

POLICY AND LEGISLATIVE PROPOSAL

Federal Voter Poll Integrity and Disclosure Act

Proposed protections against fabricated election polling, undisclosed voter experimentation, deceptive political data collection, and related election interference

Prepared for: Public policy review and congressional submission

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Status: Discussion draft; not enacted law

Central recommendation Congress should establish a narrow federal offense addressing intentional fabrication of purported voter-poll results and undisclosed polling experiments when the conduct is materially deceptive, connected to a federal election, and undertaken for election interference, financial gain, data theft, or voter suppression. The proposal should regulate fraudulent conduct and verifiable factual representations without criminalizing opinion, prediction, satire, advocacy, or good-faith methodological error.

Executive Summary

Federal law already reaches particular forms of election fraud, voter intimidation, campaign-finance misconduct, fraudulent fundraising, impersonation, hacking, and deliberate deception about when, where, or how to vote. It does not provide a single, poll-specific criminal statute covering an organization that knowingly invents voter respondents or results, disguises political persuasion as neutral research, or conducts an undisclosed behavioral experiment and publishes the output as genuine public-opinion research.

Congress may legislate concerning federal elections, but political speech receives the highest constitutional protection. A law simply making “false polls” illegal would be vulnerable to challenge because the term is vague and because the First Amendment does not permit a general government ministry of political truth. A defensible statute must identify objective falsification, require knowledge and a specific unlawful purpose, demand a meaningful connection to a federal election, and provide explicit safeguards for legitimate research and expression.

The cases reviewed below show both sides of the problem. Courts and regulators have acted against deceptive robocalls, false voting instructions, and intimidation. Courts have also invalidated sweeping restrictions on political falsehoods or reversed convictions when prosecutors failed to establish every required element. Those decisions support a carefully drafted law centered on fraudulent conduct, materiality, disclosure, intent, and demonstrable election-related harm.

1. The Present Federal Enforcement Gap

The Department of Justice Election Crimes Branch oversees federal matters involving voting fraud, campaign-finance crimes, patronage crimes, fraudulent schemes affecting elections, and certain violations of federal voting-rights statutes. The FBI accepts reports of potential election crimes, including deliberately false information about the manner, time, or place of voting. These authorities are important, but they do not automatically convert fabricated polling claims into federal crimes.

- A pollster may use a poor sample, questionable weighting, partisan assumptions, or an inaccurate prediction without committing a federal crime.
- False statements about candidates or political issues are generally treated differently from fraud, threats, voter intimidation, or false instructions that interfere with casting a ballot.
- A purported “social experiment” may implicate institutional research rules when it is federally supported or conducted by a covered institution, but a Common Rule violation is not automatically an FBI matter.
- The FTC Do Not Call Registry generally does not cover political calls or legitimate survey calls, which leaves an important distinction between a real survey and a sales, fundraising, or data-harvesting operation disguised as one.

2. Proposed Act

Short Title

This Act may be cited as the “Federal Voter Poll Integrity and Disclosure Act.”

Congressional Findings

1. Accurate disclosure of who sponsors, funds, conducts, and publishes voter polling enables citizens to evaluate political information for themselves.
2. Knowingly inventing respondents, responses, sample sizes, field dates, or tabulations and representing those inventions as genuine research is conduct capable of producing financial, electoral, and informational harm.
3. Undisclosed behavioral experiments directed at voters may be used to test or induce political responses while concealing the identity and purpose of the actor.
4. Any federal response must preserve freedom of speech, press, academic inquiry, satire, opinion, advocacy, and good-faith research.

