

# WE GOT US

## Community-Based Strategies for Preventing Voter Intimidation

### Purpose

Black people have the right to participate freely in elections, yet they nevertheless face the risk of voter intimidation during this critical election cycle. While election officials should always be able to call on law enforcement to respond to incidents of voter intimidation, some Black communities may have significant concerns about law enforcement, especially if they have experienced racial bias from police, incidents of police violence, or other acts of misconduct by officers against local Black residents. In fact, law enforcement presence at the polls, in some instances, can actually intimidate Black voters and deter them from casting a ballot. In all instances, however, communities have tools and resources to help themselves protect their right to vote. LDF offers this toolkit to share some of those tools and resources as Black communities develop their own community-driven approaches to prevent or address potential voter intimidation during the 2024 election cycle.

### TOOLKIT AT-A-GLANCE

#### FEDERAL AND STATE LAWS PROTECT AGAINST VOTER INTIMIDATION

#### COMMUNITY-CENTERED PRACTICES TO PROTECT ACCESS TO THE BALLOT

##### Making a Voting Plan

##### Advocating to Election Officials

##### Providing Proactive De-escalation and Community Response Training

- Know Your Rights Training
- Poll Monitoring Training
- De-escalation Training

##### Utilizing and Amplifying Resources

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## Federal and State Laws Protect Against Voter Intimidation

Voting in elections is a cornerstone of American democracy. You have the right to vote for the candidates of your choice, free from intimidation and threats of violence.

Both federal and state law prohibit voter intimidation. For example, the Voting Rights Act of 1965 and the Ku Klux Klan Act provide federal protections against actual or attempted intimidation, force, threats, or coercion against a person for exercising their right to vote.<sup>1</sup> These laws may be enforced by the U.S. Department of Justice, as well as private individual voters or private non-profit organizations serving voters.<sup>2</sup> In addition, all 50 states ban voter intimidation and have their own set of legal protections for voters.<sup>3</sup> Voter intimidation is not considered speech that is protected by the First Amendment.<sup>4</sup> Those who commit voter intimidation are subject to both civil and criminal penalties.

### Some examples of prohibited voter intimidation include:

- Actual or threatened violent or physical acts, such as blocking voters from entering a polling place;<sup>5</sup>
- Improper monitoring, surveilling, or following voters at voting locations;<sup>6</sup>
- Actual or threatened criminal prosecution, arrest, or other legal actions;<sup>7</sup>
- Actual or threatened sharing of voters' personal information;<sup>8</sup>
- Phone and door-to-door canvassing campaigns that interrogate individuals about their voting status and history.<sup>9</sup>

State laws provide several other protections that can help avoid situations that might lead to intimidation. For example, many states ban or restrict bringing a firearm into a polling location.<sup>10</sup> Additionally, all states create a buffer zone in and around the polling location where campaigning or making political statements, also known as “electioneering,” is prohibited.<sup>11</sup> While individuals can engage in electioneering activities outside of the buffer zone, they cannot attempt to block or intimidate voters. When inside the polling location, a voter is entitled to privacy during the voting process. Forty-four states guarantee secrecy in voting in their state constitution, and the remaining states guarantee secrecy through statutes.<sup>12</sup> Poll workers have the authority to remove individuals from the polling place or limit their activities if they violate any of these laws.<sup>13</sup>

Finally, some partisan poll watchers have been known to engage in voter intimidation in past elections. Unlike *nonpartisan* poll watchers, who remain outside of polling locations to act as neutral observers to further transparency and public trust in elections, *partisan* poll watchers observe the election process on behalf of a political party that has a candidate in the election. No poll watcher—whether partisan or nonpartisan—has the right to harass or intimidate voters. Most states have laws that limit what poll watchers can do, and many states have laws that permit election workers to remove poll watchers who intimidate voters or otherwise violate the law.<sup>14</sup> No official or volunteer staff at polling sites should be intimidating voters, and you can report any concerns to 866-OUR-VOTE if problems arise.

**ELECTION PROTECTION** **866 OUR VOTE**

If you have trouble voting, stay in line, and call Election Protection:

**866-OUR-VOTE**

**LDF** [voting.naacpldf.org](http://voting.naacpldf.org)

## Community-Centered Practices to Protect Access to the Ballot

Black communities can create community resources and use community-centered practices to enhance their own safety at the polls, including when they encounter possible intimidation and threats of violence. It is important that communities know how to assess their own safety needs based on their unique circumstances, which may vary by individual or community and by locally applicable laws.<sup>15</sup>

In light of prohibitions on voter intimidation, law enforcement agencies have the responsibility to ensure all people can safely access their polling locations and exercise their right to vote without intimidation though officers should be aware that their presence may be intimidating for some voters. In addition, community members can draw upon alternative, community-based approaches to prepare for risks of intimidation or violence.<sup>16</sup>

### Making a Voting Plan

Voters can best avoid election intimidation issues by creating proactive plans to cast their ballots during voting season (and, if needed, contingency plans as well). Many states provide early voting opportunities, either by mail or in person.<sup>17</sup> By opting to cast a ballot early where available, voters have more agency during the voting process. If there are any intimidation issues at the polls, voters have more flexibility to leave the poll and return later because they have more opportunities than just Election Day to cast a ballot.

