CAMPAIGN LEGAL CENTER

Protecting Pennsylvanians From Voter Intimidation

I. Overview

This memo outlines the robust protections for voters against voter intimidation under both federal and Pennsylvania law. **Voter intimidation is a crime and local election officials and law enforcement have a responsibility to protect Pennsylvanians from voter intimidation of any kind.**

First, anyone who "intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote"[1] in a federal election commits a federal crime.

Second, Pennsylvania has election laws that protect Pennsylvanians from the use and threat of force, intimidation, coercion, or undue influence in the context of voting, refraining to vote, and supporting or disavowing any particular candidate or political issue.[2] **A violation of some of these voter intimidation prohibitions constitutes a felony of the third degree, and upon conviction can lead to a fine of up to $15,000 and a prison sentence for up to seven years.**[3]

Relatedly, it is the duty of the judge of election to maintain order in the polling place.[4] Any election officer, or any three qualified electors in a given district, may call upon the mayor, sheriff, police officer, or other law enforcement agent to maintain order, quell a disturbance, or clear the entry to a polling place if it is disrupted during the voting period.[5] Finally, election authorities are prohibited from knowingly refusing to permit a qualified registered voter from casting a ballot.[6]

[1] 18 U.S.C. § 594.

[2] 25 Pa. Stat. Ann. §§ 3547, 3527, and 3528; *Guidance on Voter Intimidation and Discriminatory Conduct*, Penn. Dept. of State (Sep. 2022), https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2022-09-26-Voter-Intimidation-and-Discriminatory-Conduct.pdf.

[3] 25 Pa. Stat. Ann. §§ 3527, 3528.

[4] 25 Pa. Stat. Ann. § 3060(f).

[5] 25 Pa. Stat. Ann. § 3047.

[6] 25 Pa. Stat. Ann. § 3523.

From Pennsylvania's Department of State Guidance on Voter Intimidation:

"[I]t is illegal for any person or corporation to directly or indirectly practice intimidation or coercion to induce or compel a person to vote or refrain from voting for a particular candidate or on a particular political issue through: use of force; violence; restraint; infliction of injury, damage, harm, or loss" or threats of the same.[7]

II. Voter Intimidation

FEDERAL LAW

Federal law provides that "[w]hoever **intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote** or to vote as he may choose, or of causing such other person to vote for, or not to vote for," any candidate for federal office, shall be fined or imprisoned for not more than one year, or both.[8]

Such protection extends to **attempts** to intimidate, threaten, or coerce voters and any intimidation, threats, or coercion with respect not only to voting but also voter registration and assisting voters to register and/or vote.[9]

Thus, federal laws prohibit all persons from engaging in conduct that is intended to (regardless of its effect) intimidate voters. **A person found guilty of violating the federal voter intimidation law could be sentenced to up to five years in prison in addition to criminal fines.**[10] People, including federal and state officials, who intimidate or attempt to intimidate voters—or interfere with the right to vote—can also be subject to civil liability.[11]

PENNSYLVANIA LAW

Under Pennsylvania law, it is a felony in the third degree to "use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice."[12] It is also a third degree felony to block or

[7] *Guidance on Voter Intimidation and Discriminatory Conduct, supra* note 2.

[8] 18 U.S.C. § 594; *see also* 18 U.S.C. §§ 241, 242, 245(b)(1)(A), and 610 (other criminal provisions).

[9] 52 U.S.C. § 20511.

[10] *Id.*; *see also* 52 U.S.C. § 10308(a).

[11] *See* 52 U.S.C. § 10307(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote"); 52 U.S.C § 10101(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose[.]"); *see also* 42 U.S.C. § 1985(3) (providing a private right of action where "two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States").

[12] 25 Pa. Stat. Ann. § 3527; *see also* 25 Pa. Stat. Ann. § 3529 (more specifically prohibiting unlawfully striking, wounding, or committing an assault and battery on a voter at or near a polling place during an election, and making such conduct a misdemeanor).

attempt to block the entrance to a polling place, as well as to "interrupt or improperly interfere with [an election officer] in the execution of his duty."[13]

Employers in Pennsylvania are also prevented from practicing intimidation in order to induce or compel employees to vote or refrain from voting on any person, question or issue.[14] For example, an employer cannot pay his employees' salary or wages in "pay envelopes" upon which or in which there is written or printed any political motto or statement, containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees.[15] **Any threat or implication that an employer would fire an employer or close his business as a result of a certain political outcome is likewise prohibited.[16]** Any employer convicted of these violations is guilty of a misdemeanor of the second degree and may be subject to a fine of up to $5000 and a prison sentence of up to two years.[17]

Examples of Intimidation

Though there are many different kinds of voter intimidation, common examples include:

- Verbal or physical confrontation of voters by persons dressed in official-looking uniforms;
- Physical intimidation, such as standing or hovering close to voters as they attempt to vote;
- Flyers threatening jail time or other punitive action against persons who vote;
- Direct confrontation or questioning of voters or asking voters for documentation when none is required;
- Vandalism of polling places;
- Use of police officers to threaten or intimidate voters;
- Photographing or videotaping voters inside a polling place without their consent;
- Threats made by an employer to the job, wages, or benefits of an employee if he or she does not vote in a particular manner;[18] and
- Occupying the parking lot of a polling place in such a way that voters might be hindered from entering.[19]

[13] *Id.*

[14] 25 Pa. Stat. Ann. § 3547.

