



**Office of the New York State
Attorney General**

**Letitia James
Attorney General**

October 22, 2024

Dear Election Official and Law Enforcement Partners:

The Office of the New York State Attorney General (OAG) protects the rights of all eligible voters to participate fully and meaningfully in elections. All voters have the right to vote freely and without fear of intimidation, coercion, or threats to their safety.

Voter intimidation is prohibited by federal and state law. All eligible voters have the right to equal access to the ballot box. The law has various protections to ensure that New Yorkers can easily access polling places.

In this advisory, we outline current legal prohibitions on intimidation and coercion at poll sites. We also discuss the role of poll watchers and the laws governing their conduct at polling places.

Voting in New York is safe, and we expect voting in this election to proceed smoothly. However, we want to be aware if New Yorkers experience any interference with their right to vote, or even any attempts at interference. Report any such incidents to OAG's Election Protection Hotline at (866) 390-2992 or <https://electionhotline.ag.ny.gov/>.

If any such incidents involve potentially dangerous conduct, report them to local law enforcement immediately, in addition to our office. We at OAG continue to work collaboratively with our partners at boards of elections (BOEs) and with law enforcement to swiftly address any incidents of voter intimidation or harassment.

If you have any questions regarding this guidance, direct them to OAG's Election Protection Hotline.

A handwritten signature in blue ink that reads "Letitia James". The signature is written in a cursive, flowing style.

LETITIA JAMES

New York Attorney General

NEW YORK STATE ELECTION ADVISORY

How the law protects voters from intimidation at the polls

Under federal and state law, it is illegal for anyone to intimidate, threaten, or coerce voters to interfere with their right to vote.¹

Types of conduct likely to constitute unlawful voter intimidation

Voter intimidation can take many forms, such as:

- individuals or groups patrolling outside polling places and trying to scare people out of the voting line
- poll watchers inside a polling place aggressively challenging many voters, or challenging specific types of voters, leading to long lines and baseless fears about illegal voting
- poll watchers in a polling place standing near privacy booths or in unauthorized areas videorecording or photographing voters, or following or harassing voters
- civilians dressing as law enforcement officers and harassing voters at poll sites²
- people spreading rumors that there are negative consequences to voting³
- people or groups carrying weapons⁴ or displaying foreign military uniforms or other military paraphernalia⁵ at polling locations

¹ 18 U.S.C. § 594; N.Y. Elec. Law § 17-212; *see also* 52 U.S.C. § 10101(b); 52 U.S.C. § 10307(b); 42 U.S.C. § 1985(3); 52 U.S.C. § 20511(1)(A); 18 U.S.C. § 245(b)(1)(A); N.Y. Elec. Law § 17-150.

² *Democratic Nat'l Comm. v. Republican Nat'l Comm.* (D.N.J. 1982) (Civ. No. 81-3876) (consent decree reached after DNC filed voter intimidation complaint alleging, among other things, that RNC posted signs outside polling places stating that the polls were being monitored by the “National Ballot Security Task Force” and that volunteers dressed as law enforcement officers harassed voters outside the polls).

³ *Nat'l Coal. on Black Civic Participation v. Wohl*, 661 F. Supp. 3d 78, 121 (S.D.N.Y. 2023) (“false utterances . . . made in order to intimidate or threaten voters who were exercising their right to vote” are not protected by the First Amendment and violate the federal Voting Rights Act).

⁴ It is a felony in New York to possess a firearm in or upon a polling place. *See* N.Y. Penal Law § 265.01-e. Under N.Y. Mil. Law § 240(6), it is a felony to “assemble[] or conspire[] to assemble with one or more persons as a paramilitary organization,” with “knowledge of its purpose,” and to “practice with a military weapon to further the purpose of” that organization. A “paramilitary organization” is defined as “an organization of two or more persons who engage or conspire to engage in military instruction or training in warfare or sabotage for the purpose of unlawfully causing physical injury to any person or unlawfully damaging the property of any person.” N.Y. Mil. Law § 240(6)(b)(i). It is also a misdemeanor for any “body of men other than the organized militia and the armed forces of the United States . . . [to] associate themselves together as a military company or other unit or parade in public with firearms in any city or town of this state.” N.Y. Mil. Law § 240(1). Cities and towns are prohibited from providing funding for “arming[,] equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body.” N.Y. Mil. Law § 240(2).

⁵ New York makes it a misdemeanor to “appear in any public place or in the public view attired in any uniform similar to that worn by the military, semi-military, naval, police, storm troop or other official or semi-official forces of any foreign state, nation or government,” or “in any distinctive part” of such uniform, “or to assemble with other persons similarly attired in any camp, drill ground or other place for the purpose of engaging in military drill or training or other military practices.” N.Y. Mil. Law § 238-c.

