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Affiliations appear only for purposes of identification.

October 13, 2026

Cord Byrd

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Re: Protected Newsgathering Activity Near Polling Places

VIA FEDEX

Dear Secretary Byrd, Mr. Uthmeier, and Ms. Garcia:

We the undersigned are attorneys at Reporters Committee for Freedom of the Press, a national nonprofit dedicated to protecting the First Amendment and newsgathering rights of journalists, and the Florida law firm Shullman Fugate PLLC. We represent Miami-based journalist Abel Fernández and write to raise serious First Amendment-related concerns about Florida Statute § 102.031(4)(a)–(b), which prohibits persons from, *inter alia*, “seeking or attempting to seek” any “fact” or “opinion” from voters within 150 feet of a polling place. Application of that law to reporters seeking to interview voters peaceably in public fora would violate the First Amendment, and we urge you to ensure voting officials in Florida do not enforce it unconstitutionally this coming Election Day, November 3. Please confirm that steps will be taken to protect the rights of journalists at the polls next month.

Mr. Fernández has already been unconstitutionally expelled from the vicinity of a polling place while reporting, apparently pursuant to this statute. Last Election Day (November 4, 2025), Mr. Fernández was on a freelance assignment to cover Miami’s general municipal elections, and so he visited a polling place located at Robert King High Park to interview

voters after they casted their ballots. At no point did Mr. Fernández obstruct the voting process or entry into the polling place, and poll workers told Mr. Fernández that he could speak with voters approximately 15 to 20 feet from the entrance of the polling place. Mr. Fernández spoke to a voter as she was leaving the polling place, and she agreed to be interviewed. They walked together toward the parking lot and finished the interview while standing approximately 50 to 75 feet from the entrance. At that point, Mr. Fernández began speaking to another individual who had just voted and was walking to his car nearby. In the middle of that second interview, a City of Miami Parks Department Ranger interrupted and informed Mr. Fernández that he was unlawfully “soliciting.” Mr. Fernández objected, but the Ranger demanded that he leave the park, and Mr. Fernández eventually complied.

In following the Ranger’s orders, Mr. Fernández had to abandon his reporting efforts, limiting his ability to gather the news and limiting the public’s access to information on the election as it was occurring. Mr. Fernández was merely doing his job, interviewing voters who were willing to speak with him about the election so that their perspectives could be incorporated in his reporting, which included a traditional news article and contributions to a live blog that covered Election Day as it was occurring.

Though the Ranger was not clear about the legal basis for his unconstitutional action, it appears he was enforcing Florida law regarding “unlawful solicitation of voters,” Fla. Stat. § 102.031. But the subsections at issue (the “Provisions”) impose extraordinarily overbroad bans on even the most basic speech with voters—including protected newsgathering. These Provisions prohibit any “person, political committee, or other group or organization” from “solicit[ing] voters . . . within 150 feet of . . . the entrance to any polling place[.]” Fla. Stat. § 102.031(4)(a), and define “solicit” and “solicitation” as “seeking or attempting to seek any vote, fact, opinion, or contribution,” among other things. Fla. Stat. § 102.031(4)(b). The only exception to that prohibition is for “exit polling,” which is undefined. *Id.*

The Provisions unduly restrict the time, place, and manner of speech in public parks, sidewalks, and streets recognized by the U.S. Supreme Court as “traditional public fora,” located within the expansive 150-foot buffer zones that the Provisions create around polling places. *See McCullen v. Coakley*, 573 U.S. 464, 476 (2014). The statute bars expression in these traditional public fora without any regard for the heightened protection for speech in those spaces.

On their face, the Provisions restrict even “normal conversation” between voters, *McCullen*, 573 U.S. at 488, while also infringing on reporters’ right to gather the news by interviewing voters outside polling places and the public’s right to receive facts and opinions from those voters to facilitate discussion about elections. *See Branzburg v. Hayes*, 408 U.S. 665, 681 (1972) (“[W]ithout some protection for seeking out the news, freedom of the press could be eviscerated.”); *Brown v. Hartlage*, 456 U.S. 45, 52–53 (1982) (“[A] major purpose of [the First] Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates.” (cleaned up)); *Daily Herald Co. v. Munro*, 838 F.2d 380, 384 (9th Cir. 1988) (“[I]nterviews by

reporters” protected by First Amendment); *CBS Inc. v. Smith*, 681 F. Supp. 794, 802 (S.D. Fla. 1988) (“[T]he conduct of exit polling and journalistic interviews are protected by the First Amendment guarantees of free speech and free press.”). The Provisions do so in a manner that is not narrowly tailored to the government’s interest in maintaining the safety and integrity of elections. Instead, the Provisions burden much more speech than is necessary to achieve that goal, without regard for whether such speech actually puts the orderly administration of elections at risk.

