

February 26, 2024

KNOW YOUR RIGHTS

# Voter Intimidation



Presented By:

FREE SPEECH FOR PEOPLE, AKIN GUMP, LWVUS

# Housekeeping



This training will be recorded, and slides will be shared. We will turn off the recording during Q&A.



If you are not speaking, please mute yourself to minimize sound issues.



Make sure you identify yourself (name, League, State & pronouns) when asking questions



Staff will be monitoring the Q&A box. If you have any questions or thoughts throughout the call, please feel free to drop them in the Q&A box.

# Community Norms

Bring your full self and limit distractions.

What is learned here, leaves here.

No one knows everything, but together we know a lot.

Don't yuck my yum.

Oops, ouch, and educate.

Assume best intentions.

# Presenters



**JOHN BONIFAZ**

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# LWVUS Presenters



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*Director  
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*Field Communications  
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# Agenda



What is voter intimidation?



What protections exist for voters?



How should Leagues respond?



Questions?





# Poll

1. In your experience, have you **personally** been the target of or **witnessed** what you consider to be voter intimidation?
2. Has your League ever, to your knowledge, received a **report** of voter intimidation?

# What is Voter Intimidation?

# Voter Intimidation

**Voter intimidation** is any act that causes voters to feel unsafe about exercising their right to vote.

*You may not be:*

**threatened**  
**coerced**  
**frightened**  
**assaulted**  
**compelled, or**  
**discouraged**

*To vote one way or another, or to not vote at all.*



# Examples of Voter Intimidation Throughout History

- Physically **blocking** a polling place
- Preventing people from **registering to vote**
- **Disrupting** voting lines
- Intimidating use of **firearms or threatened use of firearms**
- Use of racist, sexist, or other discriminatory language against voters
- Threats of **violence** or actual violence

# Voter Intimidation Today Can Include...

- **Threatening you** for registering to vote or helping others to vote
- **Misrepresenting** oneself as an election official
- **Aggressively** asking questions about prior voting record or voter registration
- Claiming that you or someone you know has committed **voter fraud**
- Phone calls or **robocalls** that voting makes certain personal information available to the public or government/law enforcement authorities
- Disseminating **personal information** causing you to be the target of harassment
- Open-carrying **weapons** near polling places or ballot drop-box locations (depending on circumstances)
- **Following** you to, from, and within the polling place
- **Recording** voters' license plates
- **Threatening** violence or prosecution
- Behaving in other intimidating or **deceptive** ways that make you feel unsafe

Voter intimidation is prohibited  
for *any* voting-related activity.

# Beyond Election Day

- You need not be a **registered voter** to be a subject of voter intimidation.
- Voter intimidation can occur **before, during, and after** an election.
- Voter intimidation can occur at the **polls, at home, or any place where** voter activity is occurring.



# Examples of Voter Intimidation

## BEYOND ELECTION DAY

- Threatening people when they **register or attempt to register** to vote
- Threatening people engaged in **voter registration activities**
- Threatening people door-to-door at their homes **after** they have voted
- Threatening people when they leave their **mail-in ballot** at a drop-off box or a mailbox

**Michigan Absent Voter Ballot Application**  
I am a United States citizen and a qualified and registered voter of the County and jurisdiction in the State of Michigan listed below, and I apply for an official ballot to be voted by me in the following election(s):  November 5, 2019

**Voter's Registration Information:**

First Name	MI	Last Name	City	County
Street Address	MI	City	Jurisdiction	
City	Zip	Year of Birth		
Email Address: <small>Your email address and phone number will be used only for official election purposes.</small>				Phone #

**Voter's Signature** (power of attorney is not acceptable):  
I certify that I am a United States citizen and that the statements in this absent voter ballot application are true.

Signature: **X** Date: / /

**3a. Address to Mail Ballot** (Use will not forward your ballot from above):  
Date being for this address: / / Street Address: / /  
Date of return: / / City: State: Zip:

**3b. Future Elections:**  
I want to vote absentee in all future elections.  Automatically send me an application for every election.

Return this application to your city/township clerk.  
Find your clerk at [mi.gov/vote](http://mi.gov/vote).

