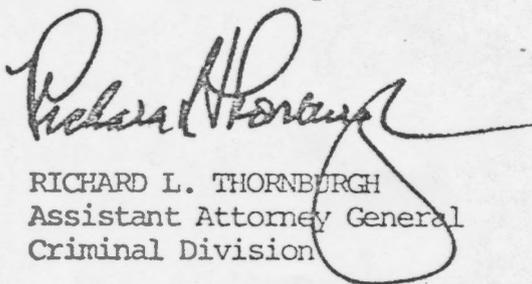
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Finally, you should be aware that under the present status of the law in every State except Illinois, Federal law enforcement officers are not permitted to enter the polls on Election Day either to observe, conduct interviews or any other type of investigation. Accordingly, the Federal Bureau of Investigation, the U. S. Marshals Service, or other Federal personnel may not serve as poll watchers or monitors on Election Day.

  
RICHARD L. THORNBURGH  
Assistant Attorney General  
Criminal Division

Enclosure



MEMORANDUM

Re: Election Day Procedures

On October 4, 1976, the Criminal Division sent Memorandum No. 836, "Federal Election Laws and Election Day Procedures," a copy of which is attached, to all United States Attorneys concerning the changes in the Federal election laws and the procedures to be followed both in the Criminal Division and in the United States Attorneys' offices on election day. In addition, the Criminal Division staff has telephonically contacted all 94 United States Attorneys' offices and have received from them the name of the United States Attorney or Assistant United States Attorney who will be on duty in the various offices of each District until the polls close on election night. Also, each United States Attorney has issued a press release in his District with respect to the procedures to be followed and providing the name and telephone number of the lawyer in each office who will be available to receive complaints of election law violations. All United States Attorneys have been requested to furnish by return teletype the text of the press releases which they have issued. The Criminal Division has also been in personal contact with the Headquarters Office of the FBI and have been advised that Agents will be on duty throughout election day.

Because of the history of illegal voting by aliens in Texas, the United States Attorneys in Houston and San Antonio-El Paso have taken additional steps. In addition to the general press release, they have emphasized in releases that voting by aliens is illegal under Federal law even though the alien may be a resident, pay taxes, etc. They are also planning to distribute on election day at the border one-page printouts in Spanish emphasizing that voting by aliens is illegal and will subject the alien to prosecution. Both United States Attorneys have contacted the individual members of the Election Boards in their Districts advising them of the Federal jurisdiction with respect to election law matters and of the availability of Assistant United States Attorneys and the FBI to receive and investigate complaints of election law violations. Appearances have been made on TV and radio stressing the Federal jurisdiction with respect to election laws. Further, both United States Attorneys plan to issue additional press releases on Monday with respect to voting by aliens. The United



States Attorney in the Southern District of Texas has assigned 13 Assistant United States Attorneys to man offices along the border on election day. The United States Attorney in the Eastern District of Texas put out a press release yesterday and has sent letters to the Heads of both political parties advising them of the availability of the FBI and designated Assistant United States Attorneys to act on election law complaints. The United States Attorney in the Northern District of Texas has issued a release along the lines of the release issued by the Attorney General.

Although there is not such a pervasive history of illegal voting by aliens in other border states as in Texas, precautions are being taken in New Mexico, Arizona and California to stress that complaints of election law violations will be thoroughly investigated. Public statements, either in the form of releases or public appearances by U.S. Attorneys, are being made to emphasize that voting by aliens is illegal under Federal law even though the alien may be a permanent resident or taxpayer.

In addition to the Memorandum on Federal Election laws and Election Day Procedures of October 4, there are attached the following:

1. The Attorney General's press release on this subject;
2. A list of the names and telephone numbers of the Assistant United States Attorney designated to be available to receive, and act on, complaints of election law violations;
3. The Election Law Manual which has been issued to all United States Attorneys;
4. The booklet issued by the Federal Election Commission on the 1976 Amendments to the Federal Election Campaign Act.