Behavior that has constituted voter intimidation under federal law includes:

- threats of violence⁶
- following voters to poll sites and speaking loudly about prosecuting them for illegal voting⁷
- threatening to share voter information with debt collectors or to boycott an individual or business to prevent a person from voting⁸
- threatening to evict someone for voting⁹
- threatening to use voter information to track down old warrants¹⁰
- making baseless arrests or threats of prosecution in the vicinity of voter registration meetings¹¹
- publicizing individuals' names and addresses ("doxing") in an effort to intimidate them¹²

Please report this type of conduct to OAG.

Intimidating speech is not always allowed under the First Amendment

"True threats [...] where the speaker means to communicate a serious expression of intent to commit an act of unlawful violence" against another person or group are not protected by the First

⁶ *United States ex rel. Katzenbach v. Original Knights of KKK*, 250 F. Supp. 330, 342, 345-49 (E.D. La. 1945) (injunction granted against defendants who directed violence, threats, harassment, and economic coercion against Black citizens in an effort to deter them from registering to vote).

⁷ Temporary Restraining Order, *Daschle v. Thune*, No. 4:04-cv-04177-LLP (D.S.D. Nov. 1, 2004) (restraining poll watchers for a Republican candidate who allegedly followed Native American voters in polling places and spoke loudly about them being prosecuted for illegal voting) (cited by *Nat'l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457, 481 (S.D.N.Y. 2020)).

⁸ *Nat'l Coal. on Black Civic Participation*, 498 F. Supp. 3d at 484 (threats of being targeted by debt collectors for voting by mail is a "subtle form of voter intimidation" which is "equally prohibited" as violent or physical acts of intimidation); *United States v. Deal*, 6 Race Rel. L. Rep. 474 (W.D. La. 1961) (restraining order granted against business owners allegedly refusing to gin cotton, sell goods or services, or engage in ordinary business transactions with Black farmers who attempted to register to vote).

⁹ *United States v. Beaty*, 288 F.2d 653 (6th Cir. 1961) (concluding that landowners had engaged in voter intimidation when they allegedly threatened Black tenants with eviction or refusal to deal in good faith if those tenants voted or registered to vote).

¹⁰ *Nat'l Coal. on Black Civic Participation v. Wohl*, 661 F. Supp. 3d 78, 113-14 (S.D.N.Y. 2023) (finding a warning that a mail-in voter's personal information would be disclosed to law enforcement to execute outstanding arrest warrants constituted voter intimidation, and noting that "courts have repeatedly held that conduct warning of negative criminal and legal consequences, including in the context of voting, can constitute intimidation").

¹¹ *United States v. McLeod*, 385 F.2d 734 (5th Cir. 1967) (concluding that an alleged pattern of baseless arrests and prosecutions in the vicinity of voter registration meetings organized by the Dallas County Voters League in order to encourage Black voter registration and turnout constituted voter intimidation).

¹² *LULAC-Richmond Region Council 4614 v. Public Interest Legal Foundation*, Civ. No. 1:18-cv-00423, 2018 WL 3848404 (E.D. Va. Aug. 13, 2018) (denying motion to dismiss complaint alleging that the Public Interest Legal Foundation's publication linking Latino voters' names and personal information to a report condemning felonious voter registration constituted voter intimidation); *United States v. Tan Duc Nguyen*, 673 F.3d 1259, 1265 (9th Cir. 2012) (concluding there was a fair probability that a letter stating that personal information of Latino voters would be provided to organizations "against immigration" was unlawful voter intimidation).

Amendment.¹³ Intimidating speech can be a true threat even if the speaker does not actually intend to carry out the threat.¹⁴

Even speech that does not threaten violence may not be protected. For example, false statements about election procedures may not be protected if they were meant to interfere with elections.¹⁵ And electioneering, which includes encouraging a voter to vote for or against a candidate, is not permitted in New York within 100 feet of a polling place.¹⁶

What government officials and the military are not allowed to do at the polls

It is illegal for government officials to interfere with or influence a presidential or congressional election that is financed by the federal government.¹⁷ This applies to the 2024 General Election.

- It is illegal for a member of the United States armed forces, through force, threat, intimidation, or advice, to prevent or try to prevent a voter from fully exercising their voting rights.¹⁸
- It is illegal for troops, military, or armed federal law enforcement officers to be at a poll site unless “such force [is] necessary to repel armed enemies of the United States.”¹⁹
- Section 11(b) of the federal Voting Rights Act, and the New York Voting Rights Act, prohibit any person, including government officers, from engaging in voter intimidation.²⁰

If you see any conduct like this, please contact OAG.

¹³ See *Virginia v. Black*, 538 U.S. 343, 359 (2003); see also *Nat’l Coal. on Black Civic Participation v. Wohl*, 661 F. Supp. 3d 78, 119 (S.D.N.Y. 2023) (“[A] threat of nonviolent or nonbodily harm can also constitute a ‘true threat’ that is excepted from First Amendment protection.”).