Moreover, a voter's sense of safety can increase when voting with other people they trust. By voting as a community, voters can feel more supported at the polls than if they are alone. Having a plan for transportation

to get to and from a poll site, and situational awareness at their voting site, can give voters additional peace of mind by preparing them for a certain exit if any issues arise.

Best practices, like voting early or with a group, can create greater ease in the voting process. Given that instances of intimidation and threats are rare, a comprehensive voting plan is an important preventive measure that can make voting more enjoyable—even when no threats ultimately arise.

### Advocating to Election Officials

In advance of election seasons, community members can build lines of communication with election officials and others overseeing election administration to advocate for proactive steps to prepare for and deter intimidation threats. For example, advocates may call upon election officials and state leaders to implement strategies and release public statements about their affirmative plans to monitor election threats and address issues during and beyond voting days. Additionally, advocates can provide election officials at the local and state levels with toolkits, materials, and research about best practices to address intimidation, including those cited below.

It is important that community leaders and voters understand the best methods to contact election officials—beyond law enforcement—about election security and intimidation concerns. Most county election officials, like members of the county board of elections or election commission, hold regular public meetings at which they discuss election administration issues, make decisions, and hear from the public. Community members are entitled to participate in these meetings by attending, listening, and providing public comment. These meetings are important opportunities to advocate on issues related to voter intimidation by asking local election officials to take proactive actions to prevent and/or prepare for that possibility. Additionally, community members and advocates should request that

election officials provide working phone numbers and designated points of contact in advance of voting days if incidents of voter intimidation should arise.

### Providing Proactive De-escalation and Community Response Training

Hosting community-based de-escalation and “know your rights” education programs can help voters understand tested methods for de-escalation and their legal rights in response to intimidation or political violence at the polls. Training can take a variety of forms—either focused on general information for any voter or providing volunteers with specialized skills to identify intimidation threats or engage in de-escalation tactics. Be sure that trainers are associated with trusted organizations and community leaders so you can be confident of the information they are providing in the training sessions.

#### Know Your Rights Training

“Know your rights” training can equip community members with information about the legal protections designed to both deter intimidation and provide avenues for targeted voters to pursue legal claims on their own terms. These types of trainings can inform voters about their legal rights, as well as important resources beyond law enforcement. For example, helpful resources are available through the national Election Protection network, a coalition of nonpartisan community and civil rights organizations, including the 866-OUR-VOTE Hotline, which is staffed by civil rights volunteers.

#### Poll Monitoring Training

Poll monitors are nonpartisan volunteers who are positioned near polling sites to assist voters by answering questions in real time about their voting rights. Most poll monitors work in partnership with the Election Protection network and the 866-OUR-VOTE Hotline, discussed in more detail below. Poll monitors are generally instructed on best practices to identify

and report intimidation concerns at polling sites. Their training may also cover best practices for collecting information for immediate or future legal intervention, while other programs incorporate de-escalation training techniques to diffuse tense situations. Consider encouraging trusted community members to sign up for poll monitor trainings hosted by nonpartisan organizations like LDF.

#### De-escalation Training

Disruption can occur at any election-related site, including collection locations for absentee ballots, voting precincts, election offices, counting locations, and the sites of audits, recounts, and accuracy testing. De-escalation is the use of certain types of communication or other techniques during an encounter to stabilize, slow, or reduce the intensity of a potentially violent encounter. The goal is to use purposeful actions, verbal communication, and body language to diffuse the situation.

De-escalation training can equip volunteers and strategic community partners with best practices in nonviolent intervention tools. For example, trainings may cover the CLARA method, which is used by peacekeepers and active bystanders to intervene in moments of tension and threat. The acronym CLARA has taken a variety of meanings (e.g., Center, Learn, Articulate, Receive, and Accomplish<sup>18</sup> or Calm and Center Yourself, Listen, Acknowledge, Respond, and Assess<sup>19</sup>) that focus on diffusing—rather than amplifying—confrontations, seeking mutual understanding, and pursuing safe resolutions. Volunteers utilizing CLARA method tactics may serve as intermediaries, by either engaging in verbal mediation or using their physical presence to create distance and safety between sources of threat and voters.

