

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD J. TRUMP FOR PRESIDENT,  
INC., et al.

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity as  
Secretary of the Commonwealth of  
Pennsylvania, et al.,

Defendants.

Civil Action No. 2:20-CV-966

Judge J. Nicholas Ranjan

**Expert Report of Matthew A. Barreto, Ph.D.**

## **I. Introduction**

1. Intervenor-Defendants the Pennsylvania Alliance of Retired Americans, Michael Crossey, Dwayne Thomas, Barbara Weinreich, and Irwin Weinreich retained me to opine on two topics. First, I was asked to evaluate the role of ballot drop boxes in facilitating vote by mail in Black and Latino communities. Second, I was asked to evaluate the relationship between poll watching and voter intimidation in communities with significant Black and Latino populations.

2. To conduct my evaluation, I reviewed two sources of information. First, I reviewed the relevant literature on the use of ballot drop box locations. Second, I conducted a literature review on voter intimidation in the United States against Black and Latino people. Below I summarize the findings of each.

3. Based on this research and my extensive experience working on voter engagement studies, I reached two conclusions. First, ballot drop boxes are an important tool in facilitating vote by mail in Black and Latino communities. Second, there is a strong relationship between poll watching and voter intimidation, particularly in communities with significant Black and Latino populations.

## **II. Background and Qualifications**

4. I am currently a Professor of Political Science and Chicana/o Studies at the University of California, Los Angeles. I am the co-founder and faculty director of the Latino Politics and Policy Initiative (LPPI) in the Luskin School of Public Affairs, a national research center that studies policy issues that impact the Latino and immigrant community.

5. Before I joined UCLA in 2015, I was a professor at the University of Washington for more than nine years, where I was promoted to Associate Professor with tenure, and then Full Professor with tenure. At the University of Washington, I was an affiliated faculty member of the Center for Statistics and the Social Sciences, and an adjunct Professor of Law at the UW School

of Law. I am also the co-founder of the research firm Latino Decisions.

6. Throughout my career, I have taught courses on Electoral Politics, Public Opinion, Voting Rights, Immigration Policy, Racial and Ethnic Politics, Chicano/Latino History, Introduction to Statistical Analysis, and Advanced Statistical Analysis to Ph.D. students.

7. I earned a Ph.D. in Political Science at the University of California, Irvine in 2005, with an emphasis on racial and ethnic politics in the United States, political behavior, and public opinion.

8. I have published multiple peer-reviewed academic research papers on voter turnout, political participation in the U.S., barriers to voting, and minority political engagement (among other topics).

9. In 2018 I provided expert reports and testimony in three federal lawsuits challenging the Department of Commerce's inclusion of a citizenship status question on the 2020 Census, which included an extensive literature review and evaluation of how immigrants react to changes to the U.S. Census. In all three federal trials, the courts recognized my expertise in studying political and civic participation, and each court cited my literature review in ruling in favor of the plaintiffs.

10. I have conducted research nationwide and in New York, California, Indiana, Wisconsin, Pennsylvania, Alabama, Texas, North Dakota, and North Carolina in connection with litigation assessing, among other things, how the public responds to, and is affected by, changes in the law. Courts have accepted my research studies as viable and methodologically accurate instruments to understand how the public responds to changes in state law. In particular, my previous research has focused on understanding sub-group analysis to evaluate differential impacts by race and ethnicity. Recently in North Carolina, a federal court relied on my research in issuing an injunction against the state's voter ID law. In addition, the United States District Court for the

District of North Dakota stated in *Brakebill v. Jaeger* (No. 1:16-cv-008) that “the Court gives the findings of the Barreto/Sanchez Survey, and the other studies and data presented by the Plaintiffs, considerable weight.” Prior to this, in 2014 in *Veasey v. Perry* (No. 13-CV-00193), the United States District Court for the Southern District of Texas, and in findings affirmed by the Fifth Circuit Court of Appeals, found that my survey was statistically sound and relied upon my survey findings to evaluate the impact of Texas’s voter ID law. Likewise, in *Frank v. Walker* (No. 2:11-cv-01128), a survey I administered and included as part of my expert report was given full weight by the United States District Court for the Eastern District of Wisconsin in a voter ID case in Wisconsin.

11. In *Fish v. Kobach* (No. 16-2105-JAR-JPO), the plaintiffs retained me as an expert witness to evaluate the methodology of the defendant’s survey, and the United States District Court for Kansas found me to be an expert on best practices of survey research and credible and qualified to discuss survey methodology.