¹⁴ *Virginia*, 538 U.S. at 360.

¹⁵ Federal District Courts have held that the First Amendment does not protect speech directed at election interference that “is not political in nature and is instead related to politics only in so far as it proscribes the procedures governing elections.” *Nat’l Coal. on Black Civic Participation*, 661 F. Supp. 3d at 122 (citing *United States v. Mackey*, 652 F. Supp. 3d 309, 344 (E.D.N.Y. 2023)). In *Mackey*, the Court permitted a criminal prosecution to proceed under 18 U.S.C. § 241 against the defendant for “false speech intentionally used to injure other individuals’ attempt to exercise their constitutionally guaranteed right to vote, and to secure an outcome of value to [the defendant]—an advantage in a Presidential election for his preferred candidate—despite [the defendant]’s knowledge that the statements in his tweets were false.” *Mackey*, 652 F. Supp. 3d at 345.

¹⁶ See *Burson v. Freeman*, 504 U.S. 191 (1992) (upholding a state law that banned campaigning within 100 feet of the entrance to a polling place); N.Y. Elec. Law § 8-104(1) (“While the polls are open no person shall do any electioneering within the polling place, or in any public street, within a one hundred foot radial measured from the entrances designated by the inspectors of election, to such polling place or within such distance in any place in a public manner; and no political banner, button, poster or placard shall be allowed in or upon the polling place or within such one hundred foot radial.”); see also *DeRosier v. Czarny*, No. 5:18-CV-0919 (GLS) (DEP), 2019 WL 4697504, at *12 (N.D.N.Y. May 24, 2019), *report and recommendation adopted*, 2019 WL 4691251 (N.D.N.Y. Sept. 26, 2019) (upholding constitutionality of N.Y. Elec. Law § 8-104(1)).

¹⁷ 18 U.S.C. § 595.

¹⁸ 18 U.S.C. § 593.

¹⁹ 18 U.S.C. § 592.

²⁰ 52 U.S.C. § 10307(b); N.Y. Elec. Law § 17-212.

Militias are not permitted at the polls

It is illegal for people to organize as private militias without permission from the state.²¹ It is a felony to assemble or try to assemble as a paramilitary organization, with knowledge of its purpose, and to practice with a military weapon to support the organization's purpose.²² If you see or hear about this kind of activity, contact local law enforcement immediately as well as OAG.

Firearms are not allowed at polling places

New York law does not permit possession of a firearm, rifle, or shotgun in polling places.²³ In general, it is illegal to possess machine guns or assault weapons.²⁴

In addition, New York further forbids the use of other dangerous instruments to intimidate or harass.²⁵ The following objects have been classified as "dangerous instruments" when brandished in a threatening manner: a baseball bat,²⁶ tire iron,²⁷ knife,²⁸ and hammer,²⁹ among others.

Immediately report any incident involving a firearm at polling places to both local law enforcement and OAG.

Poll watchers are allowed to monitor the polls but not intimidate voters

Poll watchers are not allowed to intimidate voters or engage in other unauthorized conduct. But they are permitted to observe polling places when properly designated by candidates, political parties, political committees, or independent organizations that have candidates on the ballot. It is illegal to use force or to threaten force to intimidate or interfere with, or attempt to intimidate or interfere with, a poll watcher in any primary, special, or general election.³⁰

²¹ See N.Y. Mil. Law § 240(1).

²² See N.Y. Mil. Law § 240(6)(a).

²³ N.Y. Penal Law § 265.01-e. *Note* that this is a change in the law from previous guidance in earlier elections, when only open carry was prohibited. This prohibition is subject to certain exceptions, enumerated under N.Y. Penal Law § 265.01-e(3).

²⁴ N.Y. Penal Law § 265.02(2) (makes it a felony to possess a machine gun); N.Y. Penal Law § 265.02(7) (makes it a felony to possess an assault weapon, loaded or unloaded).

²⁵ N.Y. Penal Law § 120.14 makes it a misdemeanor to intentionally place or attempt to place another person in reasonable fear of physical injury, serious injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun, or other firearm.

²⁶ *People v. Cruci*, No. 2006–242 OR CR (N.Y. App. Div. Dec. 13, 2006) (upheld conviction of menacing in the second degree after defendant swung an aluminum bat in an aggressive manner towards the victim after a traffic accident).

²⁷ *People v. Bryant*, 787 N.Y.S.2d 540 (App. Div. 2004) (concluded that a jury could infer that the defendant intended to place the victim in reasonable fear of physical injury by displaying a tire iron).

²⁸ *In re Jonathan M.*, 772 N.Y.S.2d 42 (App. Div. 2004) (affirmed defendant's conviction of menacing in the second degree after defendant swung a knife at the victim's ribs).

