

2022 OCT 28 AM 11:42

October 28, 2022 AKRON CITY COUNCIL 13 - O

Offered by: COUNCILWOMAN MOSLEY OMORBIEN

ORDINANCE NO. Q92 -2022 amending and enacting Title 13, Chapter 136 "Offenses Against Justice and Administration," Article 4 "Election Interference," Section 136.30 "Definitions," 136.31 "Election interference," and 136.32 "Mandatory minimum for harassment, intimidation, or abuse of an election official" to provide greater protection for election officials from harassment and intimidation; and declaring an emergency.

WHEREAS, in recent years, election officials, election staff, and poll workers have faced increased threats, abuse, and harassment; and

WHEREAS, this abuse creates a situation where fewer people may be willing to serve as election officials; and

WHEREAS, our Country's democratic process requires the hard work of honest, unimpeachable election officials; and

WHEREAS, creating a local election interference ordinance and establishing a mandatory minimum for criminal offenses designed to harass, intimidate, or abuse election officials for their work on our democratic process will help protect these workers and ensure people are still willing to perform these essential functions.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 13, Chapter 136 "Offenses Against Justice and Administration," Article 4 be amended to read:

Article 4. – Election Interference Reserved

Section 2. That Title 13, Chapter 136 "Offenses Against Justice and Administration," Article 4 "Election Interference," Section 136.30 "Definitions" be amended to read:

136.30 – Definitions Reserved.

- A. All terms in this article not defined elsewhere in the Akron City Code shall be construed as defined in Title XXXV of the Ohio Revised Code.
- B. Nothing in this Article shall be construed to prohibit a person from voting if otherwise legally permitted to do so.

Section 3. That Title 13, Chapter 136 “Offenses Against Justice and Administration,” Article 4 “Election Interference,” Section 136.31 “Election interference” be amended to read:

136.31 – Election interference Reserved.

A. No person shall do any of the following:

1. By force, fraud, or other improper means, obtain or attempt to obtain possession of the ballots, ballot boxes, or pollbooks;
 2. Recklessly destroy any property used in the conduct of elections;
 3. Attempt to intimidate an election official, or prevent an election official from performing the official’s duties;
 4. Knowingly tear down, remove, or destroy any of the registration lists or sample ballots furnished by the board of elections at the polling place;
 5. Loiter in or about a registration or polling place during registration or the casting and counting of ballots so as to hinder, delay, or interfere with the conduct of the registration or election;
 6. Remove from the voting place the pencils, cards of instruction, supplies, or other conveniences furnished to enable the voter to mark the voter’s ballot.
- B. Nothing in this ordinance shall be construed to prohibit acts expressly permitted by Title XXXV of the Ohio Revised Code or otherwise permitted by law.**
- C. Whoever violates part (A)(1) or (A)(2) of this ordinance shall be charged under the applicable Ohio Revised Code section.**
- D. Whoever violates part (A)(3), (4), (5), or (6) of this ordinance is guilty of a misdemeanor of the first degree.**

Section 4. That Title 13, Chapter 136 “Offenses Against Justice and Administration,” Article 4 “Election Interference,” Section 136.32 “Mandatory minimum for harassment, intimidation, or abuse of an election official” be amended to read:

136.32 – Mandatory minimum for harassment, intimidation, or abuse of an election official Reserved.

- A. Any person convicted of a violation of § 136.31(A)(3) shall receive a mandatory jail sentence as described in part (C) of this ordinance.**
- B. Any person convicted of a violation of any criminal offense that constitutes a first- or second-degree misdemeanor under the Akron Codified Ordinances shall receive a mandatory jail sentence as described in part (C) of this ordinance if the person knowingly or purposefully committed the offense to harass, intimidate, or abuse an**

election official in relation to the performance of the election official's official duties or responsibilities regarding any past, present, or future election.

- C. Any person convicted of an offense covered by parts (A) and (B) of this ordinance shall receive a mandatory jail sentence of at least three (3) days, which shall not be suspended and during which mandatory minimum jail term the defendant shall not be eligible for any form of early release, house arrest, or work release.**
- 1. The mandatory minimum shall be served consecutively for each eligible offense unless the eligible offenses were committed in the same course-of-conduct against the same election official.**
 - 2. The mandatory minimum may be reduced for time served in jail prior to sentencing. A day of time served credit may not be used to reduce multiple mandatory minimum sentences.**
- D. Nothing in this ordinance shall preclude charging a person suspected of violating an offense herein with a felony if appropriate under state law.**

Section 5. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that it is immediately necessary to protect election officials in the performance of their duties, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed October 31, 2022

Mona R. Birano
Clerk of Council

Maya Hammill
President of Council

Approved 11/1, 2022

Debra

MAYOR

Akron City Council - Uniform Council Report (UCR)

PART I – General Information

Subject of Requested Legislation:

Poll Worker Harassment

Department/Division: Council/Elected

Requestor: Councilwoman Mosley

Phone/Ext: 2256

If applicable, previous legislation on this subject (reference by ordinance/resolution number):

Purpose/Objective of Legislation:

To enact Section 2317.52 Harassment of Election Officials. To proactively enact protections for local poll workers by prohibiting the kinds of harassment that could serve as a deterrent to residents serving during elections.

