



**To:** Allies and Partners

**From:** Center for American Progress

**Subject:** Anticipating and Neutralizing Anti-Immigrant Actions That May Be Taken To Undermine a Free and Fair Election

**Date:** October 13, 2020

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Recent history has shown that the government and private actors may use illegal or anti-democratic tactics with the goal of suppressing the vote and undermining free and fair U.S. elections. For example, on Election Day in 2018, U.S. Customs and Border Protection (CBP) planned to have Border Patrol agents conduct a [“crowd control exercise”](#) near at least one polling location; plans were scrapped only after an uproar. This week, U.S. Immigration and Customs Enforcement (ICE) has begun broadly publicizing immigration raids and arrests in California—and other parts of the country—and has taken the unprecedented step of posting “wanted” ads for immigrants on five billboards across Pennsylvania. Beginning around October 16, ICE personnel will also be given the power to issue expedited removal orders and quickly deport, without court review, individuals apprehended anywhere in the country. This collection of activities must be understood not only as posing a heightened threat to immigrant communities, mixed-status families, and communities of color broadly, but also as a campaign of fear designed to suppress public participation, including in the upcoming election.

Anticipating and neutralizing these actions—as well as preparing for [Portland-style tactics](#), where ICE and CBP personnel were deployed as shock troops without any connection to their primary immigration enforcement mission—is critical to ensuring a free and fair election and to combating any attempt to scare voters, particularly traditionally marginalized groups such as people of color, away from the ballot box.

This memo lays out what we think are the most likely anti-immigrant actions that could be taken prior to the November election and how allies and elected officials can protect voting rights against these attacks.

The first part of the memo focuses on actions that could directly affect the election itself by creating a culture of fear in cities and around polling locations to drive down turnout among people of color. The second part focuses on actions and speech used by government officials to potentially provoke violence or other threatening behavior that could intimidate voters and potential voters.

## Direct threats to voting integrity

*Deploying ICE and CBP personnel to cities—particularly in swing states—to suppress the vote among people of color*

Among the most insidious and direct actions that could be taken to suppress voter turnout is the potential mobilization of ICE and CBP personnel in cities in the run-up to the election—particularly during periods of early voting and around Election Day. Such a deployment could be done under the guise of protecting public monuments and federal buildings, as was the case in [Portland](#) following the president’s [June 26 executive order](#) on the subject and drawing upon statutory authority at [40 U.S.C. 1315\(b\)](#) to cross-designate ICE and CBP personnel as Federal Protective Service officers), or under the guise of protecting polling places. Either way, the presence of armed immigration officers in tactical gear in and around polling locations likely would have a significant chilling effect on turnout, particularly among voters of color—specifically Black and Latinx voters.

Regardless of the intent of such shows of force—and their timing certainly raises the question of whether they represent an abuse of power—their impact is clear: to intimidate voters of color and undermine the carrying out of free and fair elections. When pressed on the question of whether U.S. Department of Homeland Security (DHS) personnel would be deployed to such places, acting Homeland Security Secretary Chad Wolf said in August that the department [does not have the authority](#) to do that. But days later, U.S. Attorney General William Barr [argued](#) that federal law enforcement could appropriately be sent to polling locations under certain circumstances, such as to investigate “particular criminal threats.” Separately, Barr recently approved the designation of several cities as “[anarchist](#)” jurisdictions for purposes of withholding unspecified federal funds from such cities; it is not hard to imagine that the “anarchist” label could be applied to still other cities for political purposes and to justify the deployment of federal law enforcement personnel.

*Executing immigration raids—particularly in swing states.*

Executing, or even threatening to execute, large-scale immigration raids could create a chilling effect on communities of color across the nation. Unlike with their deployment to Portland, using ICE and CBP personnel to conduct immigration raids would rely more squarely on the primary authorities of these agencies. And as we have seen in the aftermath of the [2019 raid in Mississippi](#) and the [threatened raids](#) in major cities in mid-2019, such efforts could drive potential voters of color off the streets and away from the polls. Additionally, while ICE has made it clear in the past that they will not patrol polling locations, [rumors of them doing exactly this persisted](#) in the 2018 cycle—and that was before the announcement of a spate of anti-immigrant regulatory and enforcement actions in the past few months.

Notably, ICE recently [officially abandoned a policy adopted in March](#) that scaled back interior enforcement operations due to the pandemic. Since early September, ICE has carried out substantial enforcement operations in places including [Los Angeles](#), [Atlanta](#), [Phoenix](#), and [Charlotte](#), to name just a few. On October 7, acting Secretary Wolf and Tony Pham, the senior official performing the duties of the ICE director, held a [press conference](#) touting the arrest of approximately 130 people in California. Also on October 7, [press reported](#) that shortly after October 16, ICE officers and agents around the country would be empowered to use expedited removal to effectuate the fast-track deportation of people they believe to be undocumented who cannot prove to the satisfaction of the agency that they have been present for at least two years. Such removals could take place within a matter of days and without any prior hearing before a judge. This expansive and unprecedented new immigration enforcement power, which was [allowed to take effect](#) by the U.S. Court of Appeals for the District of Columbia Circuit in June, could significantly heighten fear in immigrant communities and mixed-status families.