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] This example and the above examples are provided by the Brennan Center for Justice: Wendy Weiser and Vishal Agraharkar, *Ballot Security and Voter Suppression: What It Is and What the Law Says*, Brennan Center for Justice 7-8 (2012), https://www.brennancenter.org/our-work/research-reports/ballot-security-and-voter-suppression.

[19] *See* 25 Pa. Stat. Ann. § 3527.

III. Electioneering, Campaigning or "Hanging Around" Polling Places

Pennsylvania law prohibits electioneering within a polling place and imposes a 10-foot boundary around any active polling place.[20] This means no one can hand out campaign materials, tell voters which candidate to support, or wear paraphernalia supporting a candidate, campaign or political party within 10 feet of the polling place (measured from the entrance to the room in which the voting machines are located).[21] However, wearing certain clothing that shows support for a candidate is not considered electioneering when voters are in the act of voting.[22]

Voters are permitted to bring campaign literature (e.g., brochures) into the voting booth if such materials would help them make their selections, provided that they remove any such literature from the polling place (and the voting booth) when they leave.[23]

Election officials or poll watchers may not wear partisan apparel or buttons.[24]

A stricter electioneering provision governs the conduct of police officers, who are specifically prohibited from "electioneer[ing] or directly or indirectly attempt[ing] to influence the election or electors while within one hundred (100) feet of a polling place."[25]

IV. Conduct at Polling Locations

In Pennsylvania, each political party that has nominated candidates is entitled to appoint up to three watchers at any general election for each election district and political candidates may appoint up to two poll watchers (although only one poll watcher per party and one poll watcher per candidate may be inside at any given time).[26] An appointed poll watcher must be a registered voter of the county in which the watcher's assigned election district is located.[27] But the poll watcher need not be a resident in that particular election district for which he or she is appointed.[28] Poll watchers must be identified in advance and assigned to specific precincts.[29] Watchers may keep a list of voters and

[20] 25 Pa. Stat. Ann. § 3060.

[21] *See Guidance on Rules In Effect at the Polling Place on Election Day*, Penn. Dept. of State, (Apr. 7, 2025) 6-7, https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2025/2025-04-guidance-rules-atpollingplace-on-electionday-2.1.pdf; *Guide for Election Board Officials in Philadelphia County*, City of Philadelphia 30 (Jan. 2023), https://vote.phila.gov/files/election-workers/Election_Guide.pdf .

[22] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 6-7.

[23] *Id.*

[24] *Id.*

[25] 25 Pa. Stat. Ann. § 3047.

[26] 25 Pa. Stat. Ann. § 2687; *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 1.

[27] *Id.*

[28] *Id.*

[29] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 4.

even challenge voter qualifications.[30] **However, watchers may not personally engage or confront voters or otherwise interfere with the orderly process of voting.**[31] Counties may allow poll watchers to use portable electronic devices in the polling place, as long the device is used at least six feet away from where voting occurs.[32]

With respect to general use of electronic devices, although using electronic devices in polling places is not prohibited, counties are told to adopt common sense rules to account for maintaining order at the polling place.[33] Voters may take "ballot selfies" (a picture of oneself voting).[34]

V. Firearms and Open Carry Laws

Pennsylvania election law does not prohibit bringing a firearm to a polling place.[35] However, polling places are often in schools, and it is a crime to possess a firearm in school buildings or on school grounds in Pennsylvania.[36]

Although carrying firearms into a polling place is permissible, certain aggressive behaviors are prohibited. Individuals who behave aggressively or ostentatiously with a firearm with the intent or effect of intimidating voters will be removed from the polling place and potentially prosecuted.[37]

VI. Law Enforcement at Polling Locations

The President does not have authority to order law enforcement to patrol polling places.[38] Sheriff's deputies and police officers are commanded at the local level, and a federal statute makes it a felony for any federal official to send "armed men" to the vicinity of polling places.[39]

Federal law prohibits U.S. military presence at the polls and members of the U.S. military from interfering with any qualified voter's right to vote.[40] However, this prohibition does not apply to members of the U.S. military who are at the polls to vote.[41]

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[30] 25 Pa. Stat. Ann. § 2687.

[31] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 4.

[32] *Id.* at 6.

[33] *Id.*

[34] *Id.*

[35] *Id.* at 5.

