



Georgia

P.O. Box 77208, Atlanta, GA 30357
770.303.8111 | akhondoker@acluga.org

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Shauna Dozier, Director
Clayton County Board of Elections and Registration
Jonesboro Historical Courthouse, Main Floor
121 South McDonough Street
Jonesboro, Georgia 30236
elections@claytoncountyga.gov

Members of the Clayton County
Board of Elections and Registration
Jonesboro Historical Courthouse, Main Floor
121 South McDonough Street
Jonesboro, Georgia 30236

Via Email and First-Class Mail

Re: Moving polling places to police stations raises serious voter intimidation concerns

Dear Board of Elections Director and Members:

The ACLU of Georgia respectfully urges the Clayton County Board of Elections and Registration ("Board") to reconsider its September 10, 2019 decision to move a polling place that serves a disproportionately Black neighborhood into a police station, namely the Jonesboro Police Department.

Forcing voters to cast their ballots under the steely gaze of armed law enforcement officers all but amounts to government-sponsored voter intimidation. In this country's not-so-distant past, law enforcement officers harassed, arrested, and beat Black people for trying to vote. In other instances, Blacks were murdered by factions who refused to let them vote. In January of this year, The Atlanta Journal-Constitution reported that "In late July 1946, the lynchings of five African-Americans in Georgia made national headlines The first killing was of Maceo Snipes, an African-American World War II veteran. Snipes was killed in Taylor County, in retaliation for daring to vote in a statewide primary election. For that four white men shot him outside a relative's home." It should come as no surprise that placing a polling place in a police station would prevent or deter voters in this community from exercising their sacred right to vote.

Even today, there are reports of police intimidating Black voters by forcing senior citizens to vacate a bus when they were travelling to the polls;¹ stopping and surrounding a limousine that was likewise taking black voters to the polls;² arresting a Black woman and her supporters after winning her seat on the Board of Education;³ not to mention the illegal arrest by Clayton County Sheriff Victor Hill who reportedly arrested his political rival's wife without cause⁴—to name a scant few. And some law enforcement officers continue to harass, arrest, and murder Black people at disproportionately high rates. Placing a polling place that serves a disproportionately Black community within a police station is wrong and oblivious to this historical backdrop.

It also may very well be illegal. Section 11(b) of the Voting Rights Act prohibits any attempt to “intimidate, threaten, or coerce any person from voting or attempting to vote...” 52 U.S.C. § 10307(b). Congress adopted Section 11(b) of the Voting Rights Act to provide broad protections against all forms of voter intimidation—regardless of method or motive. A violation of Section 11(b) may be established without any showing that the perpetrator had the subjective purpose of intimidating voters through its words or actions. As the House report accompanying the legislation states: “[N]o subjective purpose or intent need be shown” under Section 11(b) of the VRA. H.R. Rep. No. 89-439, at 30 (1965); *see also League of United Latin Am. Citizens – Richmond Region Council v. Public Interest Legal Found.*, No. 18-cv-423, 2018 WL 3848404, at *3-4 (E.D. Va. August 13, 2018) (holding that Section 11(b) does not require specific intent to intimidate).⁵

The Board's decision to relocate Black voters to a police station likely violates Section 11(b) because of its potential to intimidate Black voters.⁶ Moreover, voters who do show up to

¹ Mark Niese, *Black Senior Citizens Ordered Off Georgia Bus Taking Them To Vote*, The Atlanta Journal Constitution (Oct. 16, 2018), <https://www.ajc.com/news/state--regional-govt--politics/black-senior-citizens-ordered-off-georgia-bus-taking-them-vote/42lZxIGOF1uFo637TEc9jP/#>.

² Charles Bethea, *Are Police Targeting Get-out-the-vote Efforts in Georgia?* The New Yorker (Nov. 1, 2018), <https://www.newyorker.com/news/dispatch/are-police-targeting-get-out-the-vote-efforts-in-georgia>.

³ Jon Ward, *How A Criminal Investigation In Georgia Set An Ominous Tone For African-American Voters*, Yahoo News, (Aug. 6, 2019), <https://news.yahoo.com/how-a-criminal-investigation-in-georgia-set-a-dark-tone-for-african-american-voters-090000532.html>.

⁴ Leon Stafford, *Victor Hill Rival Says Clayton Sheriff Arrested Wife To Intimidate Him*, The Atlanta Journal Constitution, (Aug. 16, 2018), <https://www.ajc.com/news/local-govt--politics/victor-hill-rival-says-clayton-sheriff-arrested-wife-intimidate-him/SSED2J5Qmx7Q6fXk53acHO/>.

⁵ Section 11(b) prohibits voter intimidation whether or not it is targeted at specific racial groups or motivated by racial animus. *See League of United Latin Am. Citizens*, 2018 WL 3848404, at *3- 4; *see also* H.R. Rep. No. 89-439, at 30 (“acts of intimidation need not be racially motivated”). However, because the Board's decision likely disproportionately affects Black voters, this would give rise to additional constitutional and statutory violations.

⁶ Mike Ludwig, *Polling Places In Police Stations? Why Civil Rights Groups Are Still Fighting For Voting Rights*, Truth Out, (Oct. 20, 2016), <https://truthout.org/articles/polling->

vote would risk being subject to search and arrest which may result in more constitutional violations, regardless of intent. As Attorney General Nicholas Katzenbach, who drafted much of the Voting Rights Act, explained, defendants charged with violating Section 11(b) are “deemed to intend the natural consequences of their acts.” Voting Rights, Part 1: Hearings on S. 1564 Before the S. Comm. on the Judiciary, 89th Cong. 16 (1965). Thus, regardless of whether the Board intended to intimidate voters, the County would still be liable under 11(b).

For these reasons, we urge you to reverse your decision to move a polling place to a police station and consider other viable options ahead of the next election. We are happy to work with you and the community to find other options.

Sincerely,



Aklima Khondoker
Staff Attorney
ACLU of Georgia



Sean Young
Legal Director
ACLU of Georgia



Sophia Lin Lakin
Staff Attorney
ACLU, Voting Rights Project

cc: Carol Wesley, Chair, ccwesley7@gmail.com
Dorothy Foster Hall, Vice Chair, hallfosterd@hotmail.com
Patricia Pullar, pat.pullar@gmail.com
Darlene Johnson, ddgirl533@gmail.com
Diane Givens, Secretary, dianegivens3@gmail.com

places-in-police-stations-why-civil-rights-groups-are-still-fighting-voting-rights/. In Macon, Georgia, the Board of Elections tried to move a polling place to the sheriff's department but failed due to community outcry.