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PUBLIC ADVISORY ON
VOTER INTIMIDATION CRIMES AND POLL CENTER SECURITY

– Issued October 13, 2022 –

This Public Advisory replaces the Public Advisory on Voter Intimidation Crimes and Poll Center Security issued on October 19, 2020, to account for the enactment of SB 21-271 and HB 22-1086.

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 Class 1 misdemeanor offense—enforceable by the State’s district attorneys and attorney generalⁱⁱⁱ—punishable by a fine of up to \$1,000, up to 364 days 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 either not vote at all, or to vote for or against a particular candidate or ballot measure; 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 drop-box to discourage a voter from entering the polling center or dropping off a mail ballot; or aggressively confronting a voter with questions or harassment about their qualifications to vote or how he/she voted in the case of a voter attempting to drop off a mail ballot. 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/she intends to vote or has voted in the case of a voter attempting to drop off a mail ballot. 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, at a mail ballot drop-box, 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 generally must have been selected by a political party, unaffiliated or write-in candidate, or registered 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 an authorized 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 is unlawful for any person to openly carry a firearm: (1) in a polling location; (2) within 100 feet of a ballot drop-box;

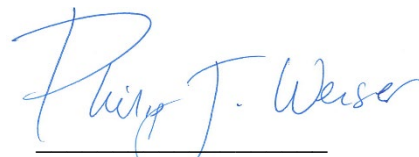
(3) or in any building in which a polling location is located. This prohibition is in effect on the day of any election and during any time when voting is permitted. Certain exceptions are provided for persons on their private property, uniformed security guards, and peace officers. The prohibition does not apply to concealed carry firearms. Violations are punishable by a fine of up to \$1,000, imprisonment up to 364 days, or both. First time offenses are punishable by a fine of up to \$250, imprisonment up to 120 days, or both.^{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 mail 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 mail ballot on or before Election Day in one of many secure and official ballot drop-boxes, 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) 508-6000 x0 or, for English language, please visit <https://coag.gov/about-us/contact-colorado-office-attorney-general/> or for Español, please visit <https://coag.gov/resources/recursos-en-espanol/>. 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.

ⁱⁱⁱ *Id.* at § 1-13-101.

^{iv} COLO. REV. STAT. § 18-1.3-501(1)(a.5).

^v COLO. REV. STAT. § 1-13-714(1).

^{vi} *Id.* at § 1-7-106.

^{vii} *Id.* at § 1-13-724.