12. I have also regularly presented my expert review and summary of social science literature as part of expert witness reports and declarations, which have been accepted as valid and relied upon by the courts. Review of published social science literature is a well-established method among political scientists and social scientists in general for drawing valid conclusions regarding the general consensus in the field. Literature reviews are an essential component of all academic research and a requirement for publishing peer-reviewed academic research because they establish the baseline set of knowledge and expectations within the field. As noted above, in litigation challenging the addition of a citizenship question to the 2020 decennial census, three federal courts in New York, California, and Maryland relied upon my literature review as providing credible and valid evidence to help the courts form their opinions.

13. Earlier in 2020, in *New York v. Immigration and Customs Enforcement*, I provided an in-depth literature review examining how immigrant communities respond to increased immigration enforcement, surveillance and monitoring of undocumented immigrants.

14. Recently I provided an expert report on the topic of immigrant intimidation and civic engagement related in the *New York v. Trump* Census apportionment case in which a three-judge federal panel relied upon my analysis and opinion in finding the Presidential Memorandum seeking to excluded undocumented immigrants would harm the Census count and result in intimidation.

15. My full professional qualifications and activities are set forth in my curriculum vitae, a true and correct copy of which I have attached hereto as Appendix A.

16. I was retained by Intervenor-Defendants who made a donation of \$40,000 to the UCLA Luskin School of Public Affairs where I direct a research center. Additionally, I will be compensated at a rate of \$400/hour for any trial work in this case. My compensation in this matter is not in any way contingent on the content of my opinion or the outcome of this matter.

### **III. Ballot Drop Boxes Are an Important Voting Option**

17. It is my understanding that many counties in Pennsylvania used ballot drop boxes in the June 2020 Primary and intend to do so in the November Election. These are commonly used by many jurisdictions in the United States and have been the subject of political science research studies and public opinion research.

18. I was asked to evaluate the role of ballot drop boxes in facilitating vote by mail in Black and Latino communities. To do so, I reviewed the relevant literature on ballot drop boxes and recent survey research, at least one survey which I conducted myself for a recent project.

19. The option to vote by mail has never been quite as important as it is in the upcoming presidential election given the host of concerns regarding the safety of in-person voting locations

in the face of the COVID-19 pandemic and the threat of those sites becoming significant risks for virus cross-contamination. In light of these new challenges presented by the pandemic, voting by mail is an important, safe alternative for voters to be able to exercise their right to vote without the fear of risking their health by voting at a polling location. There is some concern, however, among voters regarding the security of voting by mail, specifically about what happens to their ballot after placing it in the mail. Adding to the concern in 2020 is the intermediary step of having to place the ballot in the service of U.S. Postal Service (“USPS”) amidst evidence of slow mail delivery and degradations in service. This concern has recently been exacerbated due to the changes that have been implemented by the new Postmaster General.<sup>1</sup> Although several courts have recently required the USPS to reverse some of those policies, there continues to be at least a public perception of unreliable USPS service. To reduce some of these concerns, ballot drop boxes are a solution that ensures everyone has access to participate in the democratic process without risking their health, or worrying about whether or not their ballot will be delivered by the USPS. Ballot drop boxes allow voters to provide their ballot directly to elections officials in a secure location within their community that is accessible *without* coming into contact with elections officials or other members of the public.

20. The concerns I discuss above resonate in the Black and Latino communities. The Voter Participation Center recently implemented a multistate poll of 1,552 Latinos in Arizona, Florida, Colorado, North Carolina, Pennsylvania, and Texas, and a poll of 1,310 African Americans in Florida, Georgia, Michigan, North Carolina, Pennsylvania, and Texas.<sup>2</sup> The blended phone and online poll ran from August 8 to August 14, 2020. Respondents were comprised mainly of registered voters (85%) with some eligible to vote, but not yet registered (15%). In this study, a

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<sup>1</sup> Fessler, P. and Parks, M. (Aug. 14, 2020). New Postmaster Hasn’t Yet Met Election Officials About Mail-In Ballot Concerns. NPR. <https://www.npr.org/2020/08/14/902545891/amid-fears-about-mail-in-ballots-election-officials-havent-met-with-new-postmast>.

<sup>2</sup> Latino Decisions. (Aug. 2020). 8-State Battleground Survey of Latinos and Blacks, August 2020. <https://latinodecisions.com/wp-content/uploads/2020/08/VPC-Vote-By-Mail-Latino-Black-Survey.pdf>.

range of questions were asked regarding familiarity with the vote-by-mail process and trust in having vote-by-mail ballots counted.

