ELECTION PROTECTION 866 OUR VOTE

866-OUR-VOTE ▪ 866-687-8683

Election Protection Guidance:
What to Do In Case of Voter Intimidation

Intimidating voters is illegal. This Guidance provides information on what constitutes voter intimidation at polling places, and guidelines on what Election Protection partners should do to prepare for and report it.

WHAT IS VOTER INTIMIDATION?

Federal law prohibits intimidating, threatening, or coercing a person for the purpose of interfering with a person's right to vote. It is also illegal to intimidate, threaten, or coerce a person for voting, registering to vote, or urging or aiding anyone to vote or to register to vote.

In addition to federal law, every state separately prohibits interference with voters or voter intimidation.

WHAT CAN VOTER INTIMIDATION LOOK LIKE?

Voter intimidation can take a variety of forms, and it does not have to occur within a certain distance of a polling place to be illegal.

Here are some examples of conduct that could be illegal voter intimidation:

- Following voters around
- Standing behind voters, taking notes
- Loudly discussing voter fraud laws in a voter's presence
- Invasions of a voter's physical space
- Suggesting possible future violence, prosecution, or legal action based on a voter's presence at the polls
- Loitering watchfully near voters while visibly carrying a firearm
- Violent behavior inside or outside a polling site
- Confronting voters while wearing military-style or official-looking uniforms
- Law enforcement officers, even off duty, loitering by voters
- Disrupting voter lines or blocking the entrance to a polling place
- Aggressively approaching a voter's vehicle or writing down the voter's license plate number
- Harassing voters, or aggressively questioning them about their qualifications to vote

ARE GUNS ALLOWED AT POLLING PLACES?

Not all states explicitly prohibit guns at or near polling states, but even when guns are not prohibited, intimidation of voters—including by brandishing firearms—is illegal. Going to vote while one happens to be carrying a firearm may not be illegal, but loitering near voters while brandishing a gun may be illegal voter intimidation.[1]

A PLAN FOR ADDRESSING VOTER INTIMIDATION

Your goal: engaging with all relevant parties to find out what the plan is to address voter discrimination and thinking ahead about how response will impact voters, including vulnerable communities.

- Meet with election officials, law enforcement and local government officials about plans to address intimidation at the polls
- Work with coalition partners to prepare a communications strategy to respond to voter intimidation at the polls. It is important to avoid amplifying stories that will deter people from showing up to vote, but rather to have counter messaging that focuses on importance of voting.
- Survey coalition partners to determine who is doing training to address intimidation at polling places and to develop an agreed-upon plan about how to respond to the needs that arise.
- Share resources about the law and how to address voter intimidation with partners.

WHAT TO DO WHEN ENCOUNTERING VOTER INTIMIDATION

Your goal: help ensure that voting can take place safely in a non-threatening environment. Avoid enflaming or publicizing the situation, which could spread alarm and further the intimidation.

- Document – Note the details. What is happening? Who is involved? Are they wearing any clothing or carrying any signs that might help identify them? What are they doing, and what makes the conduct intimidating, threatening, or coercive? When and where is it happening?
- **Report it to the Election Protection Hotline: 866-OUR-VOTE (866-687-8683)**
- Notify the election officials at the polling place.
- Make sure the officials understand that the conduct may be illegal. Some officials may mistakenly believe that only conduct within a certain distance of the polling

[1] Guns are explicitly prohibited in polling places in AZ, CA, FL, GA, LA, TX, and DC, and they may be prohibited at a polling place if it is in a school or other place where firearms are prohibited.

place may be addressed, or that all of this type of conduct is protected by the First or Second Amendments. This is not always the case. Illegal voter intimidation is not protected by the First or Second Amendments, and it does not have to be within a certain distance of a polling cite to be illegal.

- In most states poll watchers or vote "challengers" must sign up in advance and are not allowed to question voters directly—they should only talk to poll workers.
- Urge the election officials to take whatever action they can to stop the intimidation, including by contacting other election officials. If officials at the polling place are unresponsive, consider contacting state or county election officials or the state's Office of Attorney General.
- In event of an emergency where your or another's health or safety is at risk, you should call 911. If there is not an emergency situation, the potential intimidation should be reported to election officials, but not necessarily to police because the presence of law enforcement can itself be intimidating to voters.[2]

WHAT NOT TO DO

✗ Do not put yourself in harm's way. Do not intervene if doing so would be dangerous for you or others or may escalate tensions.

✗ Do not publicize the event on social media, because doing so may spread alarm and further the intimidation.

INFORMATION RESOURCES

Fact Sheet: Protecting Against Voter Intimidation, by the Institute for Constitutional Advocacy and Protection, https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2020/10/Voter-Intimidation-Fact-Sheet.pdf

Election Protection: Preventing and Responding to Illegal Armed Voter Intimidation, by Everytown for Gun Safety, https://everytownlaw.org/report/election-protection/

Brennan Center for Justice: Voters Should Not Be Intimidated, https://www.brennancenter.org/sites/default/files/2020-10/Voters%20Should%20Not%20Be%20Intimidated_0.pdf

[2] The following states have laws restricting the presence of law enforcement at the polls: CA, DE, FL, IN, LA, MD, MN, NY, SC, and TN.

GROUPS CONDUCTING TRAININGS

- Center for Popular Democracy- Vote Guardians Program
    - Type of program: de-escalation and conflict resolution through an abolitionist lens
    - Priority states: AZ, WI, PA, MN, MI, FL, GA (but providing training to states outside this list)
    - This program aims to train and deploy volunteers who can diffuse violent and intimidating scenarios and operate in a mixed 501c3 or 501c4 capacity depending on the state. The volunteers in this program are separate from the EP coalition poll monitors. Depending on recruitment, these volunteers will be roving to high priority polling locations and matched with an EP poll monitor. Volunteers are encouraged to use this intervention guide.
    - How to get trained: click here to join a training
    - Contact: Ria Thompson-Washington
- Frontline Coalition- Vote Defenders Program
    - Type of Program: De-escalation and conflict resolution through an abolitionist lens
    - Priority states: AZ, WI, PA, MN, MI, FL, GA (but providing training to states outside this list).
    - This training curriculum is similar to CPDs and operates in a 501c3 capacity. CPD and WFP programs are coordinating in their overlapping priority states. This program is fairly decentralized and states outside of this priority list are encouraged to self-organize. WFP is also coordinating with Live Nation to dispatch small events and artists to select polling locations. Reach more about their program here.
    - How to get trained: click here to join a training
- League of Women Voter- Active Bystander Program
    - Type of Program: Bystander Intervention and Conflict De-escalation
    - Priority States: Encouraging all LWV state chapters to get involved
    - This program is partnering with Protect Democracy to provide states with information on voter intimidation laws, what constitutes 1st amendment activity, and when scenarios may cross a line. The training is focused on

what organizers can do in open carry states and promotes six principles of de-escalation.

    - How to get trained: LWV is holding one national training on October 29th
    - Contact: Alma Couverthie

- Hollaback- 5 D's of Bystander Intervention Program
    - Hollaback provides year-round training on the 5 Ds of violence prevention. This program is not necessarily adaptable to the 2020 election, however the organization offers many training options here.
    - Contact: Jorge Arteaga