Attachments



<u>DISTRICT</u>	<u>ATTORNEY(S) ON DUTY</u>	<u>TELEPHONE NUMBER</u>
Alabama (ND)	Wayman Sherrer (USA)	229-1785
Alabama (MD)	Ira DeMent (USA)	534-7280
Alabama (SD)	Charles White-Spunner (USA) Jefferson Session	534-2845
Alaska	G. Kent Edwards (USA)	399-0150
Arizona	William Smitherman (USA) Thomas Crowe	762-6511
Arkansas (ED)	W. H. Dillahunty (USA)	740-5342
Arkansas (WD)	Robert Johnson (USA) Sam Park	740-3406
California (ND)	David Bancroft John O'Connor	556-6432 556-5130
California (ED)	Brewster Morgan	448-2331
California (CD)	Robert Roseo Earl Boid Richard Stilz John Vandeveld	798-2423
California (SD)	Barton Sheela	895-5610
Colorado	Richard Spelts	327-2081
Connecticut	Hugh Cutherbertson (New Haven) Dave Pickerstein (New Haven) Tom Smith (Hartford) Al Dabrowsky (Hartford)	643-8108 244-2570
Delaware	W. Laird Stabler (USA) Kent Walker Alan Hoffman John McDonald John Denny Jack Beam	487-6277
District of Columbia	Earl Silbert (USA)	426-7511
Florida (ND)	Nicholas Geeker (USA) (Pensocola) Don Modesitt (Tallahassee)	946-5276 946-4200
Florida (MD)	John Briggs (USA)	946-2682
Florida (SD)	Robert Rust (USA) Rebecca Poston Lloyd Bates	350-4471



<u>DISTRICT</u>	<u>ATTORNEY(S) ON DUTY</u>	<u>TELEPHONE NUMBER</u>
Georgia (ND)	John Stokes (USA) Dorothy Beasley Steven Ludwick	285-6954
Georgia (MD)	Bill Boyd Charles Eriong	284-0235
Georgia (SD)	R. Jackson Smith (USA) (Augusta) Henry Whisenhunt (Savannah) John Czura (Savannah)	289-4107 287-4261
Hawaii	Harld Fong (USA)	556-0220
Idaho	Wilbur Nelson (USA)	554-1211
Illinois (ND)	Phil Parenti	353-5333
Illinois (ED)	Henry A. Schwarz (USA)	277-9361
Illinois (SD)	Don Mackay (USA)	955-4450
Indiana (ND)	Chuck Leonard (Ft. Wayne) Richard Kaiser (South Bend) Andy Baker (Hammond)	333-9121 332-7263 333-5215
Indiana (SD)	George Palmer	331-6342
Iowa (ND)	Evan Hultman (USA)	862-3227
Iowa (SD)	Allen L. Donielson (USA)	862-4400
Kansas	Edward Johnson (USA) Topeka) Steve Lester (Wichita) James Pusateri (Kansas City)	752-8421 752-6481 758-4666
Kentucky (ED)	Eldon Webb (USA)	355-2661
Kentucky (WD)	George Long (USA)	352-5911
Louisiana (ED)	Gerald Gallinghouse (USA)	682-2921
Louisiana (MD)	Cheney Joseph, Jr. (USA) Robert Leake	687-4251
Louisiana (WD)	David Lestage	493-5277
Maine	John Wlodkowski	833-3258
Maryland	Neil Janey Josh Treem	922-4822



<u>DISTRICT</u>	<u>ATTORNEY(S) ON DUTY</u>	<u>TELEPHONE NUMBER</u>
Massachusetts	Charles Chase J. Whittier	233-3181
Michigan (ED)	Fred Van Tiem	226-7715
Michigan (WD)	Jay T. Dillon	372-2404
Minnesota	Robert G. Renner (USA)	781-7430
Mississippi (ND)	H. M. Ray (USA)	(601) 234-3351
Mississippi (SD)	L. K. Travis J.E. Brown	490-4480
Missouri (ED)	Steve Higgins	279-5885
Missouri (WD)	J. Whitfield Moody (Kansas City) two AUSA's (Springfield)	758-3122 754-2143
Montana	Thomas A. Olson (USA)	585-6101
Nebraska	Daniel E. Wherry (USA)	864-4774
Nevada	Emily Gezelin (Reno) Raymond Pike Philip Pro (Las Vegas) Richard Wright	470-5439 598-6336
New Hampshire	William Deachman (USA)	834-4735 (HOME) (603) 224-6630
New Jersey	Stephen Mills	341-2322 341-2333
New Mexico	Victor Ortega (USA)	474-3341
New York (ND)	John McCann (Syracuse) William Dreyer	951-6660 562-5522
New York (ED)	David Gould Zackary Carter	656-7027 656-7024
New York (SD)	Bank of AUSA's	662-0055 (212) 791-9109
New York (WD)	Ed Wagner	432-3484
North Carolina (ED)	Herman Gaskin	672-4530
North Carolina (MD)	Entire Staff	699-5351
North Carolina (WD)	Keith Snyder (USA) (Asheville) Doug Martin (Charlotte)	672-0655 672-7641



