

## Voter Intimidation: An Overview for Voters & the Media

Voter intimidation is illegal and poses a clear threat to a free and fair election. The National Task Force on Election Crises offers this overview for voters, journalists, and other interested parties.

### VOTER INTIMIDATION IS UNLAWFUL

State and federal voter intimidation laws cover a wide range of unlawful conduct. These laws prohibit anyone from threatening, intimidating, or coercing individuals for voting or related activities, including registering themselves or others to vote, or advocating for or against candidates. Anyone can commit unlawful voter intimidation, including private citizens, militias, candidates or campaign staff, election officials or volunteers, and state or federal law enforcement. Illegal voter intimidation does not necessarily require actual or threatened physical violence. Rather, any conduct that causes voters to fear exercising their right to vote or advocate for a candidate may be unlawful. Finally, illegal voter intimidation can happen before or during an election, or even after Election Day.

### Voter Intimidation Violates Federal Law

Any attempt to intimidate voters violates at least three different federal laws: Section 2 of the Ku Klux Klan Act of 1871 (42 U.S.C. § 1985(3)), Section 131(b) of the Civil Rights Act of 1957 (52 U.S.C. § 10101(b)), and Section 11(b) of the Voting Rights Act of 1965 (52 U.S.C. § 10307(b)).

#### Civil Statutes

- **Section 2 of the Klan Act**—Now codified in relevant part at 42 U.S.C. § 1985(3) clauses 3 and 4, prohibits conspiracies of “two or more persons” to “prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person” for federal office, or “to injure any citizen in person or property on account of such support or advocacy.”
- **Section 131(b) of the Civil Rights Act of 1957**—Now codified at 52 U.S.C. § 10101(b), states “[n]o person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose” for any candidate for federal office.
- Similarly, **Section 11(b) of the Voting Rights Act of 1965**—Now codified at 52 U.S.C. § 10307(b), states that “[n]o person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote.”

While not everything that might make a person uncomfortable or that a person finds objectionable or unpleasant rises to the level of illegal voter intimidation, it is also not the case that voter intimidation necessarily has to include

actual or threatened physical violence to be unlawful. In fact, there are many examples of these statutes being applied to non-violent conduct. Further, none of these statutes require the intimidation to be targeted based on the victim’s race or membership in any other group or protected class. That is to say, they apply no matter the victim; all voters are protected. And, as noted above, all three laws apply no matter who the perpetrator is and protect a broader scope of activity than casting a ballot, such as registering to vote and advocating for or a candidate.

All of these civil statutes can, in many instances, be enforced by private individuals and state Attorneys General, as well as by the U.S. Department of Justice.

Criminal Law

A federal criminal statute, **18 U.S.C. § 594**, also prohibits voter intimidation in connection with a federal election. The punishment for violating the statute is a fine or up to a year in prison, or both.

**Examples of Unlawful Voter Intimidation**

The following is a non-exhaustive list of examples of potentially unlawful voter intimidation.

<b>Actual or threatened violence.</b>	<b>Non-violent threats or coercion.</b>
<ul style="list-style-type: none"> <li>■ Armed militia members guarding ballot drop boxes;</li> <li>■ Threatening people with firearms, knives, pepper spray, or other weapons during campaign activities or rallies/protests for or against a candidate;</li> <li>■ Threatening physical harm or property damage if you support a particular candidate;</li> <li>■ Blocking voters from entering a building to drop or mail your ballot or preventing them from conducting voter registration;</li> <li>■ Actual violence in response to your voting or supporting or advocating for a candidate.</li> </ul>	<ul style="list-style-type: none"> <li>■ Threatening to call the police or immigration officials based on voters’ voting activities or support for a particular candidate;</li> <li>■ Threatening to call voters’ employers based on their support for a candidate;</li> <li>■ Displaying signs containing false or deliberately misleading information about “voter fraud” that threaten criminal penalties;</li> <li>■ Robocalls warning that voting by mail will lead to credit checks, mandatory vaccinations, or searches for outstanding arrest warrants;</li> <li>■ Trying to examine a ballot (except authorized election officials).</li> </ul>

## Additional Resources

In addition to the federal laws described above, a number of states have their own laws prohibiting voter intimidation. The following additional resources may also be helpful:

- ✓ For a survey of state laws regarding guns at polling places and/or armed voter intimidation, see the Gifford's Law Center to Prevent Gun Violence's, [\*Preventing Armed Voter Intimidation: A State-by-State Analysis\*](#).
- ✓ The Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center has [\*fact sheets for all 50 states\*](#) explaining the laws barring unauthorized private militia groups and what to do if groups of armed individuals are near a polling place or voter registration drive.

