

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



Testimony of Henal Patel
New Jersey Institute for Social Justice
in Support of A4655
New Jersey State Assembly State and Local Government Committee
Wednesday, March 17, 2021

Chairman Mazzeo, Vice-Chair Freiman, and members of the Assembly State and Local Government Committee:

Thank you for the opportunity to submit this testimony.

My name is Henal Patel and I work at the New Jersey Institute for Social Justice (the “Institute”). The Institute uses cutting-edge racial and social justice legal advocacy to empower people of color by building reparative systems that create wealth, transform justice and harness democratic power—from the ground up—in New Jersey.

We submit this testimony in support of A4655, crucial legislation that will limit the presence of law enforcement near voting locations. Law enforcement and voting should not be connected at any time. We are not only a year into the pandemic, we are a year into a long overdue state and national reckoning on racism around policing. We *must* recognize that Black and Brown communities often do not view law enforcement as reassuring. It is imperative for New Jersey to ensure that there are no deterrents to exercising the fundamental right to vote, especially for Black and other communities of color.

Whether intentional or not, having police presence near a voting site can be intimidating to voters – especially many Black voters – and lead to suppressing the vote. Unfortunately, New Jersey has a troubling history in this regard. During the 1981 gubernatorial election here in New Jersey, off-duty police officers were used to intimidate voters in Black and Brown communities.¹ This led to a Consent Decree to prohibit such actions in future elections.² In 2009, the Honorable Judge Debevoise, when renewing that Consent Decree, acknowledged: “Some voters—especially in minority districts where the legacy of racism and history of clashes between the population and authorities has given rise to a suspicion of police and other officials—may choose to refrain from voting.”³ However, that Consent Decree expired in December 2017.⁴

For weeks, Asw. Reynolds-Jackson’s office, the Institute and the Governor’s office – in consultation with election officials and the Attorney General’s office – have worked to ensure this bill, with the amendments added today,

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balances the voters' interest in access to the ballot without intimidation with practical concerns about election administration. To be sure, election officials must be able to summon police to address an emergency and maintain the peace. This legislation explicitly allows for this. All such instances must be reported to the county, who will then report instances to the Secretary of State's office. This will allow us an opportunity to see where in our state voters are encountering difficulties in voting and where election officials are facing challenges in administering the election. This bill allows law enforcement to vote in their personal capacity, assist family members in voting and addresses any situation wherein a law enforcement officer may reside within 100 feet of a polling place.

However, beyond that, this bill will prohibit law enforcement presence, in our out of uniform, within 100 feet of a polling place – the same prohibition that already exists for electioneering. Our sister-state Pennsylvania has long had a similar law.⁵

This bill will also prohibit law enforcement officers – including off-duty officers – from serving as challengers. As you all know, challengers are stationed inside polling place, typically near where voters are voting. Even when off-duty, police officers are often recognized by members of the community. Their presence, even out of uniform, can be intimidating to voters. Moreover, the 1981 Consent Decree was put in place in response to intimidation by *off-duty* officers. Florida⁶ and New Mexico⁷ prohibit law enforcement from serving as challengers or watchers. It is time for us to join them.

This issue extends beyond polling places to all voting locations. For the July primary last year, where each county was required to have five secure ballot drop boxes, some placed those drop boxes at law enforcement sites. Voters expressed concern over this.⁸ For the November 2, 2020 election, New Jersey correctly increased the number of secure drop boxes in every county. This also led to an increase in the number of dropboxes placed by law enforcement agencies. The Institute received concerns about police presence at dropboxes in three different municipalities. Drop boxes are a great option for voters, as they are meant to be accessible 24/7 and have video surveillance. However, drop boxes at law enforcement agencies are simply not “accessible” to all communities. The amendment today acknowledges that some dropboxes have been permanently affixed, in compliance with existing law. In those situations, the county commissioners must approve the exemption from the 100-foot requirement and the reasons will be subject to public disclosure.

As elected officials and advocates, it is our responsibility to address voter concerns and to work to fortify our elections so that all New Jersey voters, regardless of their race, feel comfortable exercising their right to vote. This is reasonable legislation – that mirrors laws that already exist in other states. 100 feet is not a great distance – but it is enough to allow voters peace of mind. As we watch state after state push voter suppression laws, driven to bring us back to the Jim Crow era, this state – this Legislature – has stood as a beacon of light for voters, working to make voting more accessible. This legislation is in that vein – declaring that in New Jersey we do not fear democracy. We embrace it.

We thank you for considering this bill and urge you to vote in favor.

Thank you.

¹ Vann R. Newkirk II, *The Republican Party Emerges From Decades of Court Supervision*, THE ATLANTIC (Jan. 19, 2018), <https://www.theatlantic.com/politics/archive/2018/01/the-gop-just-received-another-tool-for-suppressing-votes/550052/>.

² *Id.*

³ *Democratic Nat'l Comm. v. Republican Nat'l Comm.*, 671 F. Supp. 2d 575, 612 (D.N.J. 2009), *aff'd*, 673 F.3d 192 (3d Cir. 2012).

⁴ Newkirk II, *supra* note 1.

⁵ 25 Pa. Stat. Ann. § 3047 (West).

⁶ Fla. Stat. Ann. § 101.131 (West).

⁷ N.M. Stat. Ann. § 1-2-22 (West)

⁸ N.J. INST. FOR SOC. JUSTICE, LEAGUE OF WOMEN VOTERS OF N.J., & NAACP N.J. STATE CONF., 2020 PRIMARY POST-ELECTION ASSESSMENT AND RECOMMENDATIONS FOR FUTURE ELECTIONS 8, https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/698/attachments/original/1600882579/2020_Primary_Post-Election_Assessment.pdf?1600882579 (last visited Mar. 17, 2021).