²⁹ *People v. Muhammad*, 2011-2928 N CR, 2013 WL 1633140 (N.Y. App. Div. Apr. 12, 2013) (conviction for menacing in the second degree upheld after defendant removed a "standard-sized" hammer, tightly wrapped in a bag, from her purse, raised it up in view of the complainant, and, according to the complainant's testimony, stated that she was going to "bust" the complainant in the head).

³⁰ 18 U.S.C. § 245(b)(1)(A).

What poll watchers can do. Poll watchers may observe irregularities and report these observations to an elections inspector or the BOE.

Poll watchers must have authorization. The election law only permits poll watchers sent by candidates, political parties, political committees, or independent organizations that have candidates on the ballot. Each poll watcher must each have a certificate in writing appointing them. This certificate is issued by the chairperson or secretary of the political party committee, independent body, or the candidates.³¹ These certificates must be delivered to an inspector at the election district.³² Anyone who is not a legally authorized watcher is prohibited from doing so.³³

Poll watchers have limitations. At both general and primary elections, candidates, political parties, political committees, and authorized independent organizations are limited to three poll watchers at each election district at any given time. No more than one of these poll watchers may be within the “guard rail,”³⁴ which is the portion of the poll site containing the table used by election inspectors and BOE equipment. The guard rail also includes the privacy booths, ballot marking devices (BMD), and scanners used to conduct the elections, as well as any areas the voters use to move among these locations in the poll site.

If a poll watcher blocks the flow of voters to voting booths, an election commissioner may require that the poll watcher remain seated. If the poll watcher does not remain seated, they may be removed.³⁵

Poll watchers cannot intimidate voters. Poll watchers are **not** allowed to intimidate voters or electioneer under any circumstances. Poll watchers cannot do any of the following:

- solicit votes
- distribute, wear, or carry political literature, posters, banners, or buttons on site
- display refreshments showing a candidate’s party or name
- tamper with election materials, including BOE posted signs or results tape
- protest a vote ruling
- accompany a voter to the privacy booth, scanner, or to any BMD³⁶

³¹ See, e.g., Poll Watcher’s Certificate, Poll Watcher’s Guide, <https://elections.dutchessny.gov/wp-content/uploads/2023/03/Poll-Watcher-Certificate-2023.pdf>

³² See N.Y. Elec. Law § 8-500(4).

³³ N.Y. Elec. Law § 8-500 (McKinney); *Cotz v. Mastroeni*, 476 F. Supp. 2d 332, 364 (S.D.N.Y. 2007) (“Clearly, by its very terms, the statute vests the right to have watchers present at the polls in a political party or organization, *not* an individual poll watcher.”).

³⁴ N.Y. Elec. Law 8-500, *et seq.* N.Y. Elec. Law § 17-130(6) separately prohibits unlawfully going within the guard rail of any polling place or remaining within the guard rail after being commanded to leave such an area by an inspector of election.

³⁵ *Cotz v. Mastroeni*, 476 F. Supp. 2d 332, 364 (S.D.N.Y. 2007) (holding that a poll watcher’s First Amendment rights were not violated by the Election Commissioner’s command that she sit while poll watching after she was alleged to have been disruptive and standing between Election Inspectors’ tables in a way that impeded the flow of voters to the voting booths).

³⁶ See, e.g., Poll Watcher’s Certificate, Poll Watcher’s Guide, <https://elections.dutchessny.gov/wp-content/uploads/2023/03/Poll-Watcher-Certificate-2023.pdf>.

Other behavior by poll watchers that could, based on the context, constitute voter intimidation includes:

- pretextually challenging large groups of voters, leading to long lines and creating baseless fears that voters may be illegally voting
- standing in the vicinity of privacy booths³⁷
- standing in unauthorized areas

Report any such conduct immediately to OAG. Also report any potentially dangerous conduct to local law enforcement.

Some photography may be permitted in the polling place

The media may be allowed to film or take pictures of individuals in the polling place if not prohibited by the BOE and not disruptive to voting. A BOE is allowed to prohibit photography in the polling place, or even within 100 feet of it, without violating the First Amendment.³⁸ In any case, voters are not permitted to show their completed ballot to anyone. Anyone who requests a voter to show their ballot is committing a misdemeanor.³⁹ Report any such acts to OAG.