<u>DISTRICT</u>	<u>ATTORNEY(S) ON DUTY</u>	<u>TELEPHONE NUMBER</u>
North Dakota	Harold Bullis (USA) (Fargo) James Hill (Bismark)	783-5671 <u>Home</u> (701) 235-696 783-4396
Ohio (ND)	Frederick Coleman (USA)	293-4392
Ohio (SD)	John Palmer (Columbus) Robert Steinberg (Dayton) Ralph Winkler (Cincinnati)	943-5715 774-2910 684-3711
Oklahoma (ND)	Hubert Bryant	736-7463
Oklahoma (ED)	Betty Williams	736-2543
Oklahoma (WD)	David Russell (USA) Charles Waters	736-5281
Oregon	Sidney Lezak (USA)	423-2101
Pennsylvania (ED)	Gilbert Scuddy	597-9490
Pennsylvania (MD)	John Cottone (USA) Julius Altman James Walker	592-8301 592-8297
Pennsylvania (WD)	John Panneton	722-3500 722-3517
Puerto Rico	DOES NOT APPLY	
Rhode Island	Lincoln Almond (USA)	838-4311
South Carolina	Marvin Smith (Columbia) W. Reynolds Williams (Florence) John C. Ryan (Charleston) Bill Coates (Greenville)	677-5483 677-3327 677-4325 677-9326
South Dakota	Larry Jorgenson (Rapid City) Bruce Boyd (Sioux Falls)	782-1475 782-4395
Tennessee (ED)	John Bowers (USA) (Knoxville) Robert Simpson Ray Ledford (Chattanooga)	854-4261 852-8211
Tennessee (MD)	Charles Anderson	852-5151
Tennessee (WD)	Thomas Turley (USA) Lynn Reid Richard Buckignani	222-4231 <u>Home</u> (901) 276-417



<u>DISTRICT</u>	<u>ATTORNEY(S) ON DUTY</u>	<u>TELEPHONE NUMBER</u>
Texas (ND)	R. H. Wallace (Fort Worth) Martha Jo Stroud (Dallas) Robert Wilson (Lubbock)	334-3291 749-3491 738-7351
Texas (ED)	Roby Hadden (USA)	749-6054
Texas (SD)	Mr. Craven	527-4741
Texas (WD)	John Clark (USA) Ray Yahn	730-6539 730-6529
Utah	Ramond Child (USA) Pratt Kessler Steve Smarr	588-5685
Vermont	Jill Jacobson John Hughes	832-9231 (802) 775-1996
Virgin Islands	(DOES NOT APPLY)	
Virginia (ED)	Justin Williams (Alexandria) Raymond Carpenter (Richmond) Roger Williams (Norfolk)	557-9100 925-2186 939-6331
Virginia (WD)	Paul Thompson (USA) Beau Stubbs Sam Wilson	937-6253 937-6250
Washington (ED)	James B. Crumb	439-3811
Washington (WD)	Bob Westinghouse	397-4126
West Virginia (ND)	James Companion (USA)	923-1042
West Virginia (SD)	John A. Field (USA)	(304) 344-3657
Wisconsin (ED)	William Mulligan	362-1441
Wisconsin (WD)	David Mebane	364-5158
Wyoming	James Castberg (USA)	328-2126