21. Notably, 43% of Latinos and 41% of African Americans polled had voted by mail before. In Pennsylvania, 40% of Latinos and 43% of African Americans had voted by mail. Trust in the vote-by-mail process was mixed among African American and Latino voters. Respondents were asked: “[I]f election officials in your state sent a ballot in the mail to your house or apartment, and you filled it out and mailed it back in, generally speaking how much trust and confidence would you have that your ballot would be counted in the election?” Of the Latinos polled, 35% said they would be very confident, 36% were somewhat confident, 17% were not that confident, and 13% were not at all confident. Among African Americans, 35% were very confident, 38% are somewhat confident, 16% are not that confident, and 12% are not at all confident. These percentages are reflective of voter sentiment in Pennsylvania.

22. Voters in these demographic groups are particularly concerned about the USPS delivering their ballots. Specifically, there is concern that the post office will not correctly deliver their ballots back to the county elections office, with 39% of Latinos and 35% of African Americans not trusting that their ballot will be delivered. Previous research has found that those who distrust the postal service are less likely to submit their ballot by mail even when they have a vote-by-mail ballot.<sup>3</sup> Instead they are more likely to prefer dropping their ballot off because they believe it to be more secure. These concerns are understandable given that, for example, there were widely publicized, significant delays in ballot delivery during primary elections in Georgia, Wisconsin, and other states, which was a concern for many Black voters.<sup>4</sup>

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<sup>3</sup> Menger, A. and Stein, R. M. (2020). Choosing the Less Convenient Way to Vote: An Anomaly in Vote by Mail Elections. *Political Research Quarterly*, 73(1), 196–207.

<sup>4</sup> Fausset, R. and Epstein, R. (June 10, 2020). Georgia’s Election Mess: Many Problems, Plenty of Blame, Few Solutions for November. *New York Times*. <https://www.nytimes.com/2020/06/10/us/politics/georgia-primary-election-voting.html>.

23. Black and Latino voters prefer to provide their ballot directly to the election officials, and this was reflected in our research. Sixty-five percent of Latinos and sixty-six percent of African Americans stated that they prefer to vote in person because they believe their vote is more likely to count than if they vote by mail. Drop box locations are one way to mitigate this concern. By more widely disseminating ballot boxes, Black and Latino voters can be reassured that their ballot will be directly picked up by county election officials rather than having their ballot go through the post office. When told that drop boxes are a way to directly provide your ballot to county elections departments and not worry about USPS, an overwhelming majority of Latino voters say drop boxes are a good idea and would support their use.

24. Ballot drop boxes make it so that there is no intermediary step between the voter and the county officials who collect the ballot. Drop boxes are currently in use in many states and have been well received by voters. A 2014 survey of voters in Oregon and Washington found that people return their ballots in person or at ballot drop boxes primarily because of convenience and not needing postage. The third most common response was to ensure that their vote was being cast.<sup>5</sup>

#### **IV. Poll Monitoring Can Result in Voter Intimidation**

25. It is my understanding that Pennsylvania allows poll watchers inside polling places “from the time that the election officers meet prior to the opening of the polls until the time that the counting of votes is complete and the district register and voting check list is locked and sealed.” 25 P.S. § 2687(b). During voting, poll watchers may carry a list of voters, and can “challenge any person making application to vote and to require proof of his qualifications.” *Id.*

26. It is my understanding that a poll watcher must be a resident in the county where they are poll watching. *Id.* It is also my understanding that Plaintiffs are challenging this residency

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<sup>5</sup> Ueyama, K. and Greene, S. (Apr. 29, 2015). Vote-By-Mail Rates More Than Double Since 2000. <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/4/29/vote-by-mail-practices-more-than-double-since-2000>.



requirement as it applies to them in counties where there are less registered Republicans than Democrats. These counties include Philadelphia and Alleghany Counties. Philadelphia County has a population that is quite diverse with 44% Black and 15% Latino according to the 2019 Census ACS. Alleghany County also has large Black population, roughly 13% of the countywide total.

