

Dear Sheriff Gualtieri,

We are a coalition of nonpartisan organizations dedicated to protecting genuine access to the ballot, and we write to address the presence of two armed individuals dressed as security guards outside an early voting site in Pinellas County who reportedly said they were hired by the Trump campaign.¹ You stated, “Their mere presence does not constitute voter coercion or intimidation,” and you said deputies would be stationed at all early voting locations in Pinellas County starting today.

Although we appreciate your stated commitment to combating voter intimidation, we are concerned that part of your response may amplify it. Many people, especially those belonging to historically marginalized communities, find the presence of police officers themselves at polling locations to be intimidating. Black and Brown Floridians may have an especially heightened sensitivity to police presence due to the unjust killings of people of color at the hands of law enforcement throughout 2020 and in recent years, and historically. Although such presence may be appropriate if militia groups or private security genuinely threaten the personal safety of voters, these *potential* risks should not, and do not, justify non-emergency policing of voters of color. In other words, law enforcement presence should not be automatic, and officers should not generally be stationed at the polls preemptively. They should be deployed only in response to genuine security issues requiring their involvement.

The initial response to any incidents at polling places or early-vote locations should be handled by the local poll workers, and then, if necessary, by more senior election officials. Law enforcement should only be deployed as a last resort. To the extent that law enforcement’s presence is absolutely necessary, we recommend the following (and we acknowledge that you have already indicated you would use some plainclothes officers):

- Ensure officers understand they should only be dealing and interacting with the people who pose a threat to voters, not the actual voters themselves, except to obtain information about the intimidating behavior
- Have officers dress in plainclothes; no uniforms
 - One option is to wear a polo shirt identifying that the individual is with the law enforcement entity but not a full uniform
- Do not use squad cars; instead, use unmarked cars
- Have the officers be unarmed

¹ <https://www.wfla.com/news/pinellas-county/armed-guards-at-st-pete-early-voting-site-told-deputies-they-were-hired-by-trump-campaign-election-officials-say/>

- Ensure officers stay out of the polling place and beyond the 150-foot electioneering barrier unless the intimidating behavior is taking place inside the barrier
- Let officers know that election officials have internal processes so that law enforcement does not need to get too involved
- Ensure officers understand they should leave as soon as the threat ceases or is resolved
- Ensure officers do not enter the polling room without an invitation from the poll workers

We also want to highlight that the presence of armed individuals at the polls will be unlawful in many circumstances. Florida's voter intimidation statute provides, "A person may not directly *or indirectly* use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to: (a) Vote or refrain from voting; [or] (b) Vote or refrain from voting for any particular individual or ballot measure." Fla. Stat. § 104.0615(2) (emphasis added). Merely possessing a permit or being otherwise generally permitted to openly carry firearms does not give someone a license to intimidate voters at a polling place. Indeed, the open display of a lethal weapon at a polling place may itself violate the intimidation statute because it greatly increases an individual's capacity to "use or threaten to use force, violence, or intimidation," or to attempt to do so, in a way that intimidates voters. Voters of color in particular are likely to be intimidated by such a display. Whether a person can lawfully carry a firearm generally has no bearing on the intimidation that they bring to bear or that the targeted voters experience.

Moreover, careless brandishment of the weapon is itself a crime, separate and apart from whether the factors of the intimidation statute are satisfied. See Fla. Stat. § 790.10 ("If any person having or carrying any dirk, sword, sword cane, firearm, electric weapon or device, or other weapon shall, in the presence of one or more persons, exhibit the same in a rude, careless, angry, or threatening manner, not in necessary self-defense, the person so offending shall be guilty of a misdemeanor of the first degree[.]").

Finally, the mere fact that someone is with a private security firm does not mean they can openly carry a gun. The relevant statute provides that only private officers in very limited circumstances can openly carry, and only while on duty. Fla. Stat. § 790.25 (providing an exception to the open-carry prohibition for "[g]uards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state"); see *also* Fla. Stat. § 493.6115(3) ("nor shall an employee carry a

weapon or firearm except in connection with those duties”). Nothing we have seen suggests these purported private security officials were both employed in one of those industries *and* were on duty at the time they set up their campaign tent on the sidewalk outside the early voting site. Thus, their open carry of a firearm was likely unlawful.

The possibility of voter intimidation from both private and government actors is very real. We are glad you have committed to take such threats seriously. To summarize, as you take these actions, we urge you not to deploy uniformed officers to all polling locations and that you instead reserve deployment for locations where there are specific, articulated safety concerns. To the extent you wish to have officers keeping watch over any locations, we urge you to use plainclothes officers in unmarked cars, and that officers only engage the individuals causing the disturbance at issue and not speak with voters directly.

Thank you for your consideration of this matter.

