

Appendix B: Excerpts from DOJ CRM PIN ECB Manual (8th Edition, 2017) on Election Investigation Deferral Policy

Introduction

The Department of Justice's CRM PIN ECB Manual (2017) includes a policy of deferring election-related investigations, particularly sensitive allegations of election fraud and misconduct, until after election certification. This policy aims to avoid influencing election outcomes but has raised significant concerns regarding voter intimidation, corruption, and obstruction of justice, which, if left unaddressed, could undermine public confidence and the integrity of elections. Below are key excerpts and relevant federal statutes that the policy conflicts with, along with Supreme Court precedents that emphasize the necessity of timely investigations.

1. Policy Statement on Election Investigation Deferral (Pages 9, 11-12)

Policy Description

"It is the general policy of the Department not to conduct overt investigations, including interviews with individual voters, until after the outcome of the election allegedly affected by the fraud is certified" (DOJ CRM PIN ECB Manual, 2017, p. 9).

Further Clarification

"Investigations of allegations of election fraud or misconduct are particularly sensitive during the period immediately preceding an election, and overt actions during this period may inadvertently influence the election's outcome. Therefore, the Department generally defers such investigations until after certification to avoid any appearance of partisanship or interference" (p. 11-12).

This deferral policy potentially conflicts with federal mandates that require immediate investigation of election fraud, such as the following:

- **18 U.S.C. § 1505** – Obstruction of proceedings before departments and agencies.
- **52 U.S.C. § 10307(c)** – Prohibitions against voter intimidation, which demand immediate responses to alleged violations.
- **18 U.S.C. § 597** – Criminalizes expenditures to influence voting outcomes, which deferred investigations may enable by preventing timely accountability.

2. Constitutional Conflicts and Supreme Court Precedents (Pages 54-55)

The DOJ's policy of deferring investigations raises constitutional issues. Key Supreme Court cases stress the requirement for timely investigation in election-related matters:

- **Reynolds v. Sims, 377 U.S. 533 (1964)**

Holding: "The right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

Conflict: The DOJ's deferral policy undercuts immediate protections of this right by delaying action until post-certification, compromising voter confidence.

- **Anderson v. Celebrezze, 460 U.S. 780 (1983)**

Holding: Emphasizes the importance of resolving election disputes promptly to safeguard electoral processes.

Conflict: DOJ's deferral permits potentially fraudulent processes to persist until certification, limiting opportunities for rectifying issues.

3. Statutory Conflicts (Pages 53-55)

The policy contravenes several federal statutes designed to enforce election integrity:

- **18 U.S.C. § 594** – Intimidation of voters. Delaying investigations allows intimidation to potentially influence election outcomes unchecked.
- **52 U.S.C. § 20511** – Fraudulent registration and voting. Deferring investigations permits alleged fraud to remain unaddressed during the election process, impacting its outcome before certification.
- **52 U.S.C. § 10307(c)** – Further mandates immediate action on voter intimidation, which the DOJ's policy defers, undermining the statutory requirement for prompt investigation.

Conclusion (Pages 55-56)

The DOJ's 2017 policy of deferring election fraud investigations until post-certification contradicts critical federal statutes and conflicts with Supreme Court rulings mandating immediate action to prevent election misconduct. This deferral has allowed potentially unlawful election interference and fraudulent practices to go unchallenged during critical periods, jeopardizing the integrity of elections. The policy obstructs the legislative intent behind federal election laws and Supreme Court precedents, calling into question its alignment with constitutional principles.