27. First, there is no reason to permit out-of-county poll monitors when there is a large pool of within-county voters who are available to serve. There is no evidence at all that voter population sizes within each county in Pennsylvania are not sufficient to provide an adequate pool. There also is no justification for poll monitors from out-of-county given the large population of both Republicans and Democrats in Philadelphia and Alleghany counties. For example, according to a voter registration report<sup>6</sup> from the Pennsylvania Department of State, Elections Division, there are 117,919 registered Republicans in Philadelphia County, and an additional 128,938 Independents. Further, election results<sup>7</sup> from 2016 indicate that Donald Trump won 108,748 votes in Philadelphia County. Looking within Philadelphia County to Wards and Divisions, Trump received dozens or hundreds of votes in voting precincts across the entire geographic region of Philadelphia, indicating there are supporters in all reaches of the county. The same DOS report counts 263,952 registered Republicans in Allegheny County with 138,999 Independents, and election results note that Trump won 259,125 votes in Alleghany County in 2016. There is no factual basis for the claim that there is a dearth of potential poll observers from within the local counties.

28. I was asked by Intervenor-Defendants to evaluate the relationship between poll watching and voter intimidation. To do so, I conducted a literature review on voter intimidation in the U.S. against Black and Latino people. In particular, I focused on voter intimidation that relates to polling places. What I found was that there is a long history of voter intimidation targeted at

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<sup>6</sup> Pennsylvania Department of State. Accessed Sept. 30, 2020, <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStatistics/Documents/Annual%20Reports%20on%20Voter%20Registration/2019%20Annual%20Report.pdf>.

<sup>7</sup> Pennsylvania Department of State. Accessed Sept. 30, 2020, <https://www.electionreturns.pa.gov/General/SummaryResults?ElectionID=54&ElectionType=G&IsActive=0#>.

Black and Latino communities in this country, which carries through to the modern day. Many of these instances involve harassment at the polling place, including by targeted challenges to the qualification of minority voters to vote.

29. On Election Day in 1964, poll watchers used the lists compiled by the vote-caging canvasses<sup>8</sup> and asked voters in line questions about their eligibility. Some poll watchers even dressed in official-looking uniforms and demanded proof of citizenship (which is not required to vote). Psychological deterrence was a key aspect of Operation Eagle Eye. The Republican strategy was meant to discourage ineligible voters, but more likely frightened off many eligible voters. In many cases, the mere presence of poll watchers generated long lines and intimidated unchallenged voters, dissuading even eligible voters from submitting ballots.<sup>9</sup>

30. During the 1981 New Jersey gubernatorial election, the RNC was sued for sending armed, off-duty police officers to monitor polls in minority neighborhoods throughout Newark and Trenton. The men who were sent to the polls in Black and Latino precincts throughout New Jersey were organized, used walkie-talkies to communicate with one another, and, in some cases, carried guns with them. Some of the men even had armbands that read “National Ballot Security Task Force,” to make the operation more perceptibly official. Likewise, signs were posted over polling places indicating authorities were looking for voter fraud. One sign read “WARNING – THIS AREA IS BEING PATROLLED BY THE NATIONAL BALLOT SECURITY TASK FORCE. IT IS A CRIME TO FALSIFY OR TO VIOLATE ELECTION LAWS.”<sup>10</sup> The lawsuit ended up being important given the Republican party candidate, Thomas Kean, narrowly defeated James Florio by 1,677 votes (out of more than 2 million cast). Moreover, the lawsuit resulted in a federal

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<sup>8</sup> Levitt, J. (2007). A Guide to Vote Caging. <https://www.brennancenter.org/our-work/research-reports/guide-voter-caging>.

<sup>9</sup> Guemsey, S., Harris on, L., and Dombrowski, J. (2015). “Why Can’t I Vote?” <http://nationatrisk.us/files/2015/11/Why-I-Cant-Vote-Final-Nov.-23.pdf>.

<sup>10</sup> Larsen, E. (Oct. 27, 2016). NJ’s 1981 vote: Armed men at the polls. App. <https://www.app.com/story/news/politics/new-jersey/2016/10/27/voter-suppression-made-infamous-nj/92801540/>

consent decree that sharply curtailed the Republican Party's ability to coordinate poll watches by requiring prior judicial approval.<sup>11</sup>

31. Dr. Lori Minnite, a political scientist at Rutgers University in Camden, who studies voter fraud, says there is little cheating and voting fraud.<sup>12</sup> "Are voters trying to game the system, are they impersonating other people?" Minnite said. "And the answer to that is that is very rare in contemporary American elections, and it's not likely going to be a problem at all." The real threat to voting, Minnite indicates, are efforts like the 1981 National Ballot Security Task Force. These efforts suppress the vote and could lead to the perception for some people that "unless he wins, there's election rigging."<sup>13</sup>