Definitions

Term	Proposed meaning
Covered voter poll	A survey, poll, questionnaire, focus-group result, modeled survey output, or substantially similar communication represented to measure the views, preferences, intended participation, or behavior of persons concerning a

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	candidate, political party, ballot choice, or federal election.
Material fabrication	The knowing invention, alteration, deletion, or substitution of respondents, responses, sample size, sampling source, field dates, demographic composition, weighting description, sponsor identity, or numerical results in a manner capable of influencing a reasonable recipient's evaluation of the poll.
Undisclosed voter experiment	A systematic intervention involving voters or prospective voters that is represented as neutral polling but is designed to measure, manipulate, or induce political behavior without disclosing its experimental or persuasive nature and true sponsor.
Public distribution	Publication, broadcast, paid placement, mass electronic transmission, fundraising use, or distribution to 500 or more persons. Direct submission to an election agency, court, donor, client, or news organization also qualifies when reliance is reasonably expected.
Federal election nexus	Conduct concerning an election containing a candidate for federal office, or conduct financed, directed, coordinated, transmitted, or materially affecting activity across state or national borders in connection with such an election.

Core Criminal Offense

Whoever, in or affecting interstate or foreign commerce and in connection with a federal election, knowingly engages in a material fabrication concerning a covered voter poll, publicly distributes or causes the distribution of that poll as genuine, and acts with one or more of the purposes listed below commits an offense under this Act:

- to deprive, obstruct, intimidate, or materially discourage a person in exercising the right to vote;
- to obtain money, political contributions, valuable personal information, government action, or a commercial advantage through material reliance on the fabricated poll;
- to conceal unlawful coordination, a prohibited source of funding, foreign direction, or the identity of the actual sponsor; or
- to conduct an undisclosed voter experiment intended to manipulate electoral participation or candidate preference while falsely presenting the intervention as neutral research.

Required Proof

The government would be required to prove each element beyond a reasonable doubt. Mere inaccuracy, controversial methodology, partisan weighting, failure to predict an outcome, or disagreement over interpretation would not establish the offense.

5. A material factual representation was objectively fabricated.
6. The defendant knew of the fabrication.
7. The defendant knowingly distributed or caused distribution of the material as genuine polling.

8. The conduct had the required federal-election or interstate nexus.
9. The defendant acted for a specifically prohibited purpose.

Disclosure Requirements and Civil Enforcement

A person paying to publicly distribute a covered voter poll within 120 days of a federal election should disclose the sponsor, principal funder, polling organization, sample size, population surveyed, field dates, survey mode, complete question wording, order of material questions, weighting summary, margin of sampling error when applicable, and whether artificial or simulated respondents were included. Knowing and material omissions would ordinarily result in civil enforcement, correction, and fines rather than imprisonment.

Safe Harbors

- Good-faith polling and reasonable methodological judgment, even when criticized or proven inaccurate.
- Clearly labeled satire, parody, fictional illustrations, commentary, and opinion.
- News reporting that accurately attributes a poll and does not knowingly participate in its fabrication.
- Academic or public-interest research reviewed under applicable institutional rules when its sponsor and experimental nature are disclosed as soon as ethically and scientifically permissible.
- Internal campaign research not publicly distributed as independent or neutral polling, subject to existing campaign-finance law.
- Prompt correction and preservation of records after discovery of an unintentional material error.

Penalties

A first disclosure violation should carry civil remedies. A knowing core offense should carry a maximum term of three years, an appropriate fine, restitution, forfeiture of proceeds, preservation orders, and a public corrective notice. The maximum term could increase to five years when the offense includes voter suppression, identity theft, fraudulent fundraising, prohibited foreign direction, unauthorized access to voter data, or targeting of military, overseas, elderly, or disabled voters. Penalties should be proportional, and no prosecution should begin without written approval from the Department of Justice Public Integrity Section or a successor office designated by the Attorney General.

3. Case and Enforcement Review

No case located establishes a general federal crime of publishing an intentionally fabricated opinion poll. The following matters are therefore included because they define the neighboring territory: deceptive election communications, suppression, robocalls, conspiracy proof, and constitutional limits on laws regulating political falsity. They demonstrate why a new statute must be precise.