Voters are never required to present photo identification to cast an in-person ballot

You should **never be required to show photo ID** anywhere in the state of New York to vote. If this is your first time voting and you did not provide any identification when registering, you may have to show some form of identification to vote.⁴⁰ If that is the case, you can show either a photo ID or any one of the following: a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address.⁴¹ Which form to provide is entirely your choice. If you do not have any of these pieces of identification, you can

³⁷ See, e.g., N.Y. Elec. Law § 8-202(2) (election inspectors at particular poll sites must not allow any person to be “in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he or she has voted”); N.Y. Elec. Law § 8-602(ii) (the state board of elections shall promulgate rules or regulations to “ensure an efficient and fair early voting process that respects the privacy of the voter”); N.Y.C.R.R. 6211.5 (“[t]o ensure an efficient and fair early voting process that respects the privacy of the voter, the manner of voting on days of the early voting period shall be the same as the manner of voting on the day of election”); N.Y. Elec. Law § 17-130(7) (it is a misdemeanor to invade the privacy of the voting booth used by a voter); N.Y. Elec. Law § 17-130(10) (it is a misdemeanor to show a completed ballot, to any person so as to reveal the contents, or soliciting a voter to show the same).

³⁸ *Silberberg v. Bd. of Elections of New York*, 272 F. Supp. 3d 454 (S.D.N.Y. 2017) (upholding the constitutionality of N.Y. Elec. Law § 17-130 and of New York City’s policy banning photography within the polling place); *New Jersey Press Ass’n v. Guadagno*, No. CIV.A. 12-06353 JAP, 2012 WL 5498019 (D.N.J. Nov. 13, 2012) (concluding that an election law prohibiting photographing or interviewing voters within 100 feet of the polling place was a reasonable restriction under the First Amendment).

³⁹ N.Y. Elec. Law § 17-130(10) (makes it a misdemeanor for a person to show another the contents of their prepared ballot, or for a person to solicit a voter to do so); *Silberberg v. Bd. of Elections of New York*, 272 F. Supp. 3d 454 (S.D.N.Y. 2017) (upheld the constitutionality of N.Y. Elec. Law §17-130 and of New York City’s policy banning photography within the polling place); *New Jersey Press Ass’n v. Guadagno*, No. CIV.A. 12-06353 JAP, 2012 WL 5498019 (D.N.J. Nov. 13, 2012) (concluded that an election law prohibiting photographing or interviewing voters within 100 feet of the polling place was a reasonable restriction under the First Amendment).

⁴⁰ See N.Y. Elec. Law § 8-303(1) (Individuals who registered to vote by mail on or after January 1, 2003, and have not yet voted in a federal election in their jurisdiction, may be asked for identification at the polls.).

⁴¹ See N.Y. Elec. Law § 8-303(2)(a).

cast an affidavit ballot unless a court says otherwise.⁴² If anyone improperly requests voter identification, notify OAG.

Voter privacy is protected at polling places

New York’s laws and regulations protect voter privacy at early voting and Election Day poll sites. Election inspectors at poll sites must not allow anyone to be “in any position or near any position that will permit one to see or ascertain how a voter votes, or how he or she has voted nor shall they permit any other person to be less than three feet from the ballot scanner, ballot marking device, or privacy booth while occupied.”⁴³

It is a crime to invade the privacy of a voting booth used by a voter.⁴⁴

Violating voter privacy can be considered intimidation, whether it is carried out by a poll watcher, poll worker, election inspector or someone else. Report any such incidents to OAG immediately.

New York does not permit electioneering or campaigning inside or near polling places

Electioneering means campaigning or otherwise advocating on behalf of a political party, candidate or ballot proposal. While the polls are open, electioneering is **prohibited** in the polling place and within 100 feet from the entrances of the polling place.⁴⁵ No political banner, button, poster, or placard is allowed in the polling place or within the 100-foot radius. No one can urge a voter to vote in a particular way in these areas.

How to report complaints of voter intimidation or interference

If you observe any prohibited conduct, immediately contact OAG’s Election Protection Hotline: (866) 390-2992 or <https://electionhotline.ag.ny.gov>.

If you see or hear of any potentially dangerous conduct, immediately notify local law enforcement.

⁴² See N.Y. Elec. Law §§ 8-302, 8-303(2)(b).

⁴³ N.Y. Elec. Law § 8-202(2).

⁴⁴ N.Y. Elec. Law § 17-130(7).

⁴⁵ N.Y. Elec. Law § 8-104(1).

APPENDIX: APPLICABLE LAW

1. Federal Law

The Ku Klux Klan Act of 1871 – 42 U.S.C. § 1985(3)

“...If 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; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

The Ku Klux Klan Act of 1871 – 42 U.S.C. § 1986

“Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented...”

Voting Rights Act, Section 131(b) – 52 U.S.C. § 10101(b)

“No 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, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.”

Voting Rights Act, Section 11(b) – 52 U.S.C. § 10307(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 under section 10302(a), 10305, 10306, or 10308(e) of this title or section 1973d or 1973g of title 42.”

52 U.S.C. § 20511(1)(A)

It is illegal for “[a] person, including an election official” to “in any election for Federal office knowingly and willfully intimidate[], threaten[], or coerce[], or attempt[] to intimidate, threaten, or coerce, any person for registering to vote, or voting, or attempting to register or vote . . .”