32. Four years later, in 1985, the RNC was "caging" minority voters in Louisiana. *Vote caging* is a strategy where operatives send mail to voter registration roll addresses, compile a list of mail that was returned undelivered, and use the resulting set of names as a basis to purge voters from lists or challenge voters trying to submit a ballot.<sup>14</sup> An internal RNC memo indicated the caging operation was meant to "keep the Black vote down." A lawsuit was filed once again, and the RNC agreed to a modified consent decree requiring it to submit all plans for anti-voter fraud campaigns to the court for approval.<sup>15</sup> However, the consent decree ended on December 1, 2017 and was not extended by Newark-based District Court Judge John Michael Vazquez.

33. In 2004, Ohio Republicans, citing supposed fraud, sent as many as 3,500 poll watchers into polling locations with plans to challenge voters deemed ineligible. Most if not all of

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<sup>11</sup> Blake, M. (Sept. 19, 2012). The Ballot Cops. The Atlantic. Section: Politics. <https://www.theatlantic.com/magazine/archive/2012/10/the-ballot-cops/309085/> (visited on 08/18/2020).

<sup>12</sup> Minnite, L. (2011) The myth of voter fraud. Cornell University Press.

<sup>13</sup> Katz, M. (2016). Armed Men Once Patrolled the Polls. Will They Reappear in November? | WNYC | New York Public Radio, Podcasts, Live Streaming Radio, News. WNYC. Accessed Aug. 18, 2020, <https://www.wnyc.org/story/armed-men-once-patrolled-polls-will-they-reappear-november/>.

<sup>14</sup> Guemsey, S., Harrison, L, and Dombrowski, J. (2015). "Why Can't I Vote?" <http://nationatrisk.us/files/2015/11/Why-I-Cant-Vote-Final-Nov.-23.pdf>.

<sup>15</sup> Blake, supra.

those being supposedly “challenged” were legally eligible to vote and were instead being harrassed. A court ruling noted the poll challengers in Hamilton County, which includes Cincinnati, were heavily concentrated in minority-majority polling places.<sup>16</sup>

34. Even more recently, in 2010, True the Vote, a group associated with the Tea Party movement in Texas, was accused of intimidating voters with its poll-watching operation. The King Street Patriots, a subsidiary of True the Vote, moved into polling places in heavily Black and Latino neighborhood around Houston, looking for supposed voter fraud. However, no such voter fraud was found and, instead, concerns arose over alleged voter intimidation. Poll watchers were accused of hovering over voters, blocking lines of people trying to cast ballots, and “getting into election workers’ faces,” according to Assistant Harris County Attorney Terry O’Rourke.<sup>17</sup>

35. Ballot security operations can devolve into outright voter intimidation and harassment. In August 2016, in Georgia, majority-white Hancock County Board of Elections and Registration was systematically questioning the registrations of more than 180 Black Sparta citizens, dispatching deputies with summonses commanding them to appear in person to prove their residence or lose their right to vote. In 2012, activists in Wisconsin “streamed into poor black and Latino precincts around Racine,” hunting for evidence people were cheating. There were sightings of “poll watchers tailing vans transporting voters to the polls, snapping pictures of voters’ license plates, and even directing voters to the wrong polling places.”<sup>18</sup>

36. There is also concern that efforts to monitor the voting process in Latino communities can lead to fear and withdrawal of Latino voters. Part of this withdrawal is due to concerns that monitoring may put non-citizen family members at risk. It is not uncommon for

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<sup>16</sup> S.D. Ohio (2004). *Spencer v. Blackwell*, 347 F. Supp. 2d 528 (S.D. Ohio 2004). Justia Law. Accessed Aug. 18, 2020, <https://law.justia.com/cases/federal/district-courts/FSupp2/347/528/2422028/>.

<sup>17</sup> Blake, *supra*.

<sup>18</sup> Weiser, Wendy and Adam Gitlin. (2016). *Dangers of “Ballot Security” Operations: Preventing Intimidation, Discrimination, and Disruption*. New York: Brennan Center for Justice at NYU School of Law.