**Complete only if assisting a voter with return of the application**  
Certificate of Authorized Registered Elector Returning Absent Voter Ballot Application:  
I certify that my name is \_\_\_\_\_ and my address is \_\_\_\_\_ state of birth is \_\_\_\_\_  
That I am delivering the absent voter ballot application of all the or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.  
X  
Name of person assisting the voter: \_\_\_\_\_

W&P's Filed	Mailed	Clerk's Use Only	Returned
		Ballot No.	
			Clerk

SEE OTHER SIDE FOR MORE INSTRUCTIONS

# Poll Watchers

**Poll watchers** are individuals who observe steps in the election process.

- Some states allow poll watchers to **inspect** poll books and **challenge** voter qualifications.
- The rules governing poll watchers are **defined by each state**, but poll watchers are still **subject to federal laws** that prohibit voter intimidation.
- They generally cannot be present in **enclosed voting spaces** or otherwise impede on your right to vote.



*Partisan poll watching has long been used to intimidate voters . . . and its history is littered with examples of racism and overt partisan attempts to illegally sway elections. **It has a history rooted in Jim Crow**, when Black Americans were systemically disenfranchised from exercising their right to vote. **Credible poll watchers will adhere to local and national voting laws and should not be intimidating you or preventing you from exercising your fundamental right to vote.***

**POLL WATCHING: A TOOL OF EMPOWERMENT AND DISENFRANCHISEMENT**

Campaign Legal Center

# Examples of Voter Intimidation

## BY POLL WATCHERS

- **Challenge** voter eligibility
- **Prevent** assistance to a voter
- **Prevent** deposit of a ballot or registration
- **Fail to secure** voting equipment
- **Spread misinformation**, like not updating the wait times
- **Make political commentary** to sway your vote





# The Evolving Nature of Voter Intimidation

New forms of voter intimidation continue to emerge, often in concert with **new trends** and **technologies**.

For example, voter intimidation *today*, as opposed to 40 years ago might include **robocalls** and **social media posts**, that give voters incorrect information about where to vote, tell them not to vote, or claim that voters' personal information and/or vote choices will be made available to the public or to government and law enforcement.

# The Evolution of Intimidation: Filming

While state laws around recording vary, **many states do not permit recording in or around polling places.**

What are your state's rules on:

1. Recording in public places?
2. Recording in polling places and other voter-related events?
3. Being a one- or two-party consent state?



# Protections for Voters

# Protections Under Federal Law

Congress has passed two statutes that include protections from those who seek to threaten, coerce, or suppress your right to vote.

- ***The Voting Rights Act of 1965*** (VRA)
- ***The Ku Klux Klan Act of 1871*** (KKK Act)

The ***National Voter Registration Act*** also prohibits the intimidation of persons for registering or attempting to register to vote.



# Court Enforcement

“Voter intimidation **severely burdens** the right to vote.”

*Spencer v. Blackwell*, 347 F.Supp.2d 528, 535 (S.D. Ohio 2004).

“The right to exercise the franchise in a **free and unimpaired manner** is preservative of other basic civil and political rights.”

*Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

“The right to vote embodies the **very essence of democracy**. Absent free and fair elections uninfluenced by fear, the underpinnings of democratic rule would crumble. The United States Constitution, as enforced by Congress and the courts, enshrines these principles.”

*Nat'l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 464 (S.D.N.Y. 2020).

# Voting Rights Act of 1965

## Section 11(b):

*"No 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, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties . . . ."*

- Creates **the right to sue an individual** who seek to intimidate, threaten or coerce voters
- Covers **both acts and attempted acts** of intimidation
- **Prohibits most acts** related to voting, like attempts to vote or urging/aiding another to vote
- Intimidation need not be violent or physical
- Applies to **both state and local elections**

# The Ku Klux Klan Act of 1871

*"[I]f two or more persons conspire 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 as an elector for President or Vice President, or as a Member of Congress of the United States . . . ."*

- Creates the **right to sue a group** for voter intimidation
- The group must be a **conspiracy of two or more people** who seek to prevent "by force, intimidation, or threat" those who give "support or advocacy" to a candidate for federal office
- The group seeking to intimidate need not act with **intent** or even have an **explicit agreement** to carry out acts of intimidation
- Applies only to **federal elections**

# Protections Under State Law

Most states have also passed protections against intimidation of voters:

- **Michigan:** It is a felony to “menace” voters to “influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote.”
- **Wisconsin:** Voters are protected from threats, duress, and other interference with the right to vote and the “exercise of the franchise at an election.”
- **Pennsylvania:** state law protects from the use and threat of force, intimidation, coercion, or undue influence in the context of voting, refraining to vote, and supporting or disavowing any particular candidate or political issue.