How allies should respond:

Preemptive actions: To combat either a Portland-style deployment or large-scale immigration raids, state and local leaders can and should proactively take the following steps to push back and protect their constituents and their communities. Advocacy groups should also be ready to push their local, state, and federal elected leaders who fail to take action.

*Actions for state and local leaders:*

- First, officials should publicly and loudly call out the actions for their chilling effect on voting in communities of color and Latinx populations in particular. Rather than focus on the merits of DHS' rationale for these actions, officials should spotlight how they are likely to intimidate certain voters and potential voters and unnecessarily interfere with the election.
- Second, mayors and governors should preemptively and proactively tell the federal government that such federal personnel are not welcome during the election period.
  - City councils can and should also pass resolutions disapproving of federal law enforcement acting in their cities around the election—both during early voting and on election day—as cities such as [Memphis](#) and [San Diego](#) did after Portland.
- Third, officials should explicitly and repeatedly tell their communities that they will do whatever it takes to protect the November election and to ensure the integrity of all polling places and anyone exercising their constitutional right to vote.
  - Such communication should explicitly address where law enforcement can and cannot otherwise enter during any early voting periods and on election day and, if they do need to enter these areas, what the rules of engagement are. Even when it comes to law enforcement, [18 U.S.C. 245\(b\)](#) is one of several laws that makes it clear that law enforcement cannot legally be part of any voter intimidation or interference. Protect

Democracy recently issued [legal guidance](#) reviewing relevant federal and state laws.

- Fourth, in the case of immigration raids, officials should publicize know-your-rights materials—as the [Nevada Attorney General's Office](#) and [others](#) have done previously—as well as the contact information for local legal service providers to ensure that affected individuals can get the help they require.
- Fifth, officials should be prepared to file for a temporary restraining order in court should the federal government take steps that could undermine a free and fair election process.
- Finally, officials should publicly direct state attorneys general to investigate any attempt by federal agents to illegally interfere with someone's right to vote or to take any voter intimidation actions.

*Actions for congressional leaders:*

- Introduce legislation that would defund and/or block the ability of federal agencies to take these actions in the run-up to the election.
- Hold oversight hearings into the potential for such actions and haul the heads of DHS, ICE, and CBP before Congress to try to get them on the record promising not to take such anti-voter actions.
- Coordinate with state and local elected officials and law enforcement to ensure that they take all necessary and appropriate steps to protect the rights of voters and of all of their residents.

Reactive actions: In the event that either scenario occurs in the lead-up to the election, in addition to reupping all of the above:

- Allies and state and local officials must publicly and repeatedly use traditional and new media to call out these actions as voter interference and to put pressure on the federal government to remove their troops. This can and should include large-scale protests and mobilizations as well as social media campaigns to lift up the fact that voting is an unalienable right and to combat the climate of fear that such actions would create or are creating.

*Claims of illegal voting by undocumented immigrants:*

Past statements by some elected leaders have [falsely](#) made claims about significant voter fraud by undocumented immigrants in both the 2016 and 2018 elections. In late August 2018, ICE announced the [arrest of 19 foreign nationals](#) in North Carolina on charges of illegal voting in the 2016 election—many did so [without any intention of breaking the law](#). Such claims will be repeated in the 2020 elections, as is clear from a similar ICE announcement in September 2020 about the [arrest of 19 additional foreign nationals](#) in North Carolina on such charges

How allies should respond:

Preemptive actions: We would suggest that all stakeholders make the point that [voter fraud is nearly nonexistent](#), pointing to the disbanding of a White House [commission](#) led by Vice President Mike Pence and Kansas Secretary of State Kris Kobach, which failed to find any evidence of widespread voter fraud.

Here too, as with the wider attacks on voter access, vote by mail, and the like, responses should focus on the ways in which such claims have been widely investigated and proven false and have the effect of undermining confidence in electoral processes.

### **Anti-immigrant actions to provoke violent white supremacists and other extremists**

*Visuals, mailers, ads, and billboards linking immigrants to crime and gangs and/or raising the specter of open border and caravans:*

We are already seeing political ads from some candidates portraying immigrants as violent criminals and gang members, as was the case during the 2018 midterm cycle. ICE's decision to erect five race-baiting "[WANTED](#)" billboards with Willie Horton-style images throughout Pennsylvania in early October is a new tactic not previously seen. Such actions, in an already charged public climate with some politicians who refuse to condemn political violence or white supremacists, may serve as kindling for violence and threats of violence at polling locations. Such race-baiting may especially lead to escalated risks for Black and brown citizens seeking to cast their vote, which in turn could have a chilling effect on their ability to participate fully in the election.

How allies should respond:

#### Preemptive actions:

- First, advocates and campaigns should call out these actions in the media as an attempt to sow divisions among Americans and to suppress the vote of Black and Latinx Americans.
- Second, public leaders should condemn actions such as the ICE billboards in Pennsylvania, as a [spokesperson for Philadelphia](#) has done, saying that they "are clearly intended to fuel anti-immigrant fervor one month before the election ... The frequent threats of deportation raids by ICE do nothing but make our communities less safe by driving people into the shadows and away from people working to keep them safe."
- Finally, in advance of any public debates among candidates for office, advocates should call on debate moderators not to lift up vulgar and baseless stereotypes of immigrants in their questioning and to instead focus their questions on voter suppression efforts.