18 U.S.C. § 245(b)(1)(A)

It is prohibited to use “force or threat of force” to intimidate or interfere with, or attempt to intimidate or interfere with, any person’s “voting or qualifying to vote” or serving “as a poll watcher, or any legally authorized election official, in any primary, special, or general election.”

18 U.S.C. § 592

“Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control 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, shall be fined under this title or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.”

18 U.S.C. § 593

“Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or [...] prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or [...] orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or [...] imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or [...] interferes in any manner with an election officer’s discharge of his duties— Shall be fined under this title or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.”

18 U.S.C. § 594

“Whoever intimidates, threatens, coerces, or attempts 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, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined under this title or imprisoned not more than one year, or both.”

18 U.S.C. § 595

“Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality [...], in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the

nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined under this title or imprisoned not more than one year, or both.”

2. New York State Law

N.Y. Elec. Law § 8-202(2)

Election inspectors at particular poll sites must not allow any person to be “in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he or she has voted[.]”

N.Y. Elec. Law § 8-303(1)

“Each board of elections, in a uniform and nondiscriminatory manner, shall require a voter to meet the requirements of subdivision two of this section [generally requiring voter identification] if:

(a) the individual registered to vote in a jurisdiction by mail on or after January first, two thousand three; and

(b) the individual has not previously voted in an election for federal office in the jurisdiction of the board of elections.”

N.Y. Elec. Law § 8-104(1)

“While the polls are open no person shall do any electioneering within the polling place, or in any public street, within a one hundred foot radial measured from the entrances designated by the inspectors of election, to such polling place or within such distance in any place in a public manner; and no political banner, button, poster or placard shall be allowed in or upon the polling place or within such one hundred foot radial.”

N.Y. Elec. Law § 8-500

“1. At any general, special, town or village election, any party committee, any independent body whose candidates are upon the ballot, and any political committee supporting or opposing a ballot proposal may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the chair or other officer of any such party committee, independent body or political committee.

2. At any primary election, any party committee and any candidate on the ballot may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the chair or other officer of any such party committee or by any candidate.

3. Watchers may be present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls, until after the signing of the inspectors’ returns and proclamation of the result.

4. The appointment of watchers for any election shall be by a certificate in writing issued by the appointing authority. Such certificate shall be delivered to an inspector at the election district.

5. Each watcher must be a qualified voter of the city or county in which he or she is to serve; provided, however, a qualified voter who is a New York state resident and is licensed to practice law therein may serve as a watcher at any polling place. No person shall be appointed or act as a watcher who is a candidate for any public office to be voted for by the voters of the election district in the same election in which the watcher is to serve. Nothing in this subdivision shall be construed as prohibiting any such candidate from visiting a polling place in such district on an election day while the polls are open.”

N.Y. Elec. Law § 8-502

“Before his vote is cast at an election any person may be challenged as to his right to vote, or his right to vote by absentee, military, special federal or special presidential ballot. Such challenge may be made by an inspector or clerk, by any duly appointed watcher, or by any registered voter properly in the polling place. An inspector shall challenge every person offering to vote, whom he shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.”

N.Y. Elec. Law § 17-130(7)

It is a misdemeanor to “[e]nter[] a voting booth with any voter or remain[] in a voting booth while it is occupied by any voter, or open[] the door of a voting booth when the same is occupied by a voter, with the intent to watch such a voter while engaged in the preparation of his ballot, except as authorized by this chapter”

N.Y. Elec. Law § 17-130(10)

It is a misdemeanor to “[s]how[] [a] ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same”

N.Y. Elec. Law § 17-150

“Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his

vote for or against any particular person at any election [...] is guilty of a misdemeanor ...
.”

N.Y. Elec. Law § 17-152

“Any two or more persons who conspire to promote or prevent the election of any person to a public office by unlawful means and which conspiracy is acted upon by one or more of the parties thereto, shall be guilty of a misdemeanor.”

N.Y. Elec. Law § 17-154

“It shall be unlawful for any person to: 1. Intimidate, threaten or coerce, or to 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, or for the purpose of causing such other person to vote for, or not to vote for, any candidate for the office of governor, lieutenant-governor, attorney-general, comptroller, judge of any court, member of the senate, or member of the assembly at any election held solely or in part for the purpose of selecting a governor, lieutenant-governor, attorney-general, comptroller, any judge or any member of the senate or any member of the assembly”

N.Y. Elec. Law § 17-212

“1. (a) No person, whether acting under color of law or otherwise, may engage in acts of intimidation, deception, or obstruction that affects the right of voters to access the elective franchise.