PART II – Financial Information

Does this Legislation directly involve the expenditure of funds?

YES

NO

Was this expenditure budgeted for in the current operating budget?

YES

NO

If "YES," describe how the budgeted amount for the project compares to the actual or estimated costs:

City Expenditures

Budgeted Costs	
Amount:	
Fund:	
Org:	
Acct:	

Estimate of Costs	
Amount:	
Fund:	
Org:	
Acct:	

City Receipts

City Receipt of Funds	
Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Other Consideration	

Total expenditure (if applicable): \$ _____

Total receipts (if applicable): \$ _____

PART III – DETAILED INFORMATION:

Attach detailed information/documentation, as described in UCR Instruction Sheet.

Q

CRIMINAL JUSTICE & POLICING POLITICS & GOV

States weigh how to shield election officials from threats, harassment

BY: KIRA LERNER - JANUARY 26, 2022 3:35 AM



Pro-Trump protesters at TCF Center in Detroit. Photo by Ken Coleman || Michigan Advance/States Newsroom.

Following the turmoil of the 2020 election, a photo of Washington state Election Director Lori Augino marked with crosshairs, her address, and the words “your days are numbered” was posted on a website alongside photos of numerous other state election officials described as “enemies of the people.”

Washington Secretary of State Kim Wyman said in a press release in December 2020 that she reported the so-called doxxing to the U.S. Department of Homeland Security and the FBI. But it’s unclear whether the perpetrators were ever identified or if they faced any charges — the secretary of state’s office did not respond to questions about what resulted from the reports. Both Augino and Wyman have since left office.

When he heard about the harassment of Augino and other election officials across the country, state Sen. David Frockt, a Democrat, decided he had to do something about it “to make a statement, at minimum, that we’re not going to tolerate this in Washington,” he said.

Frockt introduced a bill that would include election workers as a protected category under the state’s harassment statute, meaning that harassing or threatening an election official would be a felony, punishable with a potential five-year prison sentence and a \$10,000 fine. Maine and Vermont are considering similar legislation.

But the attempt to protect election officials has run into unexpected opposition. Criminal justice reform advocates and advocacy groups say they don’t believe in increasing criminal penalties for any offenses at a time when the U.S. already over relies on the legal system. They say states have existing laws that can address harassment and discrimination and increased penalties are shown to have little deterrent effect.

Frockt said that while he is confused by the opposition, he's not tied to his bill and is open to other ideas for how to send a message that threats against election officials won't be tolerated.

"These cases will be exceedingly rare," he said. "It should be known that you shouldn't harass anybody, but you really shouldn't undermine our democratic process by going after people who are counting votes and processing elections."

From misdemeanor to felony

In Maine, legislation under consideration would reclassify the crime of threatening an election official from a misdemeanor to a felony, punishable by up to five years in jail and a \$5,000 fine.

In Vermont, two different bills introduced in January would make prosecuting people suspected of making threats easier by eliminating barriers that typically exist for accusations of harassment. Another bill would increase criminal penalties if the person threatened is a public official.

On Jan. 14, the Democratic-controlled Washington state Senate approved Frockt's bill for the second year in a row. Last year, the bill stalled in the House because lawmakers were not inclined to increase penalties, but the legislation came back to the Senate this session and Frockt said he's hopeful they can work on amendments so it'll pass the House.

In Maine, the bill's author, Democratic Rep. Bruce White, said he believes election workers are dedicated, non-partisan individuals who need adequate protections.

The bills are a response to the unprecedented wave of vitriol and threats targeted at election workers since 2020, when former president Donald Trump and his allies made baseless allegations

that voter fraud cost him the election and blamed election officials for allowing and, in some cases conducting, that fraud.

In an investigation published in September, Reuters said it identified hundreds of incidents of intimidation and harassment of election officials and workers across the country, but only four known arrests and zero convictions.

Since then, the number of convictions has increased at least slightly. In Michigan, the chairman of the Genesee County Republican Party was sentenced to one year's probation this month after he pleaded guilty to making a harassing phone call to an election official and threatening to kill her dogs.

But there are still few publicized convictions compared to the number of reported threats.

The federal government has also made progress in its investigation of these threats. Last week, the Department of Justice disclosed the first arrest resulting from the task force it launched last summer to address threats of violence against election workers.

The department announced the arrest of Chad Stark, a Texas man accused of writing on Craigslist that it was "time to kill" a Georgia election official.

In a call with reporters in January, Assistant Attorney General Kenneth A. Polite Jr. said the task force has reviewed more than 850 similar threats against election workers and is investigating dozens of cases.