Date	Matter	Verified disposition or significance	Drafting lesson
2025	United States v. Mackey	A jury convicted Mackey in 2023 under 18 U.S.C. § 241 concerning social-media images falsely suggesting that voters could vote by text. On July 9, 2025, the Second Circuit reversed and ordered an acquittal because the government did not prove that Mackey knowingly agreed with another person to enter the charged conspiracy. The ruling turned on insufficient proof of agreement, not a holding that deceptive voting instructions are categorically protected.	Shows why a poll-integrity offense should define the individual prohibited act directly and not depend on proving conspiracy unless conspiracy is actually charged.
2024	Steve Kramer AI robocalls	The FCC imposed a \$6 million fine concerning thousands of spoofed robocalls using an AI-generated voice resembling President Biden and urging recipients not to vote in the New Hampshire primary. Related civil litigation alleged violations of Voting Rights Act Section 11(b) and other laws.	Demonstrates enforceable regulation of deceptive transmission methods, spoofing, impersonation, and messages directed at voter participation.
2020–2023	National Coalition on Black Civic Participation v. Wohl	Federal and state litigation addressed robocalls containing false and intimidating claims about consequences of mail voting. Courts treated deception as part of a fact-specific intimidation and coercion analysis under Section 11(b).	Supports a harm-based approach when deception is used to intimidate or suppress, while showing that context matters.
1992	United States v. North Carolina Republican Party	A federal consent decree followed postcards containing false voting-eligibility information, including a false residency requirement. DOJ later cited the matter as an example of deceptive communications capable of violating Section 11(b).	Historical example of federal voting-rights remedies for targeted false election instructions.
2014	281 Care Committee v. Arneson	The Eighth Circuit invalidated Minnesota’s broad prohibition on false political speech concerning ballot questions under strict First Amendment scrutiny.	Warns against criminalizing disputed political claims or creating a government truth tribunal.
2012	United States v. Alvarez	The Supreme Court invalidated the Stolen Valor Act provision at issue, rejecting a sweeping rule that falsity alone removes speech from First Amendment protection. Fraud, defamation, perjury, impersonation, and lies connected to legally cognizable harm remain distinct categories.	Requires the proposed offense to pair knowing falsification with materiality, prohibited purpose, reliance, interference, or another defined harm.

4. Social Experiments and Human-Subjects Rules

Calling an activity a “social experiment” does not provide immunity from election, fraud, privacy, campaign-finance, telecommunications, or computer-crime laws. At the same time, federal human-subject protections do not govern every private survey. The Common Rule generally applies to research conducted or supported by participating federal departments and agencies, and covered institutions use

Institutional Review Boards to determine whether research is exempt, requires review, or may proceed with an alteration or waiver of consent.

The proposed Act should not criminalize ethical research merely because participants were not told every hypothesis in advance. Some behavioral research legitimately uses limited deception when an authorized review process finds it necessary and requires debriefing. The criminal line should instead require false presentation of the project as neutral polling, material public distribution of fabricated results, and a prohibited election-related purpose.

Recommended research provision An organization invoking a research defense should retain its protocol, sponsor information, ethics determination when applicable, consent or waiver documentation, debriefing plan, data provenance, and preregistered analysis or equivalent contemporaneous records. Absence of an IRB does not by itself prove a crime, but fabricated retrospective records should constitute evidence of knowledge and concealment.

5. Investigative and Evidentiary Standards

An allegation should not be treated as established merely because a poll is surprising, partisan, or wrong. Investigators should look for verifiable discrepancies between the public representation and the underlying records.

- Original questionnaire, scripting logic, question order, and all versions.
- Respondent-level records with appropriate privacy protections, vendor identifiers, timestamps, disposition codes, and deduplication logs.
- Contracts, invoices, payment records, sponsor communications, and campaign coordination records.
- Sampling frame, recruitment source, weighting code, exclusions, modeled or synthetic records, and quality-control reports.
- Publication drafts, internal discussions of intended effects, correction decisions, and evidence of public reliance.
- Records concerning foreign funding, interstate transmission, impersonation, spoofing, hacking, data theft, fundraising, or sale of personal information.

A neutral statistical or survey-methodology expert should evaluate the records before criminal charging. Poor practice and fraud are not synonyms. The decisive question is whether the evidence proves knowing fabrication and the specific unlawful purpose defined by statute.