(b) A violation of paragraph (a) of this subdivision shall be established if:

(i) a person uses or threatens to use any force, violence, restraint, abduction or duress, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation that causes or will reasonably have the effect of causing any person to vote or refrain from voting in general or for or against any particular person or for or against any proposition submitted to voters at such election; to place or refrain from placing their name upon a registry of voters; or to request or refrain from requesting an early mail or absentee ballot; or

(ii) a person knowingly uses any deceptive or fraudulent device, contrivance or communication that (A) pertains to: (1) the time, place, or manner of any election; (2) the qualifications or restrictions on voter eligibility for such election; (3) any voter’s eligibility to vote in any election; (4) the consequences for voting or failing to vote in any election; or (5) a statement of endorsement by any specifically named person, political party, or organization; and (B) impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any person, or causes or will reasonably have the effect of causing any person to vote or refrain from voting in general or for or against any particular person or for or against any proposition submitted to voters at such election; to place or refrain from placing their name upon a registry of voters; or to request or refrain from requesting an early mail or absentee ballot; or

(iii) a person obstructs, impedes, or otherwise interferes with access to any polling place or elections office, or obstructs, impedes, or otherwise interferes with any voter in any manner that causes or will reasonably have the effect of causing any delay in voting or the voting process, including the canvassing and tabulation of ballots.”

N.Y. Mil. Law § 240(1)

“No body of men other than the organized militia and the armed forces of the United States except such independent military organizations as were on the twenty-third day of April, eighteen eighty-three and now are in existence and such other organizations as may be formed under the provisions of this chapter, shall associate themselves together as a military company or other unit or parade in public with firearms in any city or town of this state.”

N.Y. Mil. Law § 240(6)(a)

“Any person who assembles or conspires to assemble with one or more persons as a paramilitary organization and has knowledge of its purpose is guilty of a class C felony when he, with one or more other members of such organization, practices with a military weapon in order to further the purpose of such organization.”

N.Y. Penal Law § 265.01-e

“A person is guilty of criminal possession of a firearm, rifle or shotgun in a sensitive location when such person possesses a firearm, rifle or shotgun in or upon a sensitive location, and such person knows or reasonably should know such location is a sensitive location.”

A “sensitive location” includes “any location being used as a polling place” as well as “any place of worship,” “libraries,” “any building or grounds, owned or leased, of any educational institutions,” and “any gathering of individuals to collectively express their constitutional rights to protest or assemble.”

N.Y. Civ. Rights Law § 9

“All elections ought to be free; and no person by force of arms, malice, menacing, or otherwise, should presume to disturb or hinder any citizen of this state in the free exercise of the right of suffrage.”

N.Y. Civ. Rights Law § 40-c

“No person shall, because of race, creed, color, national origin, sex, marital status, sexual orientation, gender identity or expression, or disability, as such term is defined in section two hundred ninety-two of the executive law, be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision of the state.

3. Federal Court Cases

United States Supreme Court Cases

Virginia v. Black, 538 U.S. 343 (2003) (holding that “[t]rue threats [...] where the speaker means to communicate a serious expression of intent to commit an act of unlawful violence” against another person or group are not protected by the First Amendment).

Burson v. Freeman, 504 U.S. 191 (1992) (upholding a state law that banned campaigning within 100 feet of the entrance to a polling place).

Federal Courts of Appeal Cases

United States v. Tan Duc Nguyen, 673 F.3d 1259, 1265 (9th Cir. 2012) (concluding there was a fair probability that a letter stating that personal information of Latino voters would be provided to organizations “against immigration” was unlawful voter intimidation).

United States v. McLeod, 385 F.2d 734 (5th Cir. 1967) (concluded that an alleged pattern of baseless arrests and prosecutions in the vicinity of voter registration meetings organized by the Dallas County Voters League in order to encourage Black voter registration and turnout constituted voter intimidation).

Paynes v. Lee, 377 F.2d 61 (5th Cir. 1967) (in the case of a group of white men who allegedly assailed a Black man in the nighttime and threatened to destroy/annihilate him, his possessions and his family if he attempted to become a registered voter, the court concluded that despite him not yet being a registered voter, this was within the reach of §1985(3)).

United States v. Bruce, 353 F.2d 474 (5th Cir. 1965) (where the government alleged that a Black insurance collector who had actively encouraged voter registration was ordered by white landowners to stay off their property (where many of his policyholders resided), court concluded the landowners could not legally exclude him as a threat or means of coercion for the purpose of interfering with his right or the others whom he represented in exercising their right to register and vote).

United States v. Beaty, 288 F.2d 653 (6th Cir. 1961) (concluded that landowners who allegedly threatened Black tenants with eviction or refusal to deal in good faith if said tenants voted or registered to vote had engaged in voter intimidation).

United States v. Wood, 295 F.2d 772 (5th Cir. 1961) (government stated a valid claim of intimidation of black residents in Walthall County, Mississippi after a courthouse official beat a Black ‘Student Non-Violent Coordinating Committee’ volunteer in front of Black residents trying to register to vote and conducted a baseless arrest and prosecution of that volunteer).