"These unsung heroes came under unprecedented verbal attack for doing nothing more than their jobs," Polite said. "We will not tolerate the intimidation of those who safeguard our election."

Advocates: Bills aren't needed

Opponents of legislation to elevate criminal penalties for these crimes say that states already have laws making it illegal to threaten or harass others, and the fact that the target is an election official would no doubt be considered in potential legal action.

Tina Nadeau, executive director of the Maine Association of Criminal Defense Attorneys, which submitted testimony opposing the bill there, said that increasing penalties would not protect election officials because people are not typically deterred from criminal behavior because of criminal penalties.

She said that the solution to this real problem isn't adding more criminal statutes.

"It's not that we don't have sympathy or empathy for these election officials across the country who have really become targets for vitriol that's been stirred up based on lies," she said.

"But at the same time, we can't twist and contort the criminal code when it already has ways of addressing that behavior and when doing so just opens the doors to making every type of person in every type of situation subject to a particular crime."

Despite Frockt's assertion that the bill is mostly about sending a message, Nadeau said that simply sending a message is "not an effective use of the criminal code."

Lisa Nowlin, a staff attorney with the ACLU of Washington state, said the organization also opposes the legislation there because the state's existing harassment statute already has enhancements for harassment in certain circumstances, and there's no need to increase the penalty because of the type of person being harassed.

“We understand the need for protecting election officials, and this is a very relevant topic right now, but we should be cautious not to use this moment to justify harsher criminal legal penalties beyond what already exist,” she said in an email.

Complex criminal codes

Opponents also say they are concerned about the First Amendment implications of expanding anti-harassment statutes.

Nicole Porter, senior director of advocacy for the Sentencing Project, a national nonprofit focused on reducing the number of people in detention, said the desire for these bills shows how much work there is for advocates like her if even Democratic lawmakers do not understand that the need for criminal justice reform extends to elections and voting.

“The attachment of criminal penalties as a response to these problematic interactions is a part of a pattern that’s gotten us to complex criminal codes and has contributed to incarceration growth of the last 40 to 50 years,” she said. “It’s a curious time for Democratic lawmakers to be trying to enhance penalties.”

In a report on threats against election officials, the left-leaning Brennan Center for Justice issued recommendations to deal with the increase in harassment, including that states should pass new laws and appropriate funds to provide greater personal security for election officials and workers.

The center did not come out in favor of increased penalties or new criminal statutes, but did recommend prioritizing processes to quickly investigate and, when necessary, prosecute the people making threats.

Frockt said though his bill targets the criminal statute, he's open to working with lawmakers to push other solutions.

"If there's another way to do it, if there's another way to provide protection, I am completely flexible," Frockt said. "The main thing is that I think we need to lay down a marker."

 GET THE MORNING HEADLINES DELIVERED TO YOUR INBOX

[SUBSCRIBE](#)

SUPPORT NEWS YOU TRUST.

[DONATE](#)

[REPUBLISH](#)

Our stories may be republished online or in print under Creative Commons license CC BY-NC-ND 4.0. We ask that you edit only for style or to shorten, provide proper attribution and link to our web site. Please see our republishing guidelines for use of photos and graphics.

KIRA LERNER



Kira Lerner is the democracy reporter for States Newsroom in



Washington, D.C. She has previously covered voting, criminal justice, and civil rights issues for publications including *Votebeat* and *The Appeal*.

MORE FROM AUTHOR

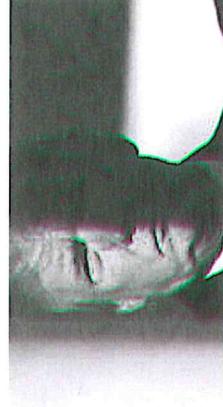
RELATED NEWS



Election officials can't access federal funding for security...

BY KIRA LERNER

August 22, 2022



Trump's fake electors: Here's the full list

BY KIRA LERNER

June 30, 2022

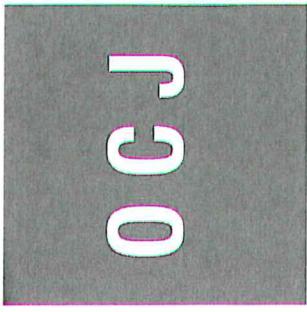
REPORTING FOR THE PEOPLE

DEMOCRACY TOOLKIT



The Ohio Capital Journal is an independent, nonprofit news organization dedicated to connecting Ohioans to their state government and its impact on their lives. The Capital Journal combines Ohio state government coverage with incisive investigative journalism, reporting on the consequences of policy, political insight and principled commentary.

[DEJ Policy](#) | [Ethics Policy](#) | [Privacy Policy](#)



Our stories may be republished online or in print under Creative Commons license CC BY-NC-ND 4.0. We ask that you edit only for style or to shorten, provide proper attribution and link to our web site.



