

To: Connecticut Registrars of Voters
Date: October 21, 2020

Re: Preserving the Right to Vote in 2020

In March 2020, the Trump campaign announced the launch of “Army for Trump,” a campaign to “mobilize Americans across the country who are committed to fighting to re-elect President Trump”¹ that explicitly includes “precinct coverage” as part of its mission.² Multiple times this month, President Trump has used Twitter to promote the “Army for Trump” website, specifically calling upon people to “volunteer to be a Trump Election Poll Watcher.”³ In Connecticut, the head of the state GOP has joined in these efforts by recruiting for the “Army for Trump,” seeking to “cover every polling place in our state.”⁴

As you may be aware, the Secretary of the State, the Connecticut Attorney General, and the Chief State’s Attorney’s Office have identified that disruption of the election is a major area of concern on November 3, 2020. These officials have come together to announce a zero-tolerance stance on interference with voting and vote-counting.⁵ Elections workers, working at the direction of registrars of voters, will be called upon to enforce this zero-tolerance policy.



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The ACLU of Connecticut believes in ensuring that every eligible voter can exercise their right to vote without barriers or intimidation. The risk for racial voter intimidation in Connecticut is real. From its early days, Connecticut has been the least expansive for voting rights for Black people of all the New England states, limiting their franchise in the 1800s when other states allowed Black men to vote without significant restriction.⁶ Voter intimidation began as soon as Connecticut ratified the Fifteenth Amendment, which guaranteed the right to vote to men of all races.⁷ Connecticut was one of only twelve states using a literacy test into the 1950s.⁸ Even today, voter suppression is overwhelmingly directed at Black voters and other voters of color⁹ by people who want to limit the political power of people of color. Through this country’s history, voter intimidation led not only to disenfranchisement of Black people and other people of color, but often cost them their lives.¹⁰

The risk to Black voters and other voters of color this year is evident not only from the racist history of voter intimidation but also from the racial animosity being stoked by President Trump. The encouragement of partisan poll watchers is an old voter intimidation tactic: a similar effort in 1981 led to a nationwide federal consent decree requiring the GOP to refrain from deploying armed poll watchers and from selecting ballot security targets based on race.¹¹ Recently, at a presidential debate, President Trump requested that the violent white supremacist Proud Boys group “stand by.”¹² In the 2016 election, then-candidate Trump’s campaign targeted more than 3.5 million Black voters for deterrence from voting, in line with their explicitly stated campaign strategy to “limit the number of Black people who turned out.”¹³ Racist rhetoric has marked Trump’s entire presidency.¹⁴ For these reasons, this November, as in years past, people intimidating voters may target Black and Latinx voters in Connecticut. Election officials must ensure that people of color can vote free from barriers and intimidation, which remains one of the major civil rights struggles in the U.S. more than 50 years after the passage of the Voting Rights Act.¹⁵

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Voter intimidation can take many forms. It includes, but is not limited to, aggressively questioning voters about their qualifications to vote, including regarding citizenship; displaying false or misleading information about voting requirements or voter fraud; and harassment targeting voters of color and non-English speakers.¹⁶

While the ACLU of Connecticut supports the civic engagement of all Connecticut residents regardless of their political views, voter intimidation is not political expression, and as a result, state and federal law explicitly forbid voter intimidation. More than a century ago, the U.S. Supreme Court stated that the right to vote is a “fundamental political right, because [it is] preservative of all rights” and people must be allowed to exercise this right free from intimidation or harassment.¹⁷ Congress has passed the Ku Klux Klan Act of 1871, which makes it unlawful to “conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote” from doing so,¹⁸ and the Civil Rights Act of 1957, which decrees that “no person, whether acting under color of law or otherwise, shall 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 [they] may choose.”¹⁹ These prohibitions still stand today. Connecticut law is similarly straightforward. Using force, threat, or deceit to keep voters from voting is a felony, as is using force or threat to influence a person’s vote.²⁰ People are also prohibited from interfering with ballots or ballot counting.²¹



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The U.S. Supreme Court has long recognized that polling places should be an ‘island of calm,’ free from distraction and interference. If outside actors are engaging in voter intimidation, including, but not limited to, targeted harassment of people of color, your role is to preserve that calm by ensuring that voters are free to exercise their vote. This might mean that, in some circumstances, calling the police is not the best solution.²²

If voter intimidation, including targeting of people of color, occurs at polling places, the moderator of the polling place has the discretion to manage the polling place. This includes the discretion to use non-police responses to disruptions, which should be the preferred response. If the moderator does make the decision to call the police, the moderator make absolutely clear that the only proper role for police is to protect the people who are attempting to vote, particularly voters of color.

Given the very clear state and federal policy of promoting the right to vote free from intimidation or threat, we urge Connecticut registrars of voters to commit to protecting voter’s rights by:

- Acknowledging that people of color are disproportionately likely to be subjected to voter suppression and intimidation and affirming that protecting the right to vote by people of color is important
- Identifying responses to voter intimidation and polling place disruptions that do not require a police response and committing to attempting these solutions first
- Evaluating whether the presence of police at a particular polling place makes it more difficult for people to vote, and using police only as a last resort
- Explicitly prioritizing the right to vote above other considerations

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Another new challenge facing registrars of voters in 2020 is the COVID-19 pandemic. We call on registrars of voters to ensure that polling places have adequate personal protective equipment on hand and insist that voters and poll workers follow the standards set forth in Executive Order No. 7NNN or the standards governing mask use and physical distancing on November 3, 2020. Current standards require that people maintain a safe social distance of approximately six feet from all other people and cover their mouths and noses with a mask or cloth face-covering while in an indoor or outdoor public place. If a voter will not or cannot comply with governing mask use and physical distancing requirements, we urge the registrars of voters to permit that person to vote by making other accommodations. Polling places should ensure that voters are safe from COVID-19 while still preserving the right to vote as broadly as possible.

