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PUBLIC ADVISORY ON
VOTER INTIMIDATION CRIMES AND POLL CENTER SECURITY

– Issued October 19, 2020 –

Attorney General Phil Weiser issues this Public Advisory on criminal enforcement of voter intimidation crimes and poll center security. Colorado law, under the Uniform Election Code of 1992, guarantees the rights of Coloradans to vote safely and securely, without feeling threatened or pressured. This Advisory provides guidance on the crime of voter intimidation, its penalties, and how to report violations should a person witness or be a victim of voter intimidation at a voter service and polling center (“polling center”) or elsewhere. Colorado’s voting process is easy-to-use, safe, and secure, and voters are entitled to cast their votes absent any pressure, intimidation, or threatening behavior. The State intends to ensure the security of Colorado’s voting process and will protect electors’ rights to vote comfortably and safely. As such, the State will enforce the law and will prosecute persons for intimidating voters.

VOTER INTIMIDATION

The Colorado Uniform Election Code protects the safety and security of Colorado’s voting process, ballots, and voters. Intimidating a voter is a crime under both federal and Colorado law.ⁱ Colorado law provides that voter intimidation occurs when a person—either directly, indirectly, or through another person acting on his/her behalf—acts to: (1) interfere, impede, or prevent the free exercise of voting by any elector; or (2) compel, induce, or pressure an elector to (a) vote, (b) refrain from voting, or (c) vote for or against a particular candidate or ballot initiative.ⁱⁱ Voter intimidation is a misdemeanor offense—enforceable by the State’s district attorneys and attorney generalⁱⁱⁱ—punishable by a fine of up to \$1,000, up to one year imprisonment, or both.^{iv}

PUBLIC QUESTIONS

What Are Some Examples of Voter Intimidation? Voter intimidation includes, but is not limited to: threatening to harm a voter if he/she does or does not vote for a certain candidate; yelling at or harassing a voter to frighten him/her to not vote for or against a particular candidate; aggressively entering a voter’s personal space to frighten or pressure the voter to influence his/her choice to vote; menacingly blocking or

standing next to a polling center door or ballot dropbox to discourage a voter from entering the polling center or dropping off a ballot; or aggressively confronting a voter with questions or harassment about how he or she voted. These actions are illegal voter intimidation and will not be tolerated. If you see voter intimidation occur, please report such actions to polling center election officials, local law enforcement, and the Attorney General's Office.

Can Someone Approach Me at a Polling Center and Encourage Me to Vote for or Against a Candidate or Initiative? No, a person may not campaign for a candidate or ballot measure inside a polling center, or within 100 feet of the building a polling center is located in.^v Regardless of the location, it is illegal for a person to threateningly or aggressively confront a voter with questions about matters such as the voter's citizenship, age, party registration, religion, or how he or she voted. Such actions are illegal voter intimidation and subject to prosecution.

Can Voter Intimidation Only Occur Inside a Polling Center? No, any type of intimidation of a voter to influence how or whether he/she votes—whether occurring inside a polling center, outside a polling center, or even through misleading phone calls, texts, or emails to a voter—may constitute voter intimidation. Examples of illegal voter intimidation that may occur outside of a polling center include: texting voters deliberately false information about voting locations; calling voters to tell them that they must have an identification card or be vaccinated in order to vote; or brandishing a weapon in a manner to frighten and dissuade voters from entering a polling center.

Can Any Person Simply Arrive at a Polling Center and Claim to be a “Poll Watcher”? No. In Colorado, for a person to be a poll watcher, he/she must have been selected by a political party, unaffiliated or write-in candidate, or issue committee; have his/her name certified to the county clerk and recorder on an official list; and present his/her certificate to the election judges at the time they enter the polling center and are sworn in by the judges. Only certified, sworn poll watchers are permitted to observe certain election activities in a polling center.^{vi} A person may not simply show up, without certification, at a polling center and claim to be or act as if he/she is a poll watcher.

Are Poll Watchers Permitted to Pressure or Coerce Voters? No. Poll watchers are subject to the same laws prohibiting voter intimidation as all other persons are. No person, including election officials, other voters, poll watchers, law enforcement officers, or other government officials may intimidate a voter. Poll watchers must also follow other rules and laws governing how to watch poll center activities.

May Firearms Be Brought into a Polling Center? It depends. Colorado law does not prohibit carrying a firearm when in a polling center. However, there may be firearm restrictions depending on where a polling center is located (i.e. schools, locations in which local governments restrict concealed carry of firearms, etc.). Importantly, other laws governing firearms, concealed carry permits, and threatening behavior still apply. For example, it is illegal—whether in a polling center or otherwise—to display a weapon in a menacing or threatening fashion. This could encompass, for instance, standing menacingly with firearms or paramilitary gear in front of a polling center entrance, or brandishing or showing a firearm with intent to frighten a voter in a polling center.

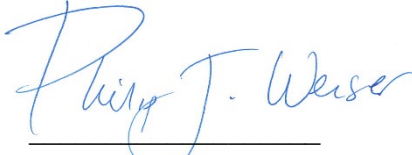
These examples all constitute illegal voter intimidation and are subject to prosecution. Such actions may also constitute assault, disorderly conduct, or menacing and are subject to prosecution.^{vii}

Must I Go to a Polling Center to Vote? No. There are several ways to cast a ballot in Colorado. Should you wish, voters have the option to return their voted ballots by U.S. Postal Service, instead of visiting a polling center. The Secretary of State recommends allowing at least 8 days for delivery of a ballot by U.S. mail. Casting your vote by mail is safe and accessible to all electors. You may also drop your voted ballot on or before Election Day in one of many secure and official ballot dropboxes, located at <https://www.sos.state.co.us/pubs/elections/VIP.html>.

REPORTING ACTS OF VOTER INTIMIDATION

If you witness a person who attempts to interfere with your, or another person's, right to vote, whether at a polling center or otherwise, please contact your local law enforcement agency or county clerk and recorder for immediate assistance, or you may contact the Colorado Attorney General's Office at 720-508-6777 or <http://bit.ly/voterintimidationform>. If an emergency, please call 911.

For additional information on voting procedures, please contact the Colorado Department of State Elections Division, or visit Department of State voter resource webpage at <https://www.sos.state.co.us/pubs/elections/vote/VoterHome.html?>



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ⁱ 18 U.S.C. § 594; COLO. REV. STAT. § 1-13-713.

ⁱⁱ COLO. REV. STAT. § 1-13-713 (“It is unlawful for any person directly or indirectly, by himself or by any other person in his behalf, to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any elector or to compel, induce, or prevail upon any elector either to give or refrain from giving his vote at any election provided by law or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense is a misdemeanor, and, upon conviction thereof, the offender shall be punished as provided in section 1-13-111.”).

ⁱⁱⁱ *Id.* at § 1-13-101.

^{iv} *Id.* at § 1-13-111 (“In all cases where an offense is denominated by this code as being a misdemeanor and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.”).

^v *Id.* at § 1-13-714(1).

^{vi} *See id.* at § 1-7-106.

^{vii} *See, e.g. id.* at § 18-3-206.