© Ohio Capital Journal, 2022



The Center for
Public Integrity

BARRIERS TO THE BALLOT BOX

Election officials prepare for voter intimidation threat

by Carrie Levine and Matt Vasilogambros

October 15, 2020



Shawn Walton, 34, of Atlanta, waits in a line to vote early at the State Farm Arena on Monday, Oct. 12, 2020, in Atlanta. (AP Photo/Brynn Anderson)

This article was published in partnership with [Stateline](#).

Election officials across the country have begun reviewing security plans at early and Election Day voting sites, strengthening ties with local law enforcement and training poll workers to prepare for voter intimidation tactics.

Even before the presidential debate, when President Donald Trump urged his supporters to “go into the polls and watch very carefully,” Michelle Wilcox, the director of elections in Auglaize County, Ohio, was concerned about disruptions at the polls this year.

The rural county near the Indiana border seems like an unlikely candidate for trouble. It has about 32,500 voters, two-thirds of whom are registered as unaffiliated and another fourth of whom are Republican. The county seat, Wapakoneta, is best known as the hometown of astronaut Neil Armstrong. But even in this small rural county, Wilcox said, she will be prepared.

For the first time, she brought in the sheriff to help train poll workers. Wilcox said she and the sheriff talked to poll workers about situations that could come up and how to handle them. For example, she said, the sheriff would get involved in a case of disorderly conduct but is “not the arresting authority if somebody doesn’t have a mask on.”

“Our poll workers listened very intently,” she said. “They know that there may be some issues, so they wanted to know.”

Since the Sept. 29 presidential debate, there has been surging concern over the prospect of voter harassment at the polls. But prior to Trump’s poll-watching invitation to a national television audience, there were incidents.

Philadelphia officials last month turned away a group of poll watchers sent by the Trump campaign to satellite election sites, where they are not permitted entry under Pennsylvania law. In Virginia, Trump supporters temporarily blocked an entrance to an early voting site last month, forcing officials to offer voters escorts to cast ballots. And in Minnesota, a private security company



This story also appeared in [Stateline](#).

is recruiting former military members to guard polling places, alarming election officials with the prospect of unofficial armed guards who could intimidate or harass voters. Many voting experts say these actions are not legal.



Supporters of President Donald Trump raise banners at an early polling place in Fairfax County, Virginia, in September.
(Courtesy of Anthony Tilghman via Twitter)

Poll watching or poll observing has long been a way for parties and outside groups to monitor voting, but such observers typically have to be certified in advance, and detailed rules vary from state to state.

Pennsylvania last week issued updated guidance. In late September, the Ohio secretary of state's office put out a new training video on de-escalation at the polls. North Carolina put out new guidance to county election boards on allowable conduct. “It is not appropriate or permissible for law enforcement or private security to be stationed at a voting place,” the North Carolina memo warns in bolded text.

At the same time, election officials are trying to reassure worried voters that polling places will be safe.

“We have a strict and strong plan of protection in place, but we’re also being very, very mindful of making sure no voter is fearful of showing up and communicating to them we’ve got this,” said Michigan Secretary of State Jocelyn Benson, a Democrat, in response to a question during a press call last week. “We’ll protect them, we’ll protect their right to vote and we’ll use every resource and tool at our disposal in order to do so.”

On a separate press call, Ohio Secretary of State Frank LaRose, a Republican, pointed out state law prohibits impeding voters or poll workers. “We will not in any way tolerate any kind of intimidation or suppression,” he said. “The law in Ohio is very clear.”

Election officials are stressing buffer zones that prohibit electioneering within a certain distance of polling places, depending on the state. The Institute for Constitutional Advocacy and Protection, based at the Georgetown University Law Center, issued fact sheets for each state explaining what to do if armed individuals are near a polling site.

Kristen Clarke, president and executive director of the Lawyers’ Committee for Civil Rights Under Law, a D.C.-based voting rights group, said the idea of armed people at the polls is an “explosive, dangerous and toxic situation.” She is especially concerned about communities with large numbers of voters of color.

The Lawyers’ Committee has recruited more than 21,000 lawyers for its election protection efforts this year, she said.

Joe Gloria, the registrar of voters in Clark County, Nevada, home to **more than 70% of the state's registered voters**, said he expects problems. "We're always worried about any type of intimidation at the polls and we've always had plans in place to address that. However, this election cycle is unique," he said. "The indication is most of our planning will have to be put into place at some point."

Gloria has doubled the number of roving workers available to visit voting sites this year, he said, so each can get to a polling place within 10 or 15 minutes.

Many states and counties typically have task forces to allow election officials to coordinate with local governments and law enforcement, and that process is underway. In Fulton County, Georgia, home to Atlanta, "a lot of people are concerned about election security," Rick Barron, the county's registration and elections director, told his board during a meeting last week. Barron said the county has formed a steering committee that will be briefed by the FBI in coming weeks, and "we are in the risk assessment phase right now."

