

**PROSECUTORS AND POLITICS:
COLLABORATIVE STRATEGIES
AND MODEL POLICIES FOR
ADDRESSING THREATS AND ACTS
OF POLITICAL VIOLENCE**

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Contents

- I. Executive Summary1
- II. Key Themes and Findings2
- III. Introduction3
- IV. Recommendations and Model Policies4
- V. Conclusion14
- VI. Resources15
- VII. Polling Memo17
- VIII. Acknowledgements19

Prosecutors and Politics: Collaborative Strategies and Model Policies for Addressing Threats and Acts of Political Violence

I. Executive Summary

Threats and acts of political violence¹ against public officials and government institutions have become increasingly frequent in recent years. The spread of misinformation and the impact of social media, coupled with declining trust in our political institutions and systems of justice, has led to increased polarization and political extremism. Indeed, surveys have found that nearly 3 in 10 Americans believe that violence may be necessary if elected leaders do not take desired actions.²

This rise in political violence not only has a personal impact on the targeted individual, but also disrupts democratic processes and chills the desire of others to participate in government and civic duties. Public servants, such as elections officials and school board members, have been forced to publicly defend themselves against coordinated attacks or step down from their roles entirely. Unfortunately, the positions they hold and offices they serve continue to be weaponized by various extremist actors to advance violent ideologies and threaten the social compact of communities nationwide. Awareness of these risks associated with public service can have a chilling effect on regular citizens who may feel unsafe participating in their civic duty due to threats or incidents of violence.

Prosecutors recognize their responsibility to address this new level of violence in their community, while simultaneously being confronted with virulent threats and acts against them and their families. Across the Great Lakes region, prosecutors and their law enforcement partners seek concrete strategies to deter and hold accountable those responsible for violence. They understand that sustainable change to protect themselves and democratic processes requires collaboration with all criminal justice system stakeholders, federal partners, elections and government officials, and members of the community.

¹ While the term political violence does not have full consensus on its meaning, it has broad agreement and applicability in the field. Therefore, for purposes of this document, political violence is defined as the deliberate use of power and force to achieve political goals, which encompasses threats and acts aimed at injuring or intimidating populations and public officials as well as those of armed extremists and militia activity designed to disturb government institutions and processes. Etienne G Krug, et al., *The World Report on Violence and Health*, 360 *The Lancet* 1083–1088 (2002).

² Cox, D. A. (April 7, 2022). *After the ballots are counted: Conspiracies, political violence, and American exceptionalism*. The Survey Center on American Life. <https://www.americansurveycenter.org/research/after-the-ballots-are-counted-conspiracies-political-violence-and-american-exceptionalism/> (Last visited August 8, 2022).

Accordingly, on May 19-20, 2022, APA, with support of the Joyce Foundation, hosted a roundtable meeting in Detroit, Michigan that brought together a bipartisan group of prosecutors from Illinois, Michigan, Ohio, and Wisconsin, together with federal partners and national experts in political violence. The goal of this meeting was to develop effective prosecutorial strategies for state and local prosecutors to address political violence in their jurisdictions, and to consider new recommendations for their federal partners to do the same. During this roundtable, participants shared both personal and jurisdictional struggles against extremism and strategies for holding violent actors accountable.

We wish to thank the many prosecutors and other professionals who dedicated their time and expertise to this project. Their diverse perspectives and willing collaboration provided us with pathways forward to address extremist threats and acts of violence in the Great Lakes region and across the country.

II. Key Themes and Findings

During the course of the roundtable, and from subsequent literature reviews and interviews with subject matter experts, two main categories of political violence emerged. The recommendations included here sought to advance solutions to both areas in the interest of public safety and preserving the integrity of government institutions.

1. Threats and acts of violence based on political biases aimed at government institutions and elections that seek to disrupt democratic processes and undermine the legitimacy of governing bodies.
2. Targeted threats and acts of violence issued personally against public officials, including prosecutors, local and elections officials, and their families based on political, cultural, gender, sexual orientation, and racial biases that simultaneously aim to intimidate them and deter others from participating in government. Additionally, these threats and acts of violence are used to deter citizens from engaging civically.