Trusted and reputable community leaders can be particularly effective as strategic ambassadors engaged in de-escalation tactics. For example, Faiths United to

Save Democracy (“FUSD”) has recruited poll chaplains to serve in cities nationwide.<sup>20</sup> These nonpartisan community leaders focus on high-priority polling sites, in areas of greatest need, during early voting and on election days. They work to reduce tensions at the polls by serving as nonpartisan community leaders who hold the trust of many voters. FUSD encourages a “buddy system,” in which more than one volunteer complete training together and are assigned to the same polling site.

Historically Black sororities and fraternities have also served as a vanguard of nonpartisan voter engagement for nearly a century. In recent years, members from Delta Sigma Theta Sorority Inc., Alpha Kappa Alpha Sorority Inc., and Alpha Phi Alpha Fraternity Inc., among others, have served as nonpartisan poll monitors across the South, aiding voters with their questions and creating a community-first culture around voting. These organizations are committed to serving the Black community with missions aligned with nonviolent civic activism, and can be critical in counteracting the presence of bad actors at polling places.

### Utilizing and Amplifying Resources

There are multiple resources designed to equip communities with the support they need to navigate threats during election season and get real-time support beyond law enforcement. For example, many organizations have developed their own toolkits surrounding concerns of political violence and targeted intimidation at polling locations. By amplifying these resources and the 866-OUR-VOTE Hotline, we all can support voters and better equip communities with resources nationwide.

### Election Protection

Election Protection is a national network of civil rights and community organizations that provides a year-round approach to combatting voter intimidation and protecting the right to vote. In addition to training and dispatching volunteers in the field, Election Protection provides multiple hotlines that voters can call for answers to basic voting questions or rapid response support when threats arise. You can call or share the following numbers, which include multi-lingual support:

#### English

**866-OUR-VOTE/866-687-8683**

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#### Spanish/English

**888-VE-Y-VOTA/888-839-8682**

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#### Asian Languages/English

**888-API-VOTE/888-274-8683**

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#### Arabic/English

**844-YALLA-US/844-925-5287**

### Additional Resources

There are many organizations and academic institutes that have researched and identified the best methods to prevent and respond to intimidation and political violence concerns. Familiarize yourself with these groups and review and share the following resources to help your community detect, deter, and respond to intimidation threats during election season.

*Guns in Polling Places*, Brennan Center & Giffords Law Center, <https://www.brennancenter.org/our-work/policy-solutions/guns-and-voting>.

Alice Clapman, *How States Can Prevent Election Subversion in 2024 and Beyond*, Brennan Center for Justice (Sept. 7, 2023) <https://www.brennancenter.org/our-work/research-reports/how-states-can-prevent-election-subversion-2024-and-beyond>.

*A Community Guide Opposing Hate*, Bard Center for the Study of Hate, Western States Center and the Montana Human Rights Network <https://bcsh.bard.edu/files/2022/05/OpposingHateGuide-single-pages-8M-5-3.pdf>.

*Protests & Public Safety: A Guide for Cities & Citizens*, Institute for Constitutional Advocacy and Protection, <https://constitutionalprotestguide.org/>.

*Understanding Threats and Harassment to Local Officials*, Bridging Divides Initiative, <https://bridgingdivides.princeton.edu/UnderstandingThreats>.

*Elevating De-Escalation and Community Safety Approaches*, Bridging Divides Initiative, <https://bridgingdivides.princeton.edu/policy-response/elevating-de-escalation-and-community-safety-approaches>.

*Election Violence Prevention, Over Zero*, <https://electionviolenceprevention.org/>.

*From Scarcity to Solidarity Toolkit*, Showing Up for Racial Justice, <https://surj.org/from-scarcity-to-solidarity-toolkit/>.

*De-Escalation: A Toolkit for Election Officials*, States United Democracy Center (September 28, 2022) <https://statesuniteddemocracy.org/resources/deescalation-toolkit/>.