The enforcement of the Provisions against Mr. Fernández exemplifies the problem. He was simply doing his job and engaging in typical newsgathering by interviewing voters—“a basic right protected by the First Amendment.” *CBS Inc.*, 681 F. Supp. at 803. Blocking him from doing so satisfied no government interest, as he never disrupted the voting process or threatened to.

The Provisions also fail to “leave open ample alternative channels of communication,” *Fla. Preborn Rescue, Inc. v. City of Clearwater, Fla.*, 161 F.4th 732, 738 (11th Cir. 2025), which “must be adequate and meaningful [and] [t]he speaker must be able to effectively communicate his message to the intended audience in face of the [law’s] restrictions,” *LaCroix v. Town of Fort Myers Beach, Fla.*, 38 F.4th 941, 952 (11th Cir. 2022). One hundred and fifty feet is too far away from a polling place for speakers to “effectively communicate” with voters; standing 151 feet from a polling place entrance is useless as an alternative, as voters will come and go without ever being reachable by a reporter.

Florida’s statutes prohibiting speech activity near polling places have been repeatedly challenged in court and repeatedly struck down as unconstitutional.¹ Still, Florida’s law prohibiting “solicitation” of voters remains on the books and appears to be the broadest and most restrictive such statute in the country. Other states either prohibit behaviors that are defined more narrowly than the definition of “solicit” in § 102.031(4)(b) or prohibit solicitation within a much smaller radius (or, more commonly, both).² In addition to violating the Constitution, enforcement of the

¹ See, e.g., *League of Women Voters of Fla. Inc. v. Fla. Sec’y of State*, 66 F.4th 905, 944 (11th Cir. 2023) (finding that provision of Fla. Stat. § 102.031(4)(a) prohibiting “engaging in any activity with the intent to influence or effect of influencing a voter” was unconstitutionally vague); *Clean-Up ‘84 v. Heinrich*, 582 F.Supp. 125 (M.D. Fla. 1984), *aff’d*, 759 F.2d 1511 (11th Cir. 1985)) (holding that Fla. Stat. § 104.36 was “overbroad” and entering preliminary injunction against it); *CBS Broad., Inc. v. Cobb*, 470 F. Supp. 2d 1365 (S.D. Fla. 2006) (permanently enjoining enforcement of 2005 statute’s prohibition on exit polling); *Firestone v. News-Press Publ’g Co.*, 538 So.2d 457 (Fla. 1989) (invalidating statute, finding prohibition of nonvoter access within 50 feet of a polling place to be overbroad); *Fla. Comm. for Liab. Reform v. McMillan*, 682 F.Supp. 1536, 1538–39 (M.D. Fla. 1988) (enjoining enforcement of 1987 statute and finding 150-foot radius from polling places to be overbroad); *CBS Inc.*, 681 F.Supp. at 794 (enjoining enforcement of 1987 statute as applied to media exit polling).

² See, e.g., Ala. Code § 17-9-50 (2025) (prohibiting anyone other than “electors admitted to vote and persons to assist them” from being “within 30 feet of the door of the building of the polling place”); Minn. Stat. § 211B.11 (2025) (prohibiting “try[ing] to induce or persuade a voter to vote for or refrain from voting for a candidate or ballot question” within 100 feet of a polling place); Ohio Rev. Code § 3501.35 (2018) (prohibiting soliciting but clarifying that “[n]otwithstanding any provision of this section to the contrary, a

Provisions would make Florida an outlier and restrict much more speech activity than necessary to ensure free, fair, and safe elections.

While all elections are newsworthy, the midterm elections this year are particularly so. Mr. Fernández—like many reporters in Florida and across the country—intends to seek information from voters on Election Day including at polling places so that he can provide live updates on voter turnout and results, as well as insight into the minds of voters on the day they submit their ballots. The potential for enforcement of the Provisions against Mr. Fernández or any other journalist is deeply concerning, and risks yet another violation of the First Amendment. We urge you to take all possible steps to ensure that Florida poll workers and law enforcement officials tasked with maintaining order on Election Day do not unconstitutionally expel reporters from the vicinity of polling places, and permit them to engage in peaceful, unobstructive interviews with voters willing to speak with them.

Please respond to this letter confirming receipt and detailing the steps you will take to protect the rights of journalists at the polls in November. Mr. Fernández reserves all rights, should his constitutional protections be disregarded again on Election Day. We can be available at your convenience to discuss this issue further or provide additional information.

Sincerely,

s/Adam A. Marshall

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journalist shall be allowed reasonable access to a polling place during an election”); Tenn. Code § 2-7-111 (2025) (prohibiting “solicitation of votes for or against any person, political party, or position on a question” within 100 feet of a polling place).