



Department of Justice

STATEMENT OF

BARRY SABIN
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

**“PROTECTING THE RIGHT TO VOTE: OVERSIGHT OF THE
DEPARTMENT OF JUSTICE’S PREPARATIONS FOR THE 2008 GENERAL
ELECTION”**

PRESENTED

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**Committee on the Judiciary
United States Senate**

**“Protecting the Rights to Vote: Oversight of the Department of Justice’s Preparations for
the 2008 General Election”**

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Deputy Assistant Attorney General
Criminal Division**

September 9, 2008

I. Introduction

Good morning Chairman Leahy, Ranking Member Specter, and Members of the Judiciary Committee. I appreciate the opportunity to appear before you today to discuss the Criminal Division’s efforts to enforce federal laws relating to the corruption of the franchise and criminal violations of the Federal Election Campaign Act. As you are aware, the Justice Department has met on a number of occasions this year with members of this Committee’s staff to discuss the Department’s robust efforts relating to these issues. Additionally, on June 6, 2008, Criminal Division and Civil Rights Division representatives provided a briefing to the United States Commission on Civil Rights. In that forum, the Justice Department outlined the roles of the respective Divisions in the enforcement of federal laws that are designed to make voting accessible and cheating more difficult. We also have met this year with this Committee’s staff and addressed issues involving the Department’s established policies regarding pre-election criminal investigative activities and other issues of interest to the Committee. The Department remains committed, in both words and action, to ensuring that we effectively implement these responsibilities not only during this election year but for future elections as well.

II. Public Integrity Section's Role in the Management of Election Crime Cases.

Dating back to the creation of the Public Integrity Section in 1976, the Criminal Division has been responsible for supervising election crime investigations and prosecutions initiated in United States Attorneys' Offices throughout the country. In 1980, an Election Crimes Branch was created within the Public Integrity Section to oversee the handling of these cases. The supervisory responsibilities assumed by the Election Crimes Branch are handled by its Director, a career prosecutor who has spent over 38 years overseeing election crime cases, and by another Section attorney who has done so for over 30 years. These career prosecutors are viewed as dedicated, nonpartisan professionals within the Justice Department and wider legal community.

While Public Integrity Section attorneys on occasion prosecute election crime cases, most of these cases are prosecuted by Assistant United States Attorneys in United States Attorneys' Offices across the nation. The Criminal Division plays a significant role in this area of law enforcement by providing advice to prosecutors and investigators in the field and overseeing the work of the United States Attorneys Offices and the FBI in the challenging and important investigations and prosecutions of this type of criminal activity.

From an operational perspective, the Criminal Division's oversight of election crime matters is designed to ensure that the Department's nationwide effort to combat election fraud and campaign financing crimes is consistent, impartial, and effective. Although the Public Integrity Section does not have formal veto authority over the investigation and prosecution of federal election crimes, U.S. Attorneys' Offices are required to consult with the Public Integrity Section before taking certain actions. With respect to election fraud matters, such as vote buying

and ballot box stuffing, a U.S. Attorney's Office must consult with the Section before commencing a grand jury investigation, requesting that the FBI conduct a full-field FBI investigation, or bringing criminal charges. For campaign financing matters, such consultation is also required before any investigation is initiated and before any charges are filed. Such consultation is also required before subpoenaing election materials in the possession of State and local elections officials, conducting covert investigations related to elections, and interviewing individual, non-complaining voters prior to an election. Additionally, the Criminal Division has provided written guidance to United States Attorney's Offices on the applicable laws and investigative strategies governing this sort of crime.

On a frequent basis, these Criminal Division attorneys closely coordinate with their counterparts in the Civil Rights Division, particularly that Division's Voting and Criminal Sections, whose missions include ensuring not only that the right to vote is accessible to all who are entitled to the franchise but also that their exercise of the franchise is not suppressed in contravention of federal civil rights laws. This inter-Division consultation assists in the effective enforcement of both election crime and voting rights matters.

III. The Attorney General's Ballot Access and Voting Integrity Initiative

In October of 2002, the Attorney General announced the establishment of a Department-wide Ballot Access and Voting Integrity Initiative to spearhead the Department's increased efforts to protect voting rights and to combat election fraud. The Initiative expands on the Department's long-standing District Election Officer Program, which requires each United States Attorney's Office to designate at least one Assistant United States Attorney to handle the investigation and prosecution of election crimes and to serve as a liaison with the Civil Rights

Division on ballot access issues within its District. In 2006, the FBI established a similar program, which requires that each of its 56 Field Divisions designate a special agent to serve as Election Crime Coordinator. At the present time, there are 110 Assistant United States Attorneys and 58 FBI Special Agents in the field, and they work with two Supervisory Special Agents at FBI Headquarters and with the two Public Integrity Section experts I previously mentioned. These dedicated civil servants represent the entire Nation from Maine to Hawaii and from Guam to the Virgin Islands.

Another critical feature of the Ballot Access and Voting Integrity Initiative requires that the Criminal Division, jointly with the Civil Rights Division, organize and present annually a Ballot Access and Voting Integrity Symposium. This annual training event is designed to bring together for two days of intensive training all of the Assistant United States Attorneys and FBI Special Agents to whom I have just referred in an effort to ensure that all are trained in the legal and strategic issues implicated in this critical area of the Department's law enforcement responsibilities. Since the Initiative was announced, a total of seven such national training events have been held, the most recent of which took place on July first and second of this year at the Justice Department's National Advocacy Center in Columbia, South Carolina. The conference was attended by over 160 Assistant United States Attorneys and Special Agents from every District and Field Division in the United States. While a few FBI agents attended the 2007 conference, this year was the first time that all FBI Special Agents serving as Election Crime Coordinators around the country joined Department prosecutors in the training. The Attorney General personally addressed this audience and discussed the importance of both protecting the voting rights of all Americans and safeguarding the electoral process. In a March 5, 2008,

memorandum to all Department employees, the Attorney General had emphasized that politics should play no role in the in the investigation or prosecution of election crimes.

A final critical feature of the Initiative requires each United States Attorney's Office and each FBI Field Division to establish and maintain a close liaison with State law enforcement and election administrators concerning ballot access and election integrity complaints. The objective of this coordination is to ensure that complaints involving voting are aggressively sought out and that they are sent to the authority best equipped to resolve the issues involved -- be it an election board, a local or State law enforcement agency, an enforcement component of the Justice Department's Civil Rights Division, or, in instances of federal criminal activity, the FBI.

Since the Ballot Access and Voting Integrity Initiative was announced in late 2002, over 200 individuals have been charged with election crimes, over 170 individuals have been convicted, and 185 matters and cases are currently still pending. These criminal cases have ranged from far-reaching prosecution initiatives involving voter bribery in Eastern Kentucky, North Carolina, West Virginia and East St. Louis to the prosecution of noncitizen voting in Florida, multiple voting in Colorado, Kansas and Missouri, and voting by disenfranchised felons in Wisconsin.

IV. Conclusion

The Criminal Division and the Department's criminal prosecutors in the United States Attorney's Offices complement the work of the Civil Rights Division in election matters. The Civil Rights Division is responsible for protecting the right to vote, while the Criminal Division's Public Integrity Section and other Department prosecutors throughout the country seek to protect

the value of each person's vote by prosecuting those who corrupt the elections. It is our hope and belief that the Department's election crime prosecutions deter at least some election fraud and thus enhance the integrity of future elections.

I thank you for the opportunity to provide the Committee with information about the Criminal Division's role in combating election fraud. I welcome your questions.