With these steps, Connecticut voters can have a safe, fair election free of voter intimidation and suppression on November 3.



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¹ “Trump Campaign Announces Launch of ‘Army for Trump’ Website Ahead of the 2020 Election,” Donald J. Trump for President, Inc. (March 2, 2020), <https://www.donaldjtrump.com/media/trump-campaign-announces-launch-of-army-for-trump-website-ahead-of-the-2020-election/>.

² “Election Day Team,” Army for Trump, <https://www.armyfortrump.com/forms/election-day-team>.

³ Donald J. Trump, Tweet posted on Oct. 1, 2020, <https://twitter.com/realDonaldTrump/status/1311804730226675718>; Donald J. Trump, Tweet posted on Oct. 5, 2020, <https://twitter.com/realDonaldTrump/status/1313136308152401922?s=20>.

⁴ Michael Hamad, “‘Army for Trump’: Connecticut Republicans, following White House lead, ask for volunteers to help ‘secure our election.’” Hartford Courant, Oct. 10, 2020, available at <https://www.courant.com/politics/hc-pol-connecticut-gop-poll-watchers-election-day-20201010-5jcqdxduqvazdbspfdjl37rqge-story.html>.

⁵ Christopher Keating, “Connecticut officials warn voter intimidation, election disruptions will be prosecuted.” Hartford Courant, Oct. 15, 2020, available at <https://www.courant.com/politics/hc-pol-election-warning-prosecute-voter-intimidation-20201015-3hvl5ljz65aeboldgqziaviopy-story.html>.

⁶ Elizabeth Normen, “Our Hard-Won Right to Vote.” Connecticut Explored, Spring 2016, available at <https://www.ctexplored.org/our-hard-won-right-to-vote/>.

⁷ Katherine J. Harris, “‘No Taxation with Representation’: Black Voting in Connecticut.” Connecticut Explored, Spring 2016, available at <https://www.ctexplored.org/no-taxation-without-representation-voting-petitions-in-connecticut/>.

⁸ Steve Thornton, “Literacy Tests and the Right to Vote.” Connecticut History, last visited on October 20, 2020, available at <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/>.

⁹ Vann R. Newkirk II, “Voter Suppression Is Warping Democracy.” The Atlantic, July 17, 2018, available at <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/>.

¹⁰ Peniel E. Joseph, “In 2020, voting rights are on the ballot.” Washington Post, Sep. 10, 2020, available at <https://www.washingtonpost.com/outlook/2020/09/10/2020-voting-rights-are-ballot/>.

¹¹ Mark Krasovic, “Trump’s encouragement of GOP poll watchers echoes an old tactic of voter intimidation.” The Conversation, Sept. 30, 2020, available at <https://theconversation.com/trumps-encouragement-of-gop-poll-watchers-echoes-an-old-tactic-of-voter-intimidation-147234>.

¹² Jason Wilson, “Proud Boys are a dangerous ‘white supremacist’ group say US agencies.” The Guardian, Oct. 1, 2020, available at <https://www.theguardian.com/world/2020/oct/01/proud-boys-white-supremacist-group-law-enforcement-agencies>.

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¹³ Philip Bump, “What we know about alleged efforts by Trump’s 2016 campaign to suppress Black votes.” Washington Post, Sept. 29, 2020, *available at* <https://www.washingtonpost.com/politics/2020/09/29/what-we-know-about-efforts-by-trumps-2016-campaign-suppress-black-votes/>.

¹⁴ Nicquel Terry Ellis, “‘Stand back and stand by’: Rhetoric some call racist has marked Trump’s entire presidency.” USA Today, Oct. 13, 2020, *available at* <https://www.usatoday.com/story/news/politics/elections/2020/10/13/hate-speech-common-theme-trumps-presidency/5873238002/>.

¹⁵ Richard L. Hasen, “Civil Right No. 1: Dr. King’s Unfinished Voting Rights Revolution.” 49 U. of Memphis L. Rev. 137, 145-50 (Jan. 23, 2018), *available at* <https://www.memphis.edu/law/documents/hasen.pdf>.

¹⁶ *See, e.g.*, Danielle Root & Aadam Barclay, “Voter Suppression During the 2018 Midterm Elections.” Center for American Progress, Nov. 20, 2018, *available at* <https://www.americanprogress.org/issues/democracy/reports/2018/11/20/461296/voter-suppression-2018-midterm-elections/>.

¹⁷ *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

¹⁸ 42 U.S.C. § 1985(3).

¹⁹ 52 U.S.C. §§ 10101(3)(b); 10307(b).

²⁰ Conn. Gen. Stats. §§ 9-364; 9-364a.

²¹ *Id.* § 9-364a.

²² *See, e.g.*, Sean Doyle et al., “Voters Should Not Be Intimidated.” Brennan Center for Justice, Oct. 7, 2020, *available at* <https://www.brennancenter.org/our-work/research-reports/voters-should-not-be-intimidated>.



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