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## 2020 General Election - No Solicitation Zone and Voter Intimidation

1 message

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To: klenhart@flaglerelections.com

Mon, Oct 12, 2020 at 11:24 AM

Candidates and Committee Leadership:

Early voting starts next week! Our workers are trained, voters are ready and we are all looking forward to the start of early voting. It will be very busy at the polls! You are probably aware that emotions are high in the community right now, and that is expected to intensify, as we get closer to Election Day.

Voters are contacting our office to express their concern of potential voter intimidation ahead of this election. I'd like to address these concerns with you and encourage you to share this information with your campaign volunteers. I cannot stress to you enough how important it is for everyone to be respectful of the law and each other during this very important election.

During the Primary Election, candidates and campaign workers repeatedly violated the no-solicitation zone at the Library during early voting. They were reprimanded by myself, in person, and I followed up with an email to all candidates explaining the law. I also contacted Sheriff Staly and shared the law with him to make him aware, as his deputies do not enforce laws related to elections everyday. If we have a disturbance at any of our polling sites, Sheriff Staly encouraged me to contact the FCSO immediately. **I intend to do so on the first issue related to polling place accessibility or voter intimidation.** I'll say that again for those in the back... there is a **zero-tolerance policy** from this point forward. We're all adults and those of you involved in the Primary have been made aware of the law. In this message, I will share this information with everyone and provide the law related to voter intimidation.

The vast majority our candidates and campaign workers have been extremely respectful and well-behaved during this election year. Kudos!!! I do not expect to have to call the Sheriff's Office, however, I certainly will not hesitate if or when needed. My first priority is ensuring the safety of voters and our election workers.

A few weeks ago, the Sheriff's Office released the following [statement](#) regarding an incident which happened in Town Center:

Flagler County Sheriff Rick Staly was made aware of a video this week involving a local resident acting aggressively towards a large gathering of people who came together to show support for a particular Presidential candidate. In the video, the person in support of the opposite candidate drives down the street where the group is gathering while screaming profanities and at points threatening members of the group. During the encounter, the aggressive individual claims to be "buddies" with Sheriff Staly.

"I do not personally know this individual and I certainly do not condone his aggressive behavior. It is behavior like this that causes serious and sometimes deadly incidents," Sheriff Staly said. "I have directed our Homeland Security Section to look in to this troubling video."

With many Americans focused on the upcoming election, the FCSO is reminding residents to remain peaceful and think rationally, not just with emotion. Every American has been granted Constitutional Rights and the First Amendment grants all Americans the right to freedom of speech and the right to peacefully assemble.

"Emotions are high this election season. If you choose to support a political candidate, please do so peacefully and respect the rights of others who may not agree with your views," Sheriff Staly continued. "We will protect everyone's First Amendment rights. If there is a peaceful assembly taking place and you do not agree with their stance, don't go to their gathering, don't drive through it and don't antagonize people. This kind of behavior only hurts your cause and can be extremely dangerous for everyone. You don't have to agree with someone to be kind to them."

If you encounter suspicious activity, please report it to FCSO by calling 386-313-4911. For emergencies, please dial 9-1-1.

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## No Solicitation Zone

The "No Solicitation Zone" is 150 feet from the polling place entrance. There have been some questions raised whether campaign volunteers and/or candidates themselves wearing campaign t-shirts, hats or buttons may walk through the 150' zone throughout the day. The answer is NO. Unless a campaign volunteer is going inside to vote or use the library or community center facilities, there should be no foot traffic through this area. The boundaries are clearly marked and there are no exceptions. **Please Walk Around The No Solicitation Zone.** My election workers (sworn deputies stationed outside) have to assume that anyone wearing campaign apparel, carrying a sign or literature to distribute is there to solicit voters. The law very clearly prohibits this activity and the poll deputy will ask you to leave the area.

The no solicitation zone is in effect during Early Voting and at our Election Day voting precincts. It also applies when our election poll workers arrive and voters may or may not be waiting outside **before 10:00 A.M.** I contacted the state in a prior election and received the following guidance:

"Once the poll workers are in place (typically, an hour before the polls open) and once they set up that [no solicitation] zone, I think it should be a protected zone enforced by the precinct deputy for voters and voters in line even if waiting for the polls to open. It would be discriminatory not to protect voters from solicitation merely because they are in line before the polls open. So, once the building is designated and once the zone is marked, there should be no solicitation allowed ..."

The following activities are prohibited:

- Distribution of campaign materials inside a public area which is within 150 feet and adjacent to the polling room (i.e. inside the library, inside the community center)
- Approaching vehicles and/or persons in their car with pamphlets or materials
- Blocking traffic, stopping the flow of traffic or walking out into traffic
- Aggressive campaigning and the use of bullhorns, megaphones and/or loud speakers

I wouldn't mention any of the above if it hadn't actually happened during my tenure as SOE.