6. Oversight and Enforcement Structure

- DOJ Public Integrity Section: criminal review, charging approval, and national consistency.
- FBI: investigation of federal criminal allegations, foreign influence, cyber activity, identity theft, and coordinated election interference.

- Federal Election Commission: civil campaign-finance disclosure, prohibited-source, and coordination questions.
- Federal Communications Commission: unlawful robocalls, caller-ID spoofing, and communications-provider compliance.
- Federal Trade Commission: commercial deception and data practices within its statutory jurisdiction, recognizing exemptions and limits for political and nonprofit activity.
- Office for Human Research Protections and institutional IRBs: compliance concerning covered human-subject research.
- State attorneys general and election authorities: state polling-disclosure, consumer-protection, privacy, and state-election laws.

7. Constitutional Safeguards

The Act should contain a severability clause, a heightened knowledge requirement, a materiality threshold, clear definitions, and a bar on viewpoint-selective enforcement. It should authorize prompt judicial review of subpoenas or corrective orders affecting publication. Prosecutors should not infer criminal knowledge solely from partisan affiliation, an unconventional methodology, refusal to disclose trade secrets to the public, or a polling result that differs from other polls.

Criminal liability should attach to provably fabricated operational facts and fraudulent conduct, not to predictions, conclusions, issue positions, or disputed descriptions of candidates. This separation is essential under *United States v. Alvarez* and decisions scrutinizing political false-statement laws.

8. Recommended Submission Path

10. Submit the discussion draft to members of the House Committee on Administration and Senate Committee on Rules and Administration.
11. Request technical comments from DOJ's Public Integrity Section, the FEC, FCC, Election Assistance Commission, civil-liberties organizations, academic survey researchers, and professional pollsters.
12. Ask the Congressional Research Service or committee counsel for a constitutional and federalism review.
13. Hold a hearing addressing fabricated data, push polling, AI-generated respondents, undisclosed sponsorship, deceptive voter experiments, and the enforcement gap between bad methodology and criminal fraud.
14. Revise the bill after testimony and publish a section-by-section explanation with examples of protected and prohibited conduct.

9. Model Complaint Intake Checklist

- Identify the exact statement claimed to be false and explain why it is objectively verifiable.

- Preserve the poll, advertisement, call recording, message headers, web archive, screenshots, dates, and distribution counts.
- Identify the sponsor, pollster, publisher, vendors, funders, and any candidate or committee connection.
- Separate evidence from inference. Label allegations that have not been confirmed.
- Describe the federal-election connection and any voter-suppression, financial, privacy, foreign-influence, hacking, impersonation, or interstate component.
- Provide records suggesting knowledge, such as contradictory internal documents, fabricated respondent files, admissions, invoices, or altered metadata.
- State whether the matter was reported to the FBI, DOJ, FEC, FCC, state election officials, a state attorney general, a sponsoring institution, or an IRB.

Sources and Authorities

- [DOJ Election Crimes Branch](#)
- [FBI Election Crimes and Security](#)
- [DOJ Voter Intimidation Under Federal Law](#)
- [DOJ Voting Rights Fact Sheet](#)
- [DOJ announcement of Mackey conviction, March 31, 2023](#)
- [United States v. Mackey, Second Circuit decision, July 9, 2025](#)
- [FCC \\$6 million Kramer forfeiture order, September 30, 2024](#)
- [DOJ Statement of Interest, League of Women Voters of New Hampshire v. Kramer](#)
- [281 Care Committee v. Arneson, Eighth Circuit](#)
- [Congress Constitution Annotated: laws held unconstitutional](#)
- [HHS Common Rule](#)
- [FTC Do Not Call Registry exemptions and coverage](#)

Important Notice

This document is a policy discussion draft and does not state that any identified polling organization committed a crime. Inclusion of a judicial or enforcement matter reflects the official disposition described in the cited source. Allegations concerning a particular pollster should be investigated and verified independently before publication or submission to authorities. This document is not legal advice and should receive review by legislative counsel before formal introduction.