# Protections for Election Workers

Since 2022, 1 in 6 election workers have reported feeling threatened and harassed at their jobs.

- The **federal criminal code** protects legally authorized election workers from intimidation.
- **Most states** have also passed laws against intimidation and harassment of election workers.
- Some states are more thorough in their protection than others, having been recently updated to include protections against **cyberbullying and doxing**.

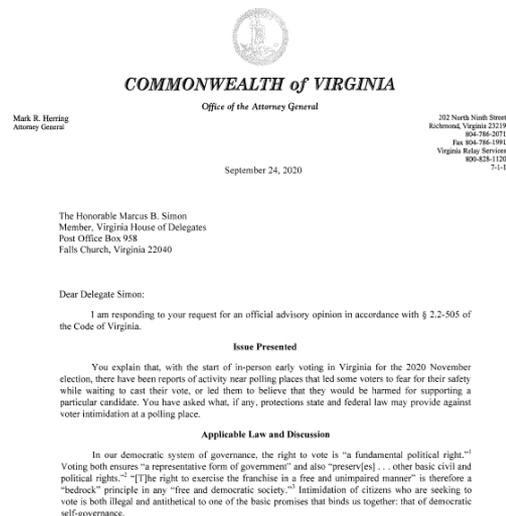


# Examples from the Field: Virginia 2020

## *Trump Supporters Disrupt Early Voting in Virginia*

A group waving Trump flags and chanting “four more years” created a commotion at a polling location in Fairfax, Va. **A county official said some voters and staff members felt intimidated.**

**Timely Response** → Legal Opinion  
**Key Messaging** → Deterrence + Reassurance;  
**Preparation + Training**



<sup>1</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886); see also *Eberidge v. Med. Cr. Hosp.*, 237 Va. 87, 98, 376 S.E.2d 525, 530 (1989) (noting that “the right to vote” has “been recognized as fundamental”).

<sup>2</sup> *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

<sup>3</sup> *Id.*; see also *Harper v. Virginia State Bd. of Election*, 383 U.S. 663, 670 (1966) (describing “the right to vote” as “precious” and “fundamental”).

The right to vote necessarily  
includes the right to be free from  
harassment and intimidation

# Leagues Fighting Back Against Voter Intimidation in Court



- **LWV Minnesota** | *CAIR Minnesota v. Atlas Aegis*
- **LWV Colorado** | *Colorado Montana Wyoming State Area Conference of the NAACP v. United States Election Integrity Plan*
- **LWV Arizona** | *League of Women Voters of Arizona v. Lions of Liberty (now AARA v. Jennings)*

*Protecting the vote, whether it be when the ballot is cast or when it is counted, matters. **A democracy dies under intimidation.** Fear not the fight for the right to vote. When you see it, call it out. Say something, do something.*

**PINNY SHEORAN**

President-Elect, LWV Arizona

*The League of Women Voters of Colorado views voter intimidation and the undermining of our elections, including by spreading disinformation, **as a direct assault on our democracy**. Every eligible voter deserves unfettered and equal access to the ballot. To quote Congressman John Lewis, democracy is not a state; it is an act. Through desperate and sometimes violent power grabs, voter intimidation purposefully diminishes voices that deserve equal attention.*

**BETH HENDRIX**

Executive Director, LWV Colorado

*In New York State, we have seen the proliferation of bad actors looking to sew distrust in our election process. In the fall of 2023, individuals, falsely claiming to be representatives from the boards of elections, were going door to door claiming that voters were illegally registered to vote. The State League issued a letter to all local Leagues asking them to watch for this behavior and report it to the state League. **We were pleased that the NYS AG issued a cease-and-desist letter to the organization and reports have diminished.** Leagues continue to report activities in counties across the state.*

**LAURA BIERMAN**

Executive Director, LWV New York State

*LWV Minnesota is directly involved in countering mis- and disinformation by sharing accurate information about our elections at every turn and being present where election deniers are harassing election officials. We believe **the best way to counter voter intimidation in our state is to work more intentionally with our election officials and county officers who oversee elections**, to ensure oversight of our voter-friendly laws and to create a civil election climate that gives voters the confidence they need to participate.*