[36] 18 Pa. Stat. and Cons. Stat. Ann. § 912; *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 5.

[37] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 5.

[38] Sean Morales-Doyle, et al., *Voters Should Not Be Intimidated*, Brennan Center for Justice (Oct. 7, 2020), https://www.brennancenter.org/our-work/research-reports/voters-should-not-be-intimidated.

[39] 18 U.S.C. § 592.

[40] 18 U.S.C. § 592; 18 U.S.C. § 593.

[41] 18 U.S.C. § 593.

Pennsylvania law recognizes the intimidating effect that uniformed law enforcement personnel may generate in the place of voting.[42] **Except in limited circumstances, police officers (either uniformed or plain-clothes) must stay 100 feet or more away from the entrance of a polling place**.[43] Police officers can be present at polling locations if (1) they are there to personally vote; (2) the polling place is located in a building that also houses a police station; (3) they are there to serve a warrant; or (4) they are summoned to "preserve the peace" or resolve an issue, such as clearing path to the door to help voters get into polling stations or quelling disturbance.[44] Thus, law enforcement is generally not permitted in polling locations except to vote.[45]

VII. Formal Challenges

In Pennsylvania, it is presumed that each voter is a bona fide qualified elector and must be allowed to vote if the voter's name appears on the poll book.[46] However, other voters who are present in the polling place, election officials, poll watchers, and overseers may challenge a voter's qualification to vote.[47] **It is important to note that at polling places, only challenges with respect to identity (whether the voter is who he or she says he/she is) and residency (whether the voter lives in that particular precinct) are allowed, and the eligibility to register to vote is not a permissible ground for challenge.[48]**

Election judges are directed to determine whether a challenge of a voter was made in good faith and not consider challenges that lack good faith basis.[49] Challenges based solely on race or ethnicity are unlawful.[50] If the challenge lacks good faith basis, the challenged voter can vote normally.[51] If the Judge of Election determines the challenge has a good faith basis, the challenged voter can bring a witness to vouch for their identity.[52] If a witness is provided that can verify the voter's identity, the challenged voter can vote normally.[53] If a witness is unavailable, the challenged voter can vote via a provisional ballot.[54]

The following are unlawful challenges and thus are prohibited:

- Intentionally refusing to permit a qualified person to vote – depriving an eligible voter of

[42] *See* 25 Pa. Stat. Ann. § 3047; *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 5.

[43] 25 Pa. Stat. Ann. § 3047.

[44] 25 Pa. Stat. Ann. § 3047; *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 4-5.

[45] *See id.*

[46] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 7.

[47] *Id.*

[48] *Id.*

[49] *Guidance on Rules In Effect at the Polling Place on Election Day, supra* note 21 at 7-8.

[50] *Id.* at 9.

[51] *Id.* at 8.

[52] *Id.* The witness must sign an affidavit vouching for the challenged voter.

[53] *Id.*

[54] *Id.*

his or her voting right violates the Pennsylvania Election Code as well as the Federal Voting Rights Act of 1965;

- Challenges based on race, ethnicity, or other protected characteristics; and
- Using lists compiled from returned mail from private mailings – this is not considered to be based on good faith.[55]

VIII. Who to Contact for Enforcement

Pennsylvania's elections are administered primarily by the county boards of elections.[56] County Election Boards issue rules and regulations pertaining to election officers and voters and investigate irregularities or potential violations of election laws and forward them to the appropriate officials for prosecution.[57]

Persons who have been subject to, or witnessed, any efforts to commit any kind of fraud or corruption in the voting process, including voter intimidation, should report them at the municipal level as soon as they occur, to both the county District Attorney's Office and to the County Board of Elections.[58]

In addition, any election complaints can be reported to the Pennsylvania Department of State's reporting page (linked here). Election complaints filed at the Department of State's website are then forwarded to appropriate county authorities for future investigations.[59] If there is an immediate need, voters should call the voter hotline at 1-877-868-3772 (VOTESPA).

Voters may also seek advice on how to report intimidation by contacting the national, nonpartisan Election Protection coalition. The main number**, 866-OUR-VOTE**, is administered by the Lawyers' Committee for Civil Rights Under Law. The coalition also has lines available for Spanish-speaking (888)-VE-Y-VOTA, Arabic-speaking (844)-YALLA-US, and Asian-language- speaking (888)-API-VOTE voters.

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[55] *Id.* 8-9.

[56] *Contact your Election Official*, Penn. Dept. of State, https://www.vote.pa.gov/Resources/pages/contact-your-election-officials.aspx.

[57] 25 Pa. Stat. Ann. § 2642.

[58] *Guidance on Voter Intimidation and Discriminatory Conduct, supra* note 2 at 2-3.

[59] *Report Election Complaints*, Penn. Dept. of State, https://www.vote.pa.gov/Your-Rights/Pages/Report-election-complaints.aspx.