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## AGO Guidance Regarding Voter Intimidation and Harassment

The right to vote is a “fundamental political right”<sup>1</sup> that must be protected. Voting is the “bedrock” of our democratic form of governance,<sup>2</sup> which also preserves “...other basic civil and political rights.”<sup>3</sup> Intimidation of citizens who attempt to exercise this fundamental right is both illegal and inimical to the basic tenants of our society: democratic self-governance.

As set forth below, both state and federal law prohibit voter intimidation and harassment. The Vermont Attorney General’s Office stands ready to protect our democracy. We will enforce those laws as necessary to ensure that all Vermonters are able to peacefully exercise their fundamental right to vote without disruption.

### **1. Voter intimidation is illegal.**

Vermont law protects voters from intimidation, harassment, and other forms of interference while exercising their fundamental right to vote. Vermont statutes, for example, expressly prohibit “...bribery, threats or any undue influence to dictate, control, or alter the vote of a voter...”<sup>4</sup> Any person “who interferes with a voter” while voting at a polling station shall be subject to a \$1,000 fine.<sup>5</sup>

Prohibited conduct under Vermont law also includes efforts to remove, destroy, or otherwise hinder mail-in ballots.<sup>6</sup> Furthermore, no person may “physically interfere with the progress of a voter” outside “a building in which a polling place is located.”<sup>7</sup>

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<sup>1</sup> . See *Harper v. State Bd. Of Elections*, 383 U.S. 663, 670 (describing “the right to vote” as “precious” and “fundamental”); *Anderson v. State*, 2013 VT 73, ¶ 8, 194 Vt. 437 (2013).

<sup>2</sup> . *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

<sup>3</sup> . *Id.*

<sup>4</sup> . 17 V.S.A. § 2017.

<sup>5</sup> . 17 V.S.A. § 1972.

<sup>6</sup> . 17 V.S.A. §§ 2019, 2021.

<sup>7</sup> . 17 V.S.A. § 2508(a)(1)(C).

## **2. Voter intimidation violates state and federal criminal laws.**

Voters should not fear for their safety when voting.

Vermont's criminal statutes prohibit certain conduct that might interfere with the right to vote. First, no person shall intentionally or recklessly create the risk of public inconvenience or annoyance at the polls, such as fighting or engaging in violent or threatening behavior. Such a violation would subject the offender to up to 60-120 days in jail and/or fines up to \$500-\$1000.<sup>8</sup> State law also protects voters from violent threats of serious bodily injury, which subjects an offender to imprisonment of up to one year and fines of up to \$1,000.<sup>9</sup> Prohibited violent threats includes those involving firearms. It is presumed that someone has unlawfully endangered a voter by knowingly pointing a firearm at that person, regardless of whether the gun is loaded.<sup>10</sup>

In addition, it is a criminal offense for private individuals to usurp the role of actual law enforcement, including appearing at the polls attempting to exercise the roles that rightfully belong to law enforcement. A person who attempts to impersonate a law enforcement official may be imprisoned from up to six months to two years and subject to fines ranging from up to \$500 to \$1000 per violation.<sup>11</sup>

Federal criminal law also protects voters. Any person who “intimidates, threatens, or coerces” another person “for the purpose of interfering with the right of such other person to vote or to vote as he may choose” in a federal election—or “attempts” to do the same—may be fined or imprisoned for up to one year.”<sup>12</sup>

### **Conclusion**

Our democracy, and its ability to constitutionally “provide for the common defense, promote the general welfare and secure the blessings of liberty,” depends upon the freedom to vote.<sup>13</sup>

The Vermont Attorney General's Office shall ensure this fundamental right is freely exercised by enforcing those laws that protect Vermont voters.

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<sup>8</sup> . 13 V.S.A. § 1026(a) (“a person is guilty of disorderly conduct if he or she, with intent to cause public inconvenience or annoyance, or recklessly creates a risk thereof engage in fighting, or in violent, tumultuous, or threatening behavior.”)

<sup>9</sup> . 13 V.S.A. § 1025 (reckless endangerment).

<sup>10</sup> . *Id.*

<sup>11</sup> . 13 V.S.A. § 3002.

<sup>12</sup> . 18 U.S.C. § 594.

<sup>13</sup> . *See* U.S. Const. Preamble.