Latinos to be victims of harassment and intimidation in their communities. Vigilante citizen groups such as Minutemen Militia on the Southern border have a history of unconstitutionally questioning and detaining Latinos that they believe are in the U.S. illegally, which has led to the arrest of members of these groups.<sup>19</sup> In cities where demographics have steadily been changing and the share of Latinos increasing, “white locals have intimidated Latinos with a game they call ‘Border Patrol’ using vehicles to intimidate Latino pedestrians.”<sup>20</sup> These efforts to intimidate Latino residents decreases their sense of safety and belonging in the community which causes them to withdraw from community life altogether.<sup>21</sup>

37. Historically, in Houston, Texas, the RNC distributed pamphlets in Black neighborhoods warning that any voter who committed a traffic violation or minor offense could be arrested after voting. This is false, yet the information was distributed with the intent to scare voters. In Los Angeles and San Francisco, California, minority voters received anonymous threatening phone calls warning them they would be challenged at the polls to verify their citizenship status and identity. In New Jersey, a Republican operative circulated a pamphlet urging Black voters to write in Dr. Martin Luther King’s name for president, knowing that would nullify their votes.<sup>22</sup>

38. These accounts are consistent with the academic research published in political science, sociology, criminal justice and ethnic studies disciplines, which finds a long history of Black, Latino and other minority communities facing surveillance and intimidation by local “citizens groups.”<sup>23</sup> It has been well documented that conservative groups have organized so-called

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<sup>19</sup> Reyes, R. (Apr. 22, 2019). The U.S.-Mexico border isn’t protected by militias, it’s patrolled by domestic terrorists. The United Constitutional Patriots are just one in a long line of anti-immigrant groups who try to terrorize the border areas. NBCNews. <https://www.nbcnews.com/think/opinion/u-s-mexico-border-isn-t-protected-militias-it-s-ncna997056>.

<sup>20</sup> Trillin, C. (May 10, 2010). Incident in Dodge City, What led to a showdown in the riverbed? The New Yorker. Accessed Aug. 18, 2020, <https://www.newyorker.com/magazine/2010/05/10/incident-in-dodge-city>.

<sup>21</sup> Trillin, supra.

<sup>22</sup> Guemsey, S., Harrison, L, and Dombrowski, J. (2015). “Why Can’t I Vote?” <http://nationatrisk.us/files/2015/11/Why-I-Cant-Vote-Final-Nov.-23.pdf>.

<sup>23</sup> Wade, W. C. (1987). The Ku Klux Klan in America: The Fiery Cross. New York: Simon & Schuster.

“concerned citizen groups” to monitor, survey, harass and intimidate Black and immigrant communities for decades, if not centuries, in America.<sup>24</sup>

39. There is a long history of people from outside the community using vigilantism and lynch mob tactics against African American and Latino communities in the United States.<sup>25</sup> The origins of vigilantism are rooted in the eras of slavery and Jim Crow, and there is a continuation today that has been well documented and observed within Black and Latino communities. According to a comprehensive research project by the Equal Justice Initiative, vigilantism, surveillance, violence, and lynching against Black people “inflicted deep traumatic and psychological wounds on survivors, witnesses, family members, and the entire African American community.” What’s more, this legacy has resulted in many African Americans being “exceedingly circumspect in their dealings with whites.”<sup>26</sup> People from outside the community are often seen with suspicion and their outsider status may result in voters becoming nervous or afraid, based on the historical record of violence and intimidation against minority communities.

40. Research in political science suggests that voters are much more comfortable and trusting of the process when they know or are familiar with poll workers who are from their community.<sup>27</sup> This work also establishes that there is increased trust in government, faith in elections, and voter turnout when the voting experience has a “friendlier atmosphere, which could promote confidence in the voting process.” This should be the goal of election administration—to create an environment for voters in which they are comfortable, confident, and free from outside influence, threat, or intimidation.

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<sup>24</sup> McVeigh, R. (2009). *The rise of the Ku Klux Klan: Right-wing movements and national politics* (Vol. 32). U of Minnesota Press; Hogan, J., & Haltinner, K. (2015). Floods, invaders, and parasites: Immigration threat narratives and right-wing populism in the USA, UK and Australia. *Journal of Intercultural Studies*, 36(5), 520-543.

<sup>25</sup> Brown, R. M. (1975). *Strain of violence: Historical studies of American violence and vigilantism*. Oxford University Press; Moses, Norton. (1997). *Lynching and vigilantism in the United States: an annotated bibliography*. No. 34. Greenwood Publishing Group; Delgado, R. (2009). *The law of the noose: A history of Latino lynching*. *Harv. CR-CLL Rev.*, 44, 297.

