



## MANAGING DRIVER ACTIVITY AROUND ELECTIONS

This guidance outlines law and best practices for law enforcement to respond to drivers – often organized into “caravans” of multiple vehicles – who express political support for a candidate while engaging in conduct that can threaten public safety, violate the law, and/or cross the line into illegal voter intimidation.

### TYPES OF ACTIVITY

There are three general categories of relevant driver activity:

- 1. Drivers involved in peaceful and lawful demonstration.** If drivers are participating in a political demonstration—e.g., in a procession displaying political insignia, flags, etc.—and they are not violating traffic rules, intimidating voters, or threatening public safety, there is no role for law enforcement.
- 2. Drivers demonstrating but obstructing traffic or breaking other traffic rules.** If drivers are participating in a political demonstration but are obstructing traffic or violating other traffic rules, police may restore the free flow of traffic and ensure that drivers are obeying relevant traffic rules. Police should place a high priority on response if vehicles are obstructing the flow of traffic around a polling place or otherwise impeding access to the polls.
- 3. Drivers involved in voter intimidation.** If drivers are involved in voter intimidation, police should actively intervene, using de-escalation techniques when possible. See below for indicia of voter intimidation.

### WHAT ARE THE RULES?

**Voter intimidation is a crime under federal law and under every state’s laws.** The laws apply equally to voter intimidation conducted from vehicles. Remember – a vehicle that is operated unsafely can be just as menacing and deadly as a firearm. Where voters are involved, examples of voter intimidation may include:

- Tailgating other vehicles
- Swerving aggressively towards pedestrians or other vehicles
- Aggressively revving engines as voters pass
- Verbal threats of violence
- Blocking roads to the polls
- Coordinated blocking of traffic
- Confronting voters while wearing military-style or official-looking uniforms
- Brandishing or intimidating display of firearms
- Disrupting voting lines or blocking entrances
- Aggressively approaching voters’ cars or writing down license plate numbers
- Following voters to, from, or within polling places

**There is no political activity exception to public safety laws.** Officers are empowered to maintain order and safe traffic flow, and to enforce traffic laws as they normally would. State and local traffic laws relating to the safe operation of vehicles and impeding the flow of traffic apply to any location – including the vicinity of polling places. The government has a compelling interest in protecting public safety by ensuring the free flow of traffic and keeping open access for emergency vehicles.

**The First Amendment does not prohibit content-neutral enforcement of public safety laws.** Enforcing traffic laws in a content-neutral manner is a clear example of a reasonable time, place, and manner regulation of conduct that might otherwise be protected by principles of free speech and association.

### WHAT SHOULD LAW ENFORCEMENT DO?

- If drivers are obstructing traffic or impeding access to polls, officers should first encourage drivers to move along, but note that **enforcement action is possible if drivers persist in unsafe and unlawful conduct.**
- If law enforcement observes a convoy approaching voters or demonstrators near a polling place in circumstances in which voter intimidation or confrontations with demonstrators appears likely, officers should engage in de-escalation techniques and encourage the convoy to divert and move along.
- **Most states prohibit electioneering in the immediate vicinity of the polling place.** Law enforcement should be familiar with local and state laws that preclude electioneering within a certain distance of a polling place. These laws generally apply to vehicles as well as pedestrians. Voter intimidation is unlawful whether within the no-electioneering zone or outside of it.
- Law enforcement agencies should document delays and traffic obstructions if drivers interfere with voters. This evidence will be important to other branches of the justice system in crafting remedies to restore fair voting access, including by extending polling hours.



*These materials were prepared collaboratively by the Voter Protection Program, the Institute for Constitutional Advocacy and Protection at Georgetown Law, 21CP Solutions, and the Crime and Justice Institute.*