III. Introduction

In the United States and globally, threats, plots, and acts of violence against the government and public officials have dramatically increased over the last decade.³ A survey of local officials from the National League of Cities found that 87% of respondents have observed increased attacks on public officials in recent years, and 81% reported having experienced harassment, threats, and violence themselves.⁴

The increased polarization of the political sphere and the rise of social media have allowed extremist views to flow in the mainstream and have impacted the legitimate nature of governing bodies. In recent years, these issues have been exacerbated by the rise in gun ownership and the “double-edged threat” of a disintegrating trust in government and a growing feeling of disenfranchisement in the many communities across the country. Currently, 23% of Americans say that engaging in violent protest against the government, in general, is justified, and 10% of Americans say that it is justified to engage in acts of political violence against the government.⁵

The effects of such violence can most sharply be felt by those responsible for ensuring that voting, elections, and democratic processes run smoothly. These individuals include poll workers, elected government officials, law enforcement, and prosecutors. For example, in an April 2021 survey by The Brennan Center for Justice, a third of poll workers said they felt unsafe; 79% of these poll workers wanted government-provided security.⁶

As incidences of violence continue to increase, the government and local communities seek effective strategies and methods to tackle the rising issue of political violence in our nation. The below recommendations aim to provide guidance to state and local prosecutors through prosecution-based strategies, collaborative efforts, and proactive initiatives and trainings. This guidance grounds prosecutorial efforts in the tenets of providing for public safety while using a framework of procedural justice. Work in this area should incorporate efforts at transparency, neutrality, giving voice, and having trustworthy motives. Once done the process will appear to be and will be viewed as legitimate and fair, while also

³ Within the last year, threats against federal judges, for example, have increased by 400%. Bill Whitaker, *Federal Judges Call for Increased Security After Threats Jump 400% and One Judge's Son is Killed*, CBS News, (May 30, 2021), available at <https://www.cbsnews.com/news/federal-judge-threats-attack-60-minutes-2021-05-30/>.

⁴ NLC, *On the Frontlines of Today's Cities: Trauma, Challenges and Solutions* National League of Cities (2022), <https://www.nlc.org/resource/on-the-frontlines-of-todays-cities-trauma-challenges-and-solutions>. (Last visited July 5, 2022).

⁵ Alauna Safarpour et al., *Americans' Views on Violence Against the Government*, The COVID States Project (2022).

⁶ Waldman, M., Norden, L., Vandewalker, I., Tisler, D., & Edlin, R. (July 19, 2022). Local election officials survey (March 2022). Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022> (Last visited August 8, 2022).

reflecting the urgency of protecting the people and government institutions that shape our democracy.

IV. Recommendations and Model Policies for State and Local Prosecutors

1. Publicize efforts to seriously pursue acts of election interference and violence in advance of election cycles or high-profile events.

Many community members, and even some law enforcement agencies, lack a full understanding of the nuanced laws and regulations that govern voting rights and free speech. These laws include such topics as election interference, gun carrying laws at polling stations and vote counting locations, and terroristic threats, among others. In advance of election cycles, offices can develop expertise in their office on the laws and regulations in their jurisdiction and develop messaging to publicize specific provisions of the law that will have the greatest impact on voters and public safety at the polling locations.⁷ Prosecutors can refer to the guidance available from national organizations and experts in political violence to inform the messaging related to these voter intimidation laws and regulations.⁸ These efforts can deter potential violent actors or militia groups seeking to disrupt elections.

In addition to deterrence, clear messaging can alert community members to the available protections of their voting rights. Prosecutors can collaborate with law enforcement partners to develop and publicize ways for citizens to safely notify law enforcement of potential violations at voting or ballot drop-off locations. Empowering citizens to join this effort builds trust between the community and the government institution, thereby bolstering the legitimacy of the elections processes.

Partnering with criminal justice and community stakeholders and government officials in advance to determine messaging and dissemination strategies can ensure this information is spread to a wider audience. Possible mediums for consideration include a webpage dedicated to relevant elections laws and regulations, social media links or postings, and state-specific one-pagers on the various laws mentioned above.⁹ Prosecutors can also leverage available media outlets to communicate this message with the public, either via radio, online or paper newspapers, social media, or press conferences.