**MICHELLE WITTE**

Executive Director, LWV Minnesota

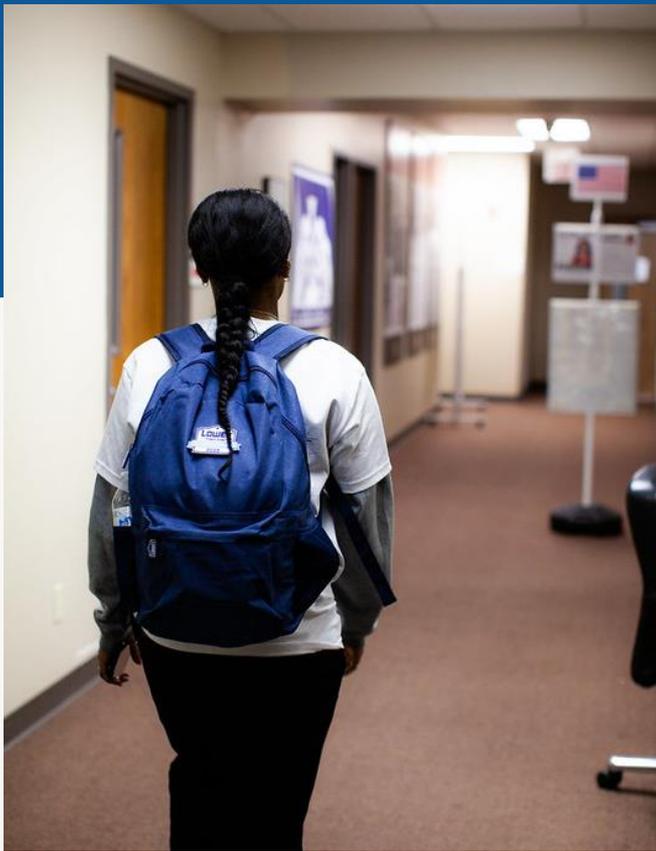
# Responding to Voter Intimidation

# Election Season Rapid Response Guidance

- Resources on League Management Site
- Use the information learned today to **spot voter intimidation**
- Ensure you have a **rapid response network and a tracker**
- LWVUS coordinating directly with state League leaders to provide timely support throughout election season, including on voter intimidation
- **Report** voter intimidation to your state League and/or LWVUS
- **Press outreach:** use our guide on public messaging



# Steps to Take When Your League Receives a Report of Voter Intimidation



- Use your **rapid response network** to track what happened.
- **Document** the intimidation (who, what, when, where, etc.) thoroughly and timely.
- **Report**
  - **Elevate** the report through the League network, either to your State League or to LWVUS.
  - **Report** to Election Protection at **866-OUR-VOTE**
  - **Alert** your local election official
- Refer to our guide **if press reach out** about the incident

# Know Your Rights

- If an individual claims to be an election official, but is not → Request to see identification and **REPORT**.
- If an individual visits your home and aggressively:
  - Requests proof of voter qualification
  - Claims to know your prior voting record
  - Accuses you or a housemate of voter fraud→ It is **HIGHLY UNUSUAL** for an election official to approach your home. You need not engage, answer, nor permit anyone into your home absent a judicial warrant. Then **REPORT**.
- If a poll watcher challenges your voting registration → In many states, you may give a sworn statement that you satisfy the qualifications to vote and then proceed to cast a ballot or ask for a provisional ballot. Then **REPORT**.
- If you receive a phone call or message about how voting makes your personal information available to the public → Hang up, disregard, and **REPORT**.
- If you feel unsafe, harassed, coerced, or threatened because you want to vote or want to register to vote → Find safety and **REPORT** to your local election official, the Election Protection Hotline, and to LWV.



# Checklist

1. Check your **state's laws** about voter intimidation
2. Know what **poll watchers** in your state can and cannot do
3. Find **state-specific guidance** from your Attorney General's Office for information about current voter intimidation schemes
4. **Document** any instance of intimidation thoroughly and immediately
5. **REPORT** the incident to your local election official, Election Protection, and LWVUS.

# Questions?