

ACLU of Virginia

530 East Main Street, Suite 310 Richmond, Virginia 23219 (804) 644-8080

October 10, 2006

Dear [Police Chief]:

I am writing to ask you to take immediate steps to educate law enforcement personnel under your supervision on the rights of canvassers to go door to door to distribute political literature and express their views on matters that will appear on the ballot on November 7, 2006.

As you must know, the right of canvassers to enter onto private property to express their views is protected by the First Amendment to the Constitution. This right trumps any local anti-solicitation ordinance.

Our request is prompted not only by a recent incident in Warrenton in which a police officer told canvassers they were violating a local anti-solicitation ordinance, but also from numerous past incidents in other parts of the state. In our experience, police are most likely to inappropriately enforce anti-solicitation ordinances during the last few weeks leading up to an election, when canvassing is at its peak.

In *Watchtower Bible and Tract Society v. Village of Stratton*, the U.S. Supreme Court held that political and religious canvassers could not be required to obtain a permit or even give notice before going door to door. In that case the court wrote: "It is offensive--not only to the values protected by the First Amendment, but to the very notion of a free society--that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so."

Not only does the right to canvass supersede any local anti-solicitation ordinance, but to our knowledge none of the anti-solicitation ordinances in Virginia actually prevent door-to-door canvassing. In all instances of which we are aware, anti-solicitation ordinances in Virginia apply solely to situations in which money is sought. Canvassing at this time of year rarely involves solicitations for contributions.

Your law enforcement personnel should be told that they are obligated to protect the rights of canvassers with the same vigor with which they protect the rights of property owners. Certainly canvassers may not enter onto property where signs indicate they are not permitted, and they must leave property promptly upon request of the owner. But the proper response of police officers to property owners who are merely irritated by the presence of canvassers in their neighborhood is to explain the rights of the canvassers, not to demand that the canvassers leave the neighborhood.

Although we hope it will not be necessary, the ACLU is prepared to provide legal representation to any canvasser whose First Amendment rights are denied by law enforcement officials.

I thank you for your attention. If you are interested in obtaining more information on the rights of canvassers, please feel free to contact me at 804/644-8080 or kwillis@acluva.org.

Sincerely,

Kent Willis
Executive Director