⁷ In Ohio, the Summit County Prosecuting Attorney's Office issued such legal guidance in response to the Board of Elections requesting clarification on regulations pertaining to concealed carry of firearms at polling locations. *See* Prosecutor's Opinion 20-188 (October 22, 2020).

⁸ *See* <https://statesuniteddemocracy.org>.

⁹ *See* <https://www.law.georgetown.edu/icap/>.

2. Prioritize and widely publicize avenues for communities to report threats and acts of violence against elections workers, elections officials, and other public servants and officials.

Avenues for communities to report threats or acts of violence should be publicized broadly via news outlets, press conferences, and social media, which has the potential to deter violent actors, alert law enforcement, and prevent future violence before it occurs. Prosecutors can conduct outreach to reporters through office communications teams or key staff members to ensure these avenues and cases are prioritized.

Prosecutorial discretion provides state and local prosecutors the opportunity to prioritize cases to ensure public safety and to maintain the social compact of society. Prosecutors can utilize discretion to prioritize investigations and cases that involve threats and acts of violence against public officials and governing bodies. They can continue to critically evaluate each threat against public officials, gather evidence through available means, and file charges when permissible by law. These efforts can determine the seriousness of identified threats and collaborative efforts with criminal justice partners described below.

EXAMPLE: In advance of the 2020 election, the Philadelphia District Attorney's Office sought to ensure that all community members were afforded their constitutional protections when voting.¹⁰ The District Attorney's Office prioritized cases that involved election interference, violations of gun carrying laws, voter intimidation, and voter fraud. To ensure enforcement both prior to and following election day, the Office established the Election Day task force.

The prioritization and enforcement efforts were communicated to community members. The task force developed a hotline phone number for citizens to report instances of voter intimidation or related violations of criminal laws.¹¹ The phone number and task force presence were publicized to community members through social and local media outlets to ensure their use as well as deter potential threats or acts of violence.

¹⁰ Higgins, M. (October 7, 2020). *Philadelphia DA Larry Krasner beefing up Election Task Force for potential voter intimidation at polls.* <https://philadelphia.cbslocal.com/2020/10/07/philadelphia-da-larry-krasner-beefing-up-election-task-force-for-potential-voter-intimidation-at-polls/> (Last visited August 8, 2022).

¹¹ Jurisdictions can benefit by developing relationships with nonpartisan voting groups that run election protection hotlines to provide easily accessible reporting avenues. This information should be shared with all campaign offices to ensure there is no favoritism or perception of partisanship. One way to do this is to share any information with the local board of elections to share that information with all candidates on the ballot, registered political parties, and observers. See <https://866ourvote.org>.

3. Employ Extreme Risk Protection Orders (ERPOs) or similar firearm dispossession tactics to target extremist and high-risk behavior.

The increase in gun purchases in recent years has created an environment in which dangerous actors have the opportunity and ability to make and carry out threats against elections processes and government officials alike. Firearm dispossession strategies and policies available through various mechanisms at all stages in the criminal justice process, such as ERPO statutes and laws, also often referred to as red flag laws,¹² serve to directly target this concern.

In states with existing ERPO statutes,¹³ prosecutors can ensure that the applications and questionnaires include questions pertaining to violence toward political and public figures and groups. Such questions can provide a basis to conduct further investigation on potential violence and play a key role in the logging of threats and plots on public officials and institutions. Such questions can include firearm possession and location, engagement in violent ideologies or militia groups, acts of animal cruelty, prior threats to public officials, or a history of racial-motivated or domestic violence.

EXAMPLE: In 2019, federal law enforcement agents in Washington State were tracking the online presence of the leader of a white supremacist group called Atomwaffen. This individual stockpiled weapons, conducted weapons trainings for militia-style invasions, and ventured to Germany to visit and pose with Nazi sites. This visit resulted in his permanent expulsion from Canada. Given the increasing concern of an attack on American citizens, federal agents, in cooperation with local law enforcement, sought firearm dispossession alternatives to prevent mass violence.

