

Date: January 31, 2017

To: File

From: Roy Korte  
Director, Criminal Litigation Unit

Subject: Veritas election fraud complaint

In October of 2016 a 16.31 minute video was released by Project Veritas consisting of various recordings which it claimed showed individuals planning or discussing voter fraud by bringing out of state voters into Wisconsin and other states to vote.

## APPLICABLE LAW:

### 12.13 Election fraud.

(1) ELECTORS. Whoever intentionally does any of the following violates this chapter:

- (a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.
- (b) Falsely procures registration or makes false statements to the municipal clerk, board of election commissioners or any other election official whether or not under oath.
- (c) Registers as an elector in more than one place for the same election.
- (d) Impersonates a registered elector or poses as another person for the purpose of voting at an election.
- (e) Votes more than once in the same election.
- (h) Procures, assists or advises someone to do any of the acts prohibited by this subsection.

(3) PROHIBITED ACTS. No person may:

- (g) Falsify any statement relating to voter registration under chs. 5 to 12.
- (i) Falsely make any statement for the purpose of obtaining or voting an absentee ballot under ss. 6.85 to 6.87.
- (u) Provide false documentation of identity for the purpose of inducing an election official to permit the person or another person to vote.

### 12.60 Penalties.

(1)

- (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony.
- (b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (2) (b) 8., (3) (b), (c), (d), (g), (i), (n) to (x), (ze), (zm) or (zn) may be fined not more than \$1,000, or imprisoned not more than 6 months or both.
- (bm) Whoever violates s. 12.13 (5) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.
- (c) Whoever violates s. 12.13 (3) (am) may be required to forfeit not more than \$500.
- (d) Whoever violates s. 12.035 or 12.13 (3) (h) may be required to forfeit not more than \$100.

## **TAPE REVIEW:**

The originally available recording consisted of excerpts of what appeared to be six recordings with audio commentary stating that the discussions involved voter fraud. The recording primarily focused on conversations with a Scott Foval of “Americans United for Change.” At least some of the conversations appear to occur in Wisconsin in a bar by more than one reporter at different times and locations. Two other individuals, Bob Creamer and Cesar Vargas (New York), also appear in the video in recordings that occur on separate dates and locations. The conversation with Mr. Vargas occurred in New York and did not appear to reference Wisconsin related acts. The conversations with Mr. Creamer appear to have taken place at more than one location and time and do not reference any Wisconsin related activity. The interviews on the tape was obviously edited and the full recordings were not available on the Project Veritas website.

The tape opens with the issue on Mr. Foval stating that “it’s a very easy thing for republicans to say we are bussing people in. Well you know what, we have been bussing people in for 50 years to deal with you assholes and we’re not going to stop now. We’re just going to find a different way to do it.” The context of this statement is not at all clear. Arguably one could conclude that it might refer to campaign volunteers, etc. The added narration to the tape, and thus not part of the actual conversation, is that the conversation related to bussing in people to vote. Again, that is never specifically stated by Mr. Foval or the other participant in the conversation at any time on the tape. There is then what appears to be a general discussion about voter fraud with a discussion of hypotheticals including having people drive into the state with private cars. Some of this is simply nonsensical such as stating that buying a used car from an auto auction will conceal residency. Mr. Foval talks about how someone could do things to avoid investigation of voter fraud. The context of the discussion is absent. Another narrator then adds there was then a discussion to “brainstorm” how to come up with phony addresses. The discussion of how this would work is confusing but at one point it is mentioned that this is how someone “could” do it and even used the phrase “in theory.” At the end of this part of the tape Mr. Foval states Mr. Creamer came up with “a lot of these ideas.” Again, as the tape is edited we do not know what ideas are being referenced or the context.

A different person is then seen talking with Mr. Creamer. The person starts talking about what you need to register to vote such as an ID and a pay stub showing a local address. He then makes some vague statement about getting around voter

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registration for Hispanics. Finally, the person mentions that he got that information from Scott (apparently Mr. Foval) and that “we” could register huge numbers of people that way and mentioning hiring people from out of state to work in Michigan and then getting them an ID. How this would work and its relationship to voter fraud is unclear. Mr. Creamer then states he will discuss with Hispanic voter registration people to see what their views are and that “turnout is huge.” The video then shifts to a second meeting with Mr. Creamer which the video commentary states is set up in order to put “this voter fraud plan into motion.” The person again makes vague statements about employing people for a day or even a month and issue them a “corporate ID.” (NOTE: one need only be a resident for 30 days to vote and a corporate ID is meaningless as it does not act as a voting ID). Only a brief discussion is on the tape and Mr. Creamer responds that he would have to run it by his lawyers and that he feared that this was a voter fraud scheme. The video commentator then states that Mr. Creamer hesitated to help the “donor” engage in the voter fraud scheme that Mr. Foval had created.