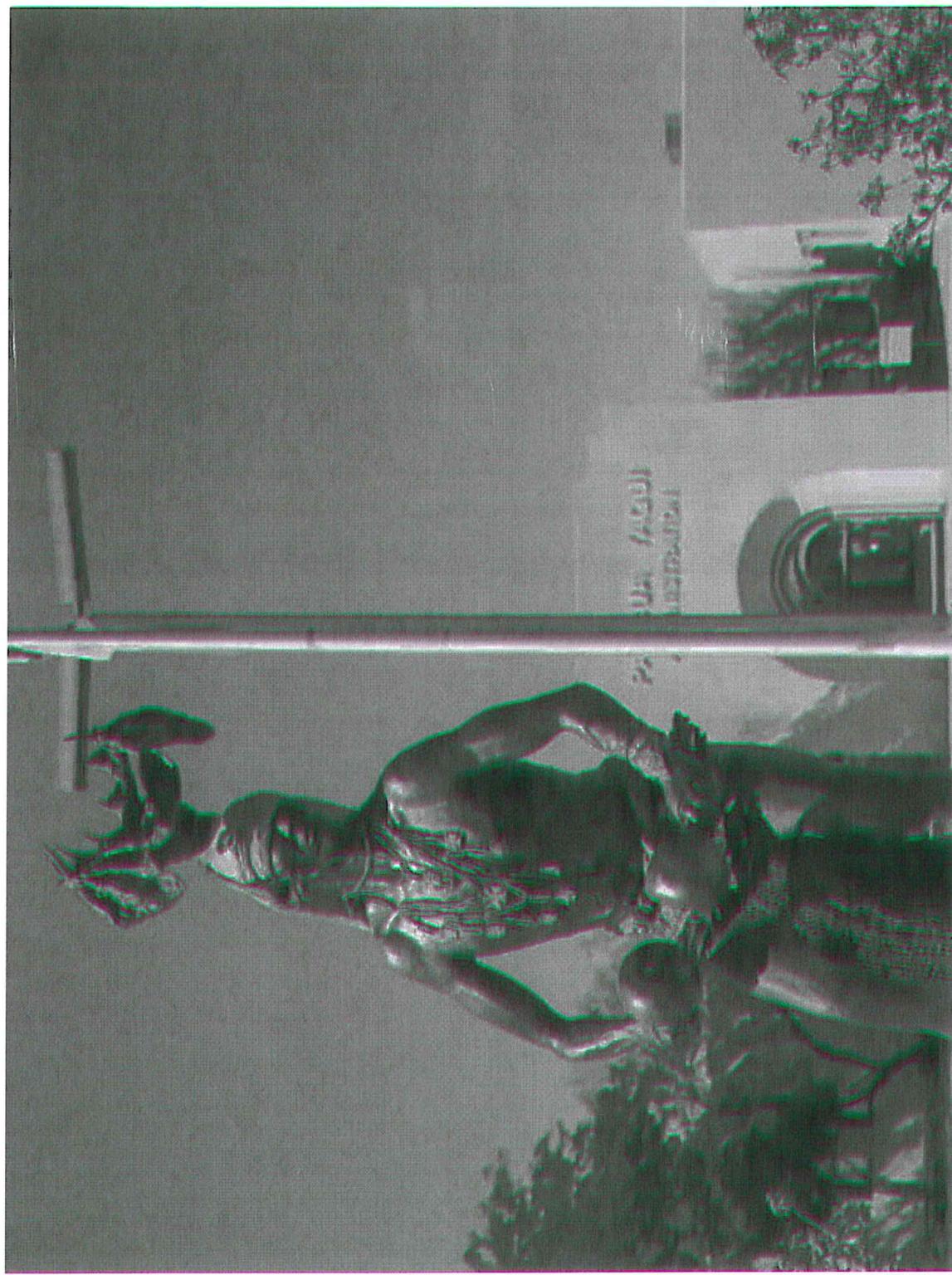
"Atlanta is a civil rights cradle," said Aaron Johnson, a Democratic member of the county elections board, in a separate interview. "We have people here in Fulton County that take the right to vote very seriously. Our residents are quite adamant about voting and I don't think they would take too kindly to voter intimidation at any level from anyone."

Rural voters may be more vulnerable to harassment because "issues can pop up and they're not going to be as documented," said Anna Dennis, executive director of Common Cause Georgia, who said she is monitoring efforts by groups in north and south Georgia to recruit potentially armed "concerned citizens" to watch the polls.