<sup>26</sup> Equal Justice Initiative. *Lynching in American*. Accessed Sept. 30, 2020, <https://lynchinginamerica.eji.org/report/>.

<sup>27</sup> Bullock III, C. S., Hood III, M. V., and Clark, R. (2005). Punch cards, Jim Crow, and Al Gore: Explaining voter trust in the electoral system in Georgia, 2000. *State Politics & Policy Quarterly*, 5(3), 283-294.

41. Poll-watching will generate a chilling effect on political participation among minority groups. For the first time in four decades, the U.S. will hold a presidential election without a consent decree barring the RNC from engaging in “ballot security,” or voter intimidation at the polls. The Republican Party has formulated a plan to recruit up to 50,000 volunteers in 15 key states to watch polling places and dispute “suspicious” ballots.

42. The Trump Campaign and Republican Party of Pennsylvania is currently planning to send thousands of poll watchers to voting locations across the state, which will have the likely effect of intimidating voters. The Campaign is providing misinformation to these poll watchers that the voting process may be rife with fraud in 2020, despite having no such evidence of widespread fraud. By warning the potential poll watchers about voter fraud, they are priming them to increase their surveillance and harassment of voters to root out ineligible voters.

43. As a result, the role of the election monitors as outlined by the Trump Campaign is one of “enforcer,” an individual who confronts and challenges voters, rather than one who advocates of equitable and fair access to voting. This can be seen in the advertising used to recruit election day workers where campaign materials call volunteers “Trump’s Army.”<sup>28</sup>

44. Emails from the Campaign use language to strongly suggest that Democrats will be cheating at the polls, stating that “Democrats will be up to their old tricks to stop President Trump from being re-elected!” These emails also imply that Democrats will vote multiple times. Indicating that it is up to election day observers to make sure “that everyone who is legally entitled to vote has the opportunity to vote, and that their vote is counted, ONCE!”

45. The emphasis on the role of election monitors in making sure that votes are only counted once is a theme that is repeated in emails from the Trump Campaign and from James Fitzpatrick, the Pennsylvania Election Day Operations director, who is orchestrating the Trump

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<sup>28</sup> <https://www.armyfortrump.com>.

campaign's poll monitoring efforts in Pennsylvania. He says the goal of the Trump Campaign is "to ensure a fair and secure election. Where every eligible voter is able to legally cast a ballot and have that ballot counted... once."

46. The Pittsburg Post-Gazette has also noted that "The GOP is recruiting 50,000 monitors, typically party activists and specially appointed volunteers, across 15 battleground states."<sup>29</sup> Election monitoring is a targeted effort by the Republican party to influence the outcome of the 2020 election, in states where the suppression of a small number of voters could decide certain races. Furthermore, Pennsylvania statute states that while the parties and the candidates can appoint election watchers, each watcher must be a "qualified registered elector of the county in which the election district for which the watcher was appointed is located."

47. It is known that the Trump Campaign has sought to dissuade African Americans from voting in the past,<sup>30</sup> and there is the potential that election monitors will intimidate and call into question the credibility of African American voters in the state as a way of disenfranchising African American voters in the state.

48. Moreover, some groups are pushing to assign off-duty or retired police officers to monitor or watch polling locations.<sup>31</sup> Many in the Black and Latino community are concerned poll watching will result in attempts to harass and intimidate minority voters and voters in Democratic-leaning parts of the country.<sup>32</sup>

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<sup>29</sup> Tucker, E., & Riccardi, N. (Aug. 31, 2020). Constraints gone, GOP ramps up effort to monitor voting in Pa. The Post Gazette. <https://www.post-gazette.com/news/politics-state/2020/08/17/Constraints-gone-GOP-ramps-up-effort-monitor-voting-Pennsylvania/stories/202008120137>.

<sup>30</sup> McEvoy, J. (Sept. 28, 2020). Report: Trump 2016 Campaign Sought To Dissuade Blacks From Voting, Listed Millions For 'Deterrence'. Retrieved September 29, 2020, <https://www.forbes.com/sites/jemimamcevoy/2020/09/28/report-trump-2016-campaign-sought-to-dissuade-blacks-from-voting-listed-millions-for-deterrence/#5fd6ca18616a>.

<sup>31</sup> Lerner, K. (2020). Police at Polling Places Could Intimidate Voters This November, Advocates Warn. The Appeal. <https://theappeal.org/police-polling-places-voter-intimidation-consent-decree/>.