The video then cuts to Mr. Foval recounting a conversation with Mr. Creamer about what had been discussed and that Creamer was not going to touch that with a ten foot pole. Mr. Foval then stated that he told Mr. Creamer that other people could make things happen that he did not need to know about and then vague statements about still having to let Mr. Creamer know. Again, no context was provided.

The next video segment was that of a conversation with Mr. Vargas in New York where there is a discussion of a bus full of people who can legally vote and then getting a work permit under a different name and “again voting on behalf of people who cannot vote.” Mr. Vargas is shown as being generally agreeable to the comments being made in the recording but says **not** in this election and refers to possibly 2018. The video of the conversation is also clearly edited and you cannot see the face of Mr. Vargas and confirm that his statements, which appear as text at the bottom of the screen, are actually what was being said at the time, or in response to the questions which appear on the recording, or the context. Without an unedited recording these questions could not be answered. Mr. Vargas also is heard saying that lets see who becomes president and that if it is Trump, “The issue will be more credible and much more opportunity for us to jump into this.” The statement is vague and seems inconsistent with discussing a future voter fraud scheme. The transcript that appears on the screen indicates that the person involved stated that the information should not go to others because technically it was “voter fraud” which Mr. Vargas appears to agree with. I did not hear the phrase “voter fraud” being said on the recording.

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Two other recordings, which were purported to be complete recordings of two conversations referenced in the original video described above, were later made available. Instead of original recordings youtube links were provided. However, there was no additional video provided regarding the other four recordings. The first recording is 47 minutes and purports to have occurred on 4/5/16. The second recording is 30 minutes long and purports to have been recorded on 9/23/16. The two recordings clearly occurred at different locations. The recordings also contained number counters in the upper left hand corner. In addition, partial transcripts were included. The provider of the transcripts stated they were not represented as complete. They were not. They are incomplete, there are errors in identifying the person speaking and in what is said. There is also one section of the first conversation that is missing.

The supplemental recordings provided are suspect. First, there are none of the usual signs of a complete recording. For example, the recordings start in the middle of discussion. The usual introductory statements of parties to a conversation are absent. Second, the second recording contain gaps at several points. The time counter is also completely useless as it is inaccurate and changes several times in both recordings. I do not believe the recordings can be relied upon as complete or accurate.

In regards to the substance, the additional portions of the recordings do not provide any clarity. The conversations remain best described as vague and theoretical in many respects. There are no clear or direct statements indicating that voter fraud (bringing in out of state voters) was planned or had occurred. Many of the references in the first conversation, even if involving illegal conduct, were alleged to have occurred in the 90s or early 2000s, which is well beyond any applicable statute of limitations.

The second conversation related solely to having people record candidate statements at fundraisers and disruptive conduct at campaign rallies. Examples of disruption discussed include having people's cell phones all ring at the same time with the sound of a duck call, somehow inserting extremist messaging at events, having people disrupt events one after the other to presumably prolong the disruption, and "birddogging" by having people confront Trump at events and asking questions such as why he won't release his tax returns in the hope of getting a response. I do not believe that such conduct is limited to any one party or that it is illegal absent other conduct such as engaging in violence. I am not aware of any law

making this conduct criminal. The recording is not clear whether the conversation occurred in Wisconsin which would be necessary for any potential venue. While there is also some reference to conversations that might be coordination with a campaign, this would be a federal law violation.

I do not believe the additional information provided provides any clarification or additional support to the original referral. Based on a review of the original excerpted recordings and the additional expanded recordings that were provided I also believe it is unlikely that a review of expanded or complete versions of the other four recordings will materially affect the conclusions reached. The original video suggested that the most concerning statements were made in the two videos for which we have now received expanded videos. There is nothing in the additional video footage that clarifies the ambiguous nature of the discussions. The other original video excerpts for which no additional footage was provided either rejects suggestions of voter fraud, involves conduct that is not illegal in Wisconsin or does not have a Wisconsin nexus.

Based on all the available facts I do not believe there is any basis to conclude that the videos demonstrate or suggest violations of Wisconsin criminal laws.