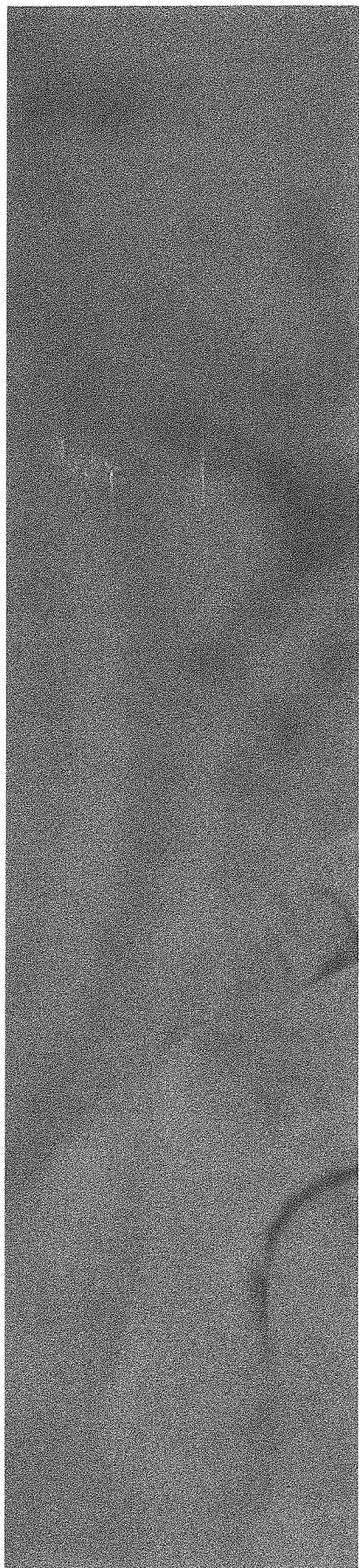
States that allow the open carrying of weapons will also have to navigate competing legal rights, since intimidation may depend on the eye of the beholder. In Nevada, for example, rural locations may be more inclined to allow firearms, and every case is different, state Attorney General Aaron Ford, a Democrat, said in an interview with the Center for Public Integrity and *StateLine*. But the bottom line, he said, is "courts have recognized the right to show up at a polling site and vote free from harassment and intimidation."

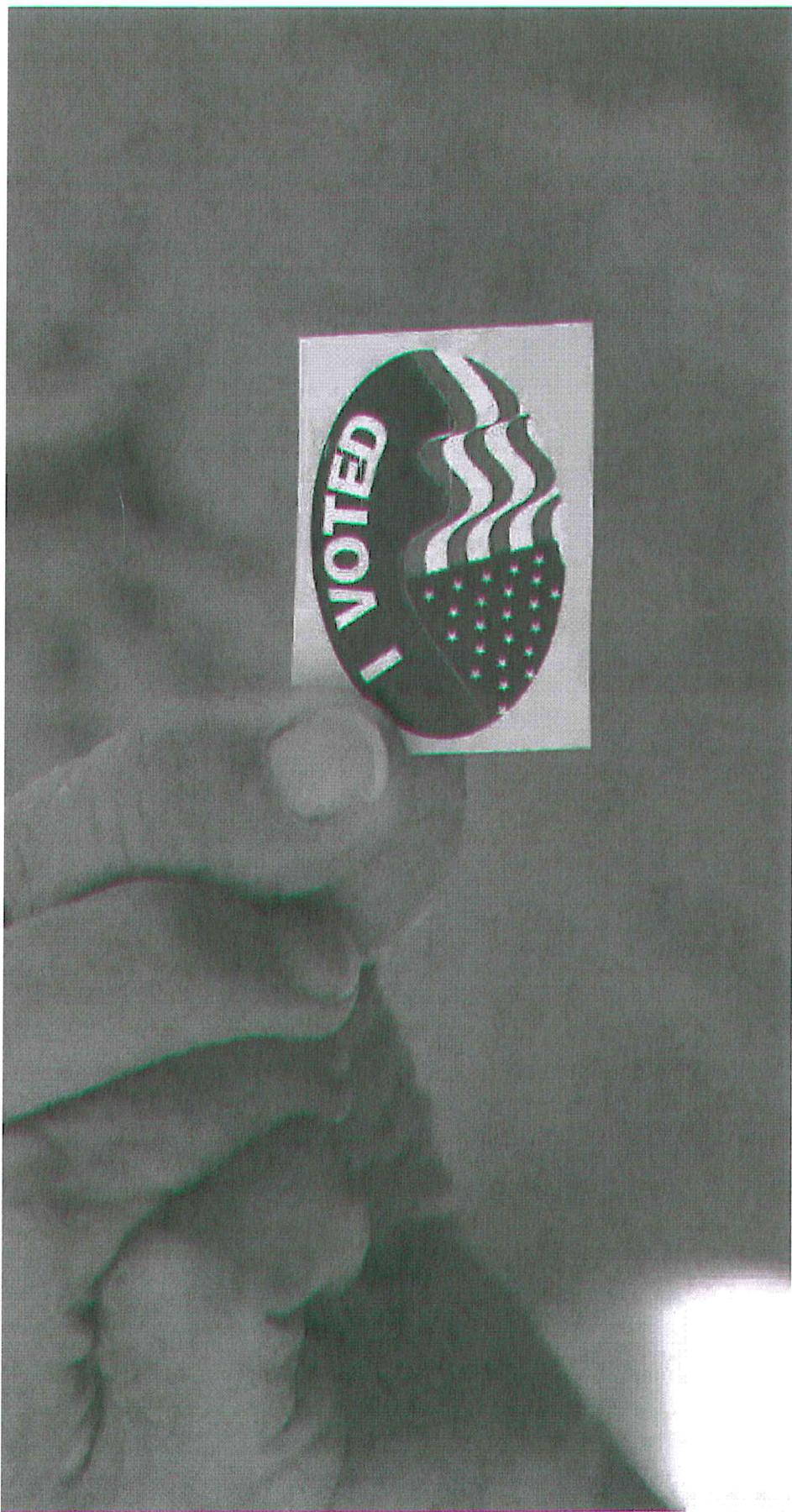
The Trump campaign has set a goal of recruiting 50,000 poll watchers and has repeatedly said they will abide by the law. “Poll watchers are critical to ensuring the fairness of any election, and President Trump’s volunteer poll watchers will be trained to ensure all rules are applied equally, all valid ballots are counted, and all Democrat rule breaking is called out,” said Thea McDonald, the campaign’s deputy national press secretary, in an emailed statement.

