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Election Fraud: Fact or Fiction

A lot has been said in the last few years about election fraud, stolen elections and voting irregularities. Aside from the hype on various 24-hour news outlets, the question remains whether elections in the United States are as vulnerable as some would have us believe.

At their core, elections are the ultimate expression of democracy. Elections are an opportunity for citizens to make their voices heard and select those individuals who will lead and govern our cities and towns, our states, and our nation. We collectively want to feel that our votes matter. As a result, voting irregularities and election fraud are serious matters and are treated as such by law enforcement and prosecutors around the country.

How Common is Election Fraud

Data indicates that there is some level of election fraud in every election cycle in the United States. Yet, new technology and new systems have reduced the incidence of fraud, which is generally very minor and easy to detect. Independent groups like the Heritage Foundation track instances of charged election fraud. In 2023, some 1,400 cases of election fraud were prosecuted from prior elections, resulting in 1,240 criminal convictions and 48 civil penalties. Many of these cases involve individuals voting illegally, either by misrepresentation or through ineligibility.

While there are documented instances of election workers and election administrators committing fraud by altering ballots or otherwise influencing votes, these instances are rare and generally do not involve enough votes to affect the overall result of the election. Indiana, for example, has had 11 election fraud convictions in the past decade, with eight of those cases involving fraudulent use of absentee ballots, two cases involving ballot petition fraud, and one case involving a false registration. During that same period, California had 27 convictions, Florida had 29, Texas had 40, Georgia had five, and North Dakota had one. Most states have similar results in terms of the type of charges in the underlying case, and generally more populous states have more convictions while less populous states have fewer convictions.

For example, one case that resulted in the conviction of an election administrator occurred in Flint Township, Genesee County, Michigan. The administrator was also a candidate for office. The administrator intentionally opened a box of ballots that had been sealed, rendering them invalid and unable to be used in a recount. She won her election contest by 79 votes in the first count. (See *State of Michigan v. Kathy Funk*). She was sentenced to two years' probation, six months of house arrest, and fined \$1,000 with an additional \$1,000 in court costs. A more typical case is the fraudulent use of an absentee ballot. An Arizona case decided in 2022 involved a 70-year-old woman who cast her own ballot and then also submitted an absentee ballot sent to her deceased father, who had remained on the voter rolls after his death in 2012. She pled guilty to a Class D felony, was sentenced to one year of probation and fined a total of \$1,100. (See *State of Arizona v. Marcia Johnson*).

How Secure Are Elections Today

As a review of these cases and many others like them reveals, most election fraud cases involve fewer than 10 votes, and typically just one or two. In elections where the votes cast are much smaller, even a few improper votes can make a difference; however, the likelihood that large-scale election fraud could be perpetrated with the numerous safeguards in place is relatively remote. Large conspiracies are difficult to organize and even more difficult to keep secret, particularly with poll-watchers, media, and candidates observing election operations.

Most states vest responsibility for elections and election security with their secretary of state's office, and these offices take election security and election integrity very seriously. Some 40 states have entered into information-sharing agreements regarding election integrity with the goal of advancing technology and election security to prevent fraud.

Key Takeaways

The result of a close analysis of election fraud cases in the United States shows what most people already feel to some level. As

Americans, we can be fairly confident that our votes are counted properly, and that candidates who win elections have done so with legitimate votes in the proper format. Instances of widespread fraud have not been demonstrated in any prior election and are unlikely to be substantiated in the future. Thus, widespread election fraud is truly more fiction than fact.

For more information, contact the author or any attorney with Frost Brown Todd's [Government Relations](#) practice.

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