Federal law enforcement, the Seattle Police Department, and King County's Regional Firearms Enforcement Unit collaborated to gather evidence and filed for an Extreme Risk Protective Order in King County. Given the lack of federal ERPO provisions, this petition was the first filed by the FBI in any jurisdiction across the country. Based on this filing, federal and local law enforcement were able to remove multiple automatic rifles and handguns, as well as other gun components,

¹² ERPOs are civil court filings that can allow law enforcement, clinicians, or family members to petition the court for the removal of a firearm based on an evidentiary finding that the owner presents a danger to self or others. These statutes have robustly entered political discourse across the country. See Joseph Blocher & Jacob D. Charles, *Firearms, Extreme Risk, and Legal Design: "Red Flag" Laws and Due Process*, 106 Virginia Law Review 1285-1344 (2020).

¹³ There are 19 states that currently have an ERPO policy. See <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/extreme-risk-protection-orders/>.

from this individual's possession for a one-year period. This individual pled guilty to hate crimes and conspiracy charges for threatening journalists and advocates.¹⁴

In states without existing ERPO statutes, prosecutors can engage with their legislative bodies and lend criminal justice expertise to inform proposed statutory provisions. Absent legislation, prosecutors can work with law enforcement and external partners to formulate tools with questions comparable to those contained within ERPO petitions. Prosecutors can also modify existing petitions or risk assessments to include questions that address political violence subsets, such as extremist affiliations, racism, and a history of gender- and/or sexual orientation-based violence.

Prosecutors working on domestic violence cases have an opportunity to dig deeper into the risk assessment, especially in regard to firearms. Victims of domestic violence are often the greatest source of information into a respondent. The King County Prosecutor's Office uses a firearm interview that advocates use to assess not only access to firearms, but also any concerns about violent ideology, i.e. does the victim have any concerns with any groups that the defendant/respondent is part of or expresses a desire to be part of? If there is concerning information about violent ideology, the information will be shared with law enforcement partners for additional investigation. The violent ideology also informs the understanding of the risks associated with the respondent.

Information obtained from both ERPO and non-ERPO petitions and questionnaires can be used to flag and catalog extremist activity and incidences of political violence. Evidence of credible threats and acts of violence not actionable at the state level can be collated and provided by prosecutors or local law enforcement to federal partners, such as the Joint Terrorism Task Force, for further investigation.

4. Social media information-gathering is integral to investigations around potential and actual violence in all forms.

The rise in internet and social media access has given a platform and ability for potential violent actors to exacerbate their extremism, publicize their threats, and plan and coordinate violent acts. Investigations into the violence at the U.S. Capitol on January 6th highlighted the power of the internet in planning, publicizing, and identifying perpetrators of political violence. Prosecutors can create a dedicated

¹⁴ Department of Justice, *Leader of Neo-Nazi Group Pleads Guilty to Hate Crime and Conspiracy Charges for Threatening Journalists and Advocates*, (April 7, 2021), <https://www.justice.gov/opa/pr/leader-neo-nazi-group-pleads-guilty-hate-crime-and-conspiracy-charges-threatening-journalists>.

team or office member to collaborate with law enforcement partners on proactive social media surveys of identified threats. Through this collaboration, prosecutors can prioritize social media investigations for any threats and plots of violence against public officials, democratic institutions, elections officials, and political events. This team can log the information, track the threats issued on social media, and share the information with relevant actors for additional investigation or file charges at the state or local level. Federal partners are also key, especially with the ability to use social media as a tool to threaten individuals or cause fear from different states.¹⁵

Additionally, being aware of the online presence of a potential violent actor is critical to preventing violence. In addition to incorporating extremist questions on risk assessments and questionnaires, including interview questions in routine investigations with suspects and/or family members in domestic violence or animal cruelty cases can include inquiries related to social media presence, extremist beliefs or affiliations, and the accessibility of firearms. As noted by the roundtable participants, a strong link exists between racial- or gender-based violence and participation in threats and acts of violence against government institutions and public officials.

Prosecutors and investigators must ensure that information viewed and obtained from social media sites for investigative purposes is obtained and used lawfully. Policies and practices created in this area must include, among other things, awareness and adherence to both federal and state laws that are in place to protect individuals' and groups' privacy, civil rights, and civil liberties.¹⁶

