

POLLING PLACE CRIMES

QUESTION

It is November 6, 2012 – Election Day. You are called to a polling place. The poll workers point to a man standing just inside the “Polling Place – 100 Feet” sign. They say that voters have complained the man is trying to get them to sign a petition having to do with abortion. You approach him. You tell him he can’t circulate petitions within 100 feet of a polling place. He says he’s read the California Penal Code and there’s nothing in it about circulating petitions at polling places. He asks you and your partner to sign his petition. You refuse and tell him to leave. He gets angry, grabs the “Polling Place” sign and throws it on the ground. Has he committed any crimes?

ANSWER

The answer is yes. Elections Code sections 18000 to 18578 set forth many crimes specifically relating to polling places and elections. Offenses most likely to be encountered by patrol officers on election day are as follows:

Electioneering at or Near Polls Prohibited: Elections Code section 18370 – *“No person on election day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an election official’s office:*

- (a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.*
- (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot.*
- (c) Place a sign relating to voters’ qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.*
- (d) Do any electioneering.*

As used in this section “100 feet of a polling place or an elections office” means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots. Any person who violates any of the provisions of this section is guilty of a misdemeanor.”

Vandalism at Polling Places: Elections Code section 18380(a) – *“No person, during any election, shall do any of the following:*

- (1) Remove or destroy any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his or her ballot.*
- (2) Remove, tear down, or deface the cards printed for the instruction of voters.*
- (3) Remove, tear, mark or otherwise deface any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted.*
- (4) Remove, tear down, or deface the signs identifying the location of a polling place or identifying areas within 100 feet of a polling place.*

Any person who violates any of the provisions of this section is guilty of a misdemeanor.”

Intimidation of Voters: Elections Code section 18541(b) – *"No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:*

- (1) Solicit a voter or speak to a voter on the subject of marking his or her ballot.*
 - (2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications . . .*
 - (3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place.*
- Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. . . . "*

Corruption of Voting: Elections Code section 18560 – *"Every person is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail not exceeding one year, who:*

- (a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at that election.*
- (b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or knowingly hands in two or more ballots folded together at that election.*
- (c) Impersonates or attempts to impersonate a voter at an election."*

Corruption of Voting – Tampering With Voting System: Elections Code section 18564 – *"Any person is guilty of a felony, punishable by imprisonment in a state prison for two, three, or four years who, before or during an election:*

- (a) Tampers with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes."*

There are many other Elections Code provisions dealing with polling places and the voting process. County Registrars of Voters (ROV) officials are familiar with these provisions. Prior to election day, police agencies should contact their county's ROV and obtain a private number to be called in the event officers have questions regarding possible Elections Code violations.

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