RELATED ARTICLES

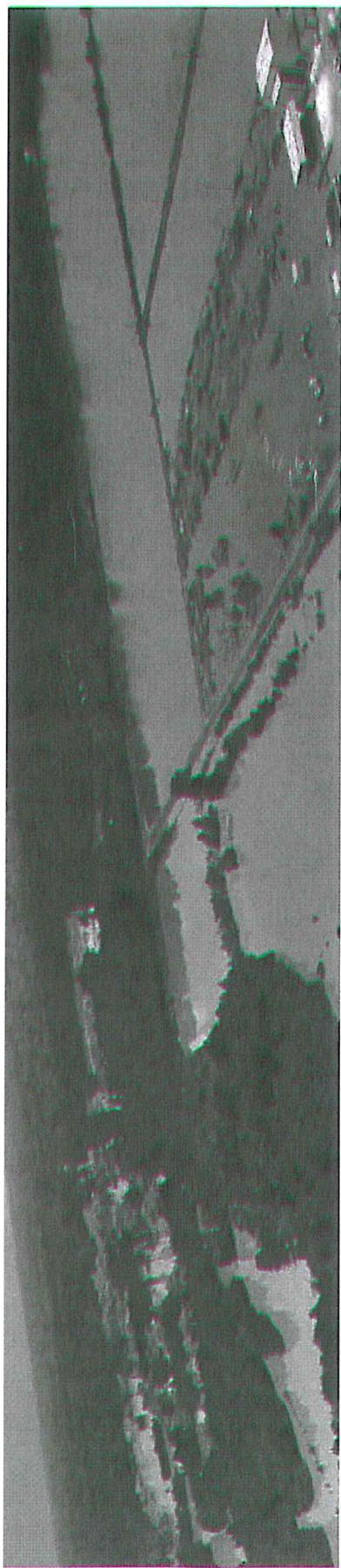


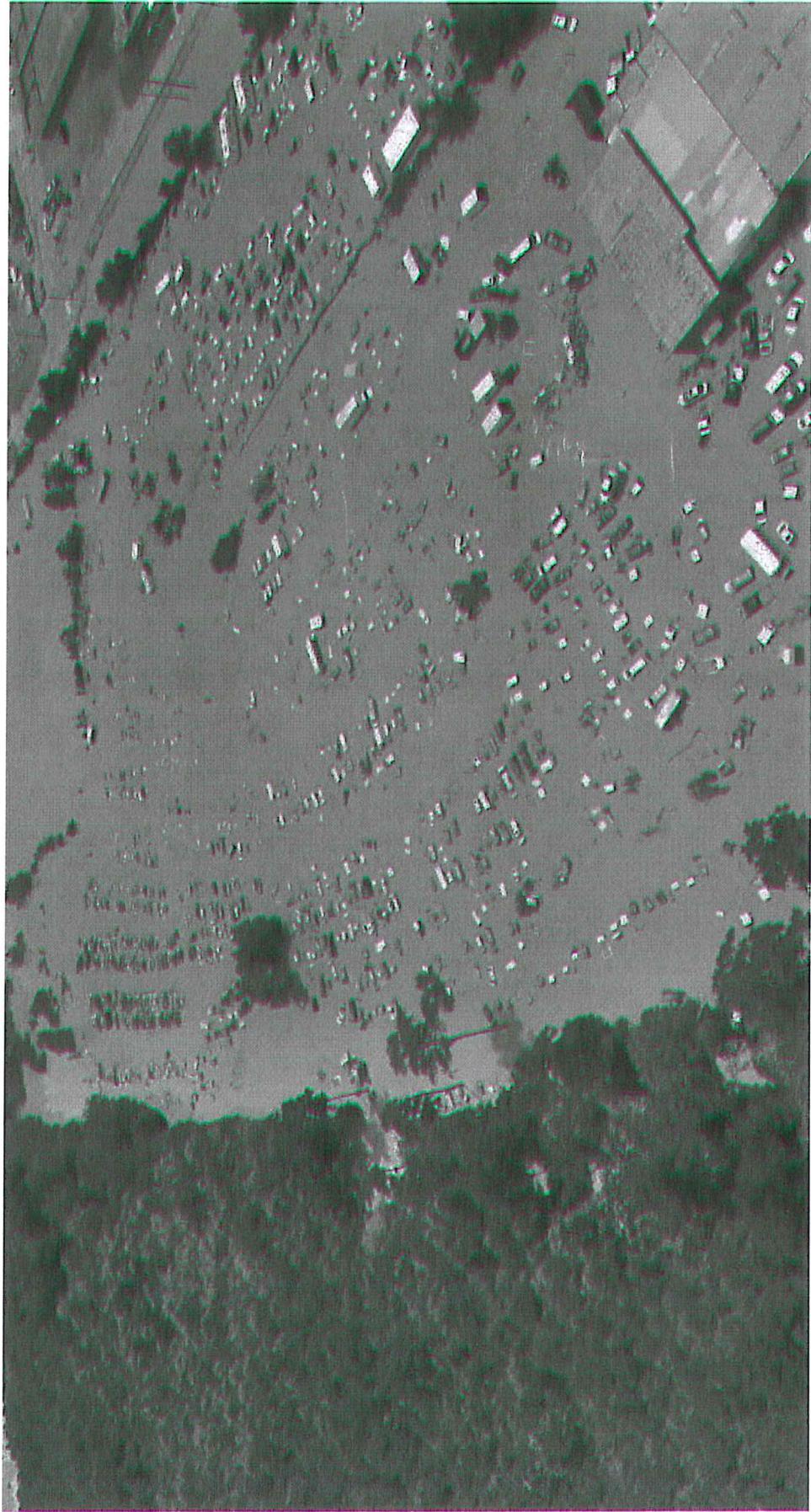
How one tribe is fighting to vote early





Running an election in a pandemic, in 10 steps





First came the floods. Then came the polling place changes.

The Biden campaign has promised “the largest voter protection program in history,” recruiting at least 600 voting rights lawyers and 10,000 volunteers to monitor the polls.

Trump’s call for supporters to turn out at the polls comes on the heels of months of his falsehoods about the integrity of the election and a wide-ranging legal push by his campaign and surrogates aimed at making voting less accessible.

This also is the first presidential election in four decades in which the Republican National Committee can send poll watchers. Two years ago, a federal court lifted a 1982 consent decree that stemmed from the national party sending off-duty police officers to monitor poll locations in New Jersey cities, which critics said intimidated voters of color. The decree didn't prohibit campaigns or state parties from sending observers to the polls, but the RNC couldn't coordinate the effort. Mandi Merritt, a GOP spokesperson, said volunteers now undergo "rigorous" training and are not there to intimidate.

Some voting rights advocates add a note of caution, however. Suzanne Almeida, interim executive director of Common Cause Pennsylvania, wants voters to be aware of the issue and know to notify poll workers if they feel intimidated, but she worries they may feel discouraged to vote if they fear widespread intimidation or violence.