## Endnotes

- 1 52 U.S.C. § 10307(b); 42 U.S.C. §§ 1985(1), (3)
- 2 See *Alexander v. Sandoval*, 532 U.S. 275, 286, 288-89 (2001); 52 U.S.C. § 10307(b); Statement of Interest of the United States of America in *League of Women Voters of New Hampshire, et al. v. Steve Kramer, et al.*, No. 24-cv-00073 (D.N.H. 2024).
- 3 Eliza Sweren-Becker & Jasleen Singh, *Guide to Laws Against Intimidation of Voters and Election Workers*, Brennan Ctr. Just. (2024), <https://www.brennancenter.org/our-work/research-reports/guide-laws-against-intimidation-voters-and-election-workers>.
- 4 *Id.*
- 5 52 U.S.C. §§ 10307(b), 10101(b); 42 U.S.C. §§ 1983, 1985(3); 52 U.S.C. § 20511(1)(A).
- 6 Complaint, *Daschle v. Thune*, No. Civ. 04-4177, 2004 WL 3650153 (D.S.D. Nov. 1, 2004); Temporary Restraining Order, *Daschle v. Thune*, No. Civ. 04-4177, 2004 (D.S.D. Nov. 2, 2004), ECF No. 6.
- 7 See, e.g., *Nat'l Coal. on Black Civ. Participation v. Wohl*, 498 F. Supp. 3d 457, 465-66 (S.D.N.Y. 2020) (robocall suggested that voting would lead to personal information being “used by police departments to track down old warrants and be used by credit card companies to collect outstanding debts”); *United States v. N.C. Republican Party*, No. 5:92-cv-00161 (E.D.N.C. Feb. 27, 1992) (approving a consent decree where defendants sent 150,000 postcards to predominantly Black precincts warning that giving false information to an election official was a crime); and *United States v. McLeod*, 385 F.2d 734, 747-50 (5th Cir. 1967) (discussing “baseless arrests and prosecutions”).
- 8 *League of United Latin Am. Citizens — Richmond Region Council 4614 v. Pub. Int. Legal Found.*, No. 1:18-cv-00423, 2018 WL 3848404, at \*4-10 (E.D. Va. Aug. 13, 2018) (denying motion to dismiss VRA and KKK Act claims where defendants published a list of “names and personal information” in an effort to falsely link those individuals to “felonious voter registration in a clear effort to subject [them] to public opprobrium”). See also *United States v. Nguyen*, 673 F.3d 1259 (9th Cir. 2012) (discussing letter in which congressional candidate targeted foreign-born Latino registered voters and threatened to provide recipients’ personal information to anti-immigration groups if they exercised their right to vote).
- 9 Sweren-Becker & Jasleen Singh, *supra* n. 3 (discussing intimidation by door-to-door canvassers that question voters’ eligibility or past voting records).
- 10 *Democracy Maps: Bans on Guns In Polling Places*, Movement Advancement Project, [https://www.lgbtmap.org/democracy-maps/guns\\_in\\_polling\\_places](https://www.lgbtmap.org/democracy-maps/guns_in_polling_places) (last updated Sept. 4, 2024).
- 11 Nat. Conf. of State Legislatures, *Electioneering Prohibitions Near Polling Places* (Sept. 12, 2024), <https://www.ncsl.org/elections-and-campaigns/electioneering-prohibitions>.
- 12 Caitriona Fitzgerald, Pamela Smith & Susannah Goodman, *The Secret Ballot At Risk: Recommendations for Protecting Democracy*, Elec. Privacy Info. Ctr., Verified Voting Found., & Common Cause Educ. Fund 40 (2016), <https://secretballotatrisk.org/Secret-Ballot-At-Risk.pdf#page=44>.
- 13 Nat’l Conf. of State Legislatures, *State Laws Providing Protection for Election Officials and Staff*, <https://www.ncsl.org/elections-and-campaigns/state-laws-providing-protection-for-election-officials-and-staff> (last updated Sept. 30, 2024).
- 14 Sweren-Becker & Jasleen Singh, *supra* n. 3.
- 15 Nichole Argo et al., *Building U.S. Resilience to Political Violence A Globally Informed Framework for Analysis and Action*, Over Zero (2019), <https://static1.squarespace.com/static/5f7f1da1ea15cd5bef32169f/t/602eed99c1b4c803c52ed8a6/1613688243138/Full+-+Building+Resilience+to+Political+Violence.pdf>.
- 16 It is not intended to serve as legal advice.
- 17 *Early In-Person Voting*, Nat’l Conf. of State Legislatures, <https://www.ncsl.org/elections-and-campaigns/early-in-person-voting> (last updated Sept. 30, 2024); *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*, Nat’l Conf. of State Legislatures, <https://www.ncsl.org/elections-and-campaigns/voting-outside-the-polling-place> (last updated Mar. 7, 2024).
- 18 *De-Escalation: A Toolkit for Election Officials*, States United Democracy Center & States United Action, <https://statesunited.org/resources/deescalation-toolkit/> (Sept. 28, 2022).
- 19 Bridging Divides Initiative, *PA-De-escalation & Active Bystander Training Directory* (n.d.), [https://bridgingdivides.princeton.edu/sites/g/files/toruqf246/files/documents/PA-De-escalation & Active Bystander Training Directory-2.pdf](https://bridgingdivides.princeton.edu/sites/g/files/toruqf246/files/documents/PA-De-escalation_%20Active_Bystander_Training_Directory-2.pdf).
- 20 *Voter Toolkit: How to Prepare Your House of Worship for the 2024 Election*, Faiths United to Save Democracy (2023) [https://www.turnout-sunday.com/files/ugd/62c5d7\\_bfeae228e70340babd70f5d567b0959b.pdf](https://www.turnout-sunday.com/files/ugd/62c5d7_bfeae228e70340babd70f5d567b0959b.pdf).