<sup>32</sup> Connolly, G. (May 18, 2020). Trump recruiting 50,000 polling site monitors in thinly veiled attempt to harass and intimidate voters, activists warn. The Independent. <https://www.independent.co.uk/news/world/americas/us-politics/trump-2020-vote-volunteers-polling-monitors-november-election-democrats-a9521011.html>.



49. Using law enforcement as even a small part of poll watching sends a clear negative message to minority voters. Gilda Daniels, litigation director for the Advancement Project, a nonprofit organization focusing on racial justice issues, indicated that “whether it’s an armed police officer patrolling a polling place or just having a police car with lights blaring in front of a polling place, all can serve as a form of voter intimidation and certainly can have a chilling effect, particularly in Black and brown communities. If we add what’s happening in our society today in regard to the relationship between police officers and people of color, having a police presence at a polling place could rise to the level of voter intimidation, even more so than in previous years.”<sup>33</sup>

50. Jon Greenbaum, chief counsel and senior deputy director for the Lawyers’ Committee for Civil Rights Under Law, indicated that “[i]f the experience of you or your family members with law enforcement has been really bad, you’re not going to want to see a police officer at the polls” and “[t]heir presence can have the effect of turning people away.” Police officers may also scare away many multigenerational and multi-immigrant Latino families, given that they’re often conflated with ICE.<sup>34</sup>

51. Already, 2020 is seeing evidence of potential voter intimidation by those affiliated with the Trump Campaign. In Virginia in September 2020, a group of Trump supporters had election signage support President Trump and were yelling at voters who entered an early voting location in Fairfax. According to Gary Scott, the general registrar of Fairfax County, “some voters, and elections staff, did feel intimidated by the crowd.”<sup>35</sup> The Trump supporters were engaged in activities that blocked access to the voting location and attempted to disrupt the voting process according to journalists, eyewitness accounts, and video evidence recorded by voters in attendance.<sup>36</sup>

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<sup>33</sup> Lerner, *supra*.

<sup>34</sup> Lerner, *supra*.

<sup>35</sup> Coaranti, N. and Saul, S. (Sept. 19, 2020). Trump Supporters Disrupt Early Voting in Virginia. New York Times. <https://www.nytimes.com/2020/09/19/us/politics/trump-supporters-early-voting-virginia.html>.

<sup>36</sup> <https://twitter.com/AnthonyTilghman/status/1307360544559706113>.

52. There is a clear historical record of using poll watching to intimidate or suppress minority votes. In particular, outside groups often harass, block access, or instill fear for in-person voters who are familiar with historical and contemporary incidents of voter intimidation. If non-official groups of activists serve as voting monitors, and place themselves in polling locations, it will be the case that many U.S. citizens will be fearful of voting and will choose not to exercise that right in an effort to protect themselves or their family members. This year, the attempts are well-coordinated and directly connected to the Trump Campaign, which is urging its supporters to go inside polling locations to serve as poll watchers with the effect of scaring or alarming potential voters. In fact, in the closing statement of the Presidential debate of September 29, 2020, President Trump stated “I am urging my supporters to go into the polls and watch very carefully, because that’s what has to happen,” and specifically referenced Philadelphia as a city for poll watchers to flock to “because bad things happen in Philadelphia.” These comments reflect the same ones he made in 2016, where he told voters in Ambridge, Pennsylvania that he had heard “horror shows” about what was occurring in Philadelphia and that it was important to “watch other communities, because we don’t want this election stolen.”<sup>37</sup> In my opinion, the Trump Campaign is encouraging their Pennsylvania supporters to intimidate voters through poll watching, inciting their supporters by stating, without support, that vote fraud is happening in Pennsylvania, and specifically in Philadelphia. This will have a negative impact on the voting process and result in voters being nervous, threatened and less likely to vote.

53. After reviewing plaintiffs report(s), I plan to offer rebuttal opinions as requested by Intervenor-Defendants.

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<sup>37</sup> Bump, P. (Oct. 11, 2016). Donald Trump warns that ‘other communities’ are poised to steal the election. The Washington Post. <https://www.washingtonpost.com/news/the-fix/wp/2016/10/11/donald-trump-warns-that-other-communities-are-poised-to-steal-the-election/>.

Executed on September 30, 2020 at Agoura Hills, CA.



A handwritten signature in black ink, reading "Matt A. Barreto", is positioned above a horizontal dashed line. The signature is written in a cursive style with a prominent flourish at the end.

Matthew A. Barreto, Ph.D.