I would also ask that candidates and campaign volunteers be respectful of my staff and election workers who are doing their job to monitor the 150' No Solicitation Zone. I will reinforce the same requirement for my staff and election workers to be respectful as well. Please be aware the law states that the Supervisor of Elections or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 150-foot zone surrounding the polling place.

The question was also asked why voters were allowed inside the polling place wearing campaign apparel. **The law does not apply to voters**, it applies to candidates and campaign volunteers who are there to solicit voters. Voters can wear whatever they want in the polling place.

Here's the statute for your reference, please share with your volunteers!

### **Section 102.031**

#### **Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.—**

(1) Each election board shall possess full authority to maintain order at the polls and enforce obedience to its lawful commands during an election and the canvass of the votes.

(2) The sheriff shall deputize a deputy sheriff for each polling place and each early voting site who shall be present during the time the polls or early voting sites are open and until the election is completed, who shall be subject to all lawful commands of the clerk or inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him or her when necessary to maintain peace and order at the polls or early voting sites.

(3)(a) No person may enter any polling room or polling place where the polling place is also a polling room, or any early voting area during voting hours except the following:

1. Official poll watchers;
2. Inspectors;
3. Election clerks;
4. The supervisor of elections or his or her deputy;
5. Persons there to vote, persons in the care of a voter, or persons caring for such voter;
6. Law enforcement officers or emergency service personnel there with permission of the clerk or a majority of the inspectors; or
7. A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections.

(b) The restriction in this subsection does not apply where the polling room is in an area commonly traversed by the public in order to gain access to businesses or homes or in an area traditionally utilized as a public area for discussion.

**(4)(a) No person, political committee, or other group or organization may solicit voters inside the polling place or within 150 feet of the entrance to any polling place, a polling room where the polling place is also a polling room, an early voting site, or an office of the supervisor where vote-by-mail ballots are requested and printed on demand for the convenience of electors who appear in person to request them. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.**

(b) For the purpose of this subsection, the terms "solicit" or "solicitation" shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item. The terms "solicit" or "solicitation" may not be construed to prohibit exit polling.

(c) Each supervisor of elections shall inform the clerk of the area within which soliciting is unlawful, based on the particular characteristics of that polling place. The supervisor or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 150-foot zone surrounding the polling place.

(d) Except as provided in paragraph (a), the supervisor may not designate a no-solicitation zone or otherwise restrict access to any person, political committee, candidate, or other group or organization for the purposes of soliciting voters. This paragraph applies to any public or private property used as a polling place or early voting site.

(e) The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters outside of the no-solicitation zone during polling hours.

(5) No photography is permitted in the polling room or early voting area, except an elector may photograph his or her own ballot.

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## Voter Intimidation

Here is the law regarding voter intimidation. Please train your volunteers accordingly.

### Section 104.0615

#### **Voter intimidation or suppression prohibited; criminal penalties.—**

- (1) This section may be cited as the "Voter Protection Act."
- (2) 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;
  - (b) Vote or refrain from voting for any particular individual or ballot measure;
  - (c) Refrain from registering to vote; or
  - (d) Refrain from acting as a legally authorized election official or poll watcher.
- (3) A person may not knowingly use false information to:
  - (a) Challenge an individual's right to vote;
  - (b) Induce or attempt to induce an individual to refrain from voting or registering to vote; or
  - (c) Induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.
- (4) A person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot.
- (5) A person who violates subsection (2), subsection (3), or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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## Election Turnout

On a happier note, you can follow live election turnout data on the Elections Office website. We have already received over 12,000 mail ballots for this election! The information is available in several formats, by party, precinct, type, location, etc.

<https://www.flaglerelections.com/Election-Info/Election-Turnout>

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I'm sending this message to every email address I can find for candidates and political party representatives. If you have any questions, please do not hesitate to call the office and ask for me directly.

Sincerely,

***Kaiti Lenhart, MFCEP***

SUPERVISOR OF ELECTIONS



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*For what avail the plough or sail, or land or life, if freedom fail? ~Ralph Waldo Emerson*

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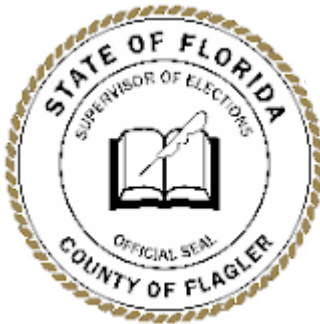


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