Federal District Court Cases

Nat’l Coal. on Black Civic Participation v. Wohl, 661 F. Supp. 3d 78 (S.D.N.Y. 2023) (held that statements spreading disinformation about mail-in voting intended to dissuade potential voters from voting were not entitled to First Amendment protection and violated Section 11(b) of the Voting Rights Act).

United States v. Mackey, 652 F. Supp. 3d 309 (E.D.N.Y. 2023) (denying motion to dismiss and permitting Defendant to be criminally prosecuted for knowingly making false statements in tweets to “injure other individuals’ attempt to exercise their constitutionally guaranteed right to vote” in order to “secure an outcome of value to [Defendant]—an advantage in a Presidential election for his preferred candidate”).

DeRosier v. Czarny, No. 5:18-CV-0919 (GLS) (DEP), 2019 WL 4697504, at *12 (N.D.N.Y. May 24, 2019), *report and recommendation adopted*, 2019 WL 4691251 (N.D.N.Y. Sept. 26, 2019) (upheld constitutionality of N.Y. Elec. Law § 8-104(1) prohibiting electioneering within 100 feet of polling places).

LULAC-Richmond Region Council 4614, Civ. No. 1:18-cv-00423, 2018 WL 3848404 (E.D. Va. Aug. 13, 2018) (denying motion to dismiss complaint alleging that the Public Interest Legal

Foundation's publication linking Latino voters' names and personal information to a report condemning felonious voter registration constituted voter intimidation).

Silberberg v. Bd. of Elections of New York, 272 F. Supp. 3d 454 (S.D.N.Y. 2017) (upheld the constitutionality of N.Y. Elec. Law §17-130 and of New York City's policy banning photography within the polling place).

New Jersey Press Ass'n v. Guadagno, No. CIV.A. 12-06353 JAP, 2012 WL 5498019 (D.N.J. Nov. 13, 2012) (concluded that an Election Law prohibiting photographing or interviewing voters within 100 feet of the polling place was a reasonable restriction under the First Amendment).

Cotz v. Mastroeni, 476 F. Supp. 2d 332 (S.D.N.Y. 2007) (held that a poll watcher's First Amendment rights were not violated by the Election Commissioner's command that she sit while poll watching after she was alleged to have been disruptive and standing between Election Inspectors' tables in a way that impeded the flow of voters to the voting booths).

Temporary Restraining Order, *Daschle v. Thune*, No. 4:04-cv-04177-LLP (D.S.D. Nov. 1, 2004) (restraining poll watchers for a Republican candidate who allegedly followed Native American voters in polling places and spoke loudly about them being prosecuted for illegal voting).

Democratic Nat'l Comm. v. Republican Nat'l Comm. Civ. No. 81-3786 (D.N.J. 1982) (consent decree reached after DNC filed voter intimidation complaint alleging, among other things, that RNC posted signs outside polling places stating that the polls were being monitored by the "National Ballot Security Task Force" and that volunteers dressed as law enforcement officers harassed voters outside the polls).

United States v. Deal, 6 Race Rel. L. Rep. 474 (W.D. La. 1961) (restraining order granted against business owners allegedly refusing to gin cotton, sell goods or services, or engage in ordinary business transactions with Black farmers who attempted to register to vote.)

United States v. Clark, 249 F. Supp. 720 (S.D. Ala. 1965) (granting injunction against local officials who allegedly conducted "baseless arrests" and "unjustified prosecutions" against Black citizens attempting to vote and volunteers).

United States ex rel. Katzenbach v. Original Knights of KKK, 250 F. Supp. 330, 342, 345-49 (E.D. La. 1945) (injunction granted against defendants alleged to have directed violence, threats, harassment, and economic coercion against Black citizens in an effort to deter them from registering to vote).

4. New York State Court Cases

People v. Muhammad, 2011-2928 N CR, 2013 WL 1633140 (N.Y. App. Div. Apr. 12, 2013) (conviction for menacing in the second degree upheld after defendant removed a "standard-sized" hammer, tightly wrapped in a bag, from her purse, raised it up in view of the complainant, and, according to the complainant's testimony, stated that she was going to "bust" the complainant in the head)

People v. Cruci, No. 2006-242 OR CR (N.Y. App. Div. Dec. 13, 2006) (upheld conviction of menacing in the second degree after defendant swung an aluminum bat in an aggressive manner towards the victim after a traffic accident).

People v. Bryant, 787 N.Y.S.2d 540 (App. Div. 2004) (concluded that a jury could infer that the defendant intended to place the victim in reasonable fear of physical injury by displaying a tire iron).

In re Jonathan M., 772 N.Y.S.2d 42 (App. Div. 2004) (affirmed defendant's conviction of menacing in the second degree after defendant swung a knife at the victim's ribs).