## LAW ENFORCEMENT MAY NOT INTERFERE WITH THE ELECTION

### Federal Laws Specifically Prohibit Election Interference by Federal Officials

Several provisions of federal law prohibit (and punish) election interference by federal employees, federal law enforcement, and the military. For example:

- **18 U.S.C. § 592**—Prohibits both military and armed federal law enforcement from being present at the polls. Specifically, the statute prohibits officers in the military “or other person in the civil, military, or naval service of the United States” from bringing or keeping “any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States.” The punishment is a fine or up to five years in prison, or both, as well as disqualification from holding federal office.
- **18 U.S.C. § 593**—Prohibits members of the military from interfering in the election, including by intimidating voters or interfering with election officials. Specifically, the statute prohibits “an officer or member of the Armed Forces” from preventing or attempting to prevent “by force, threat, intimidation, advice or otherwise” any qualified voter from fully exercising his or her rights at any general or special election. It also prohibits members of the military from attempting to “prescribe or fix” in any way the qualifications of voters at any election in any state, or from interfering with “an election officer’s discharge of his duties.” The punishment is a fine or up to five years in prison, or both, as well as disqualification from holding federal office.
- **18 U.S.C. § 595**—Prohibits federal employees from using their official authority to interfere with the election. Specifically, the statute prohibits any “person employed in any administrative position by the United States, or by any department or agency thereof” from using their official authority for the purpose of “interfering with or affecting” a presidential or congressional election. The punishment is a fine or up to a year in prison, or both.

Finally, sending federal law enforcement to the polls to intimidate voters may also violate the First and Fifth Amendments to the U.S. Constitution.

## **Election Interference by State and Local Law Enforcement Also Violates the Law**

As discussed above, state officials are covered by federal voter intimidation laws. Additionally, a number of states have their own laws prohibiting law enforcement either from entering a polling place (unless called there by election officials) or interfering with an election. See, e.g., California Elec. Code § 18544; Georgia Code Ann. § 21-2-593; Minnesota Stat. Ann. § 204C.06, Subd. 6; New Mexico Stat. Ann. § 1-12-5; South Carolina Code Ann. § 7-13-160; Tennessee Code Ann. § 2-7-103.

## **HOW TO COVER VOTER INTIMIDATION & POLITICAL VIOLENCE**

Media coverage is critical for putting voter intimidation and other political violence in context and avoiding unintended consequences like deterring voters from the polls. The following guidance is drawn from ***Media Playbook for a Hyper-Polarized Election: How to Cover Electoral Conflict (Without Making it Worse)***, prepared by Task Force member Rachel Kleinfeld of the Carnegie Endowment for International Peace and journalist Amanda Ripley.

### **1. Do Saturation Coverage of the Voting Process, in Advance**

- ✓ Explain the rules of the game—both in local areas and in swing states—before the election.

### **2. Set Expectations**

- ✓ Explain early and often that final vote counts may take a week or more and that a time lapse does not equal a “delay.”
- ✓ Expect more lawsuits, and tell your audiences to expect them, too.

### **3. Reach Out to Crisis Sources Now**

- ✓ Establish (or revive) lines of communication with: election officials, candidates, and other party officials, including partisan and non-partisan poll watchers; politicians at all levels; local police and sheriff departments; National Guard public affairs office in your state; local leaders of Black Lives Matter and other organizations; militia leaders in your area; local protest leaders; trusted community leaders (including local clergy and business leaders).

### **4. Denormalize Violence**

- ✓ Share and repeat any forceful condemnations of violence—all kinds of violence, against property and against people—from pundits, business leaders, clergy, celebrities, and politicians and party officials, at the national, state, and particularly the local level (where trust in government is highest).

## 5. Complicate the Narrative

- ✓ Use precise language—especially in headlines. Don't describe all Republicans or all Democrats as one united bloc. Avoid a partisan descriptor when a more specific description will do.

## 6. Include Context, Every Time

- ✓ Journalists should use images of chaos and violence with care, in proportion to their actual relevance. Put every frightening story in perspective. Always include the denominator.

## 7. Rehumanize Americans

- ✓ Remind readers of the *actual* demographics and opinions of average voters.

## 8. Reject Violent Metaphors & Headlines

- ✓ Don't apply violent language, and seek out quotes condemning violence from the same side.

## 9. Beware of Rumors

- ✓ The best way to investigate a rumor is to see what is happening on the ground.
- ✓ Don't repeat misinformation, even to debunk it.

## 10. Feature People Getting Things Right

- ✓ Report on good news stories—they tell people that their actions matter.

### **About the National Task Force on Election Crises**

*The National Task Force on Election Crises is a diverse, cross-partisan group of more than 50 experts in election law, election administration, national security, cybersecurity, voting rights, civil rights, technology, media, public health, and emergency response. The mission of the nonpartisan National Task Force on Election Crises is to ensure a free and fair 2020 presidential election by recommending responses to a range of potential election crises. The Task Force does not advocate for any electoral outcome except an election that is free and fair. The recommendations of the Task Force are the result of thoughtful consideration and input from all members and therefore do not fully reflect any individual Task Force member's point of view—they are collective recommendations for action. More information about the Task Force, including its members, is available at <https://www.electiontaskforce.org/>.*