"We have to make sure that as we're drawing attention to a problem that we're not contributing to the problem," she said. Almeida's team recruited 2,000 poll monitors in the Keystone State and has run worst-case scenarios for months, focusing efforts on protecting individual voters at as many polling locations as possible.

Ford, the Nevada attorney general, drew national notice when he responded to Trump's debate comments by tweeting that the president "wasn't talking about poll watching. He was talking about voter intimidation. FYI – voter intimidation is illegal in Nevada. Believe me when I say it: You do it, and you will be prosecuted."

Asked about the tweet, he said he wanted to make it clear voter intimidation won't be tolerated in Nevada. "I'm a Black man from the South," Ford said, adding, "I know what voter intimidation looks like."

Summary of Ordinance No. 292-2022 passed by Akron City Council October 31, 2022 amending and enacting Title 13, Chapter 136 “Offenses Against Justice and Administration,” Article 4 “Election Interference,” Section 136.30 “Definitions,” 136.31 “Election interference,” and 136.32 “Mandatory minimum for harassment, intimidation, or abuse of an election official” to provide greater protection for election officials from harassment and intimidation; and declaring an emergency.

By: Sara Biviano, Clerk of Council

This summary is being published pursuant to Section 38 of the City Charter. The complete text of this legislation is available in the office of the Clerk of Council.

**posted on Akron City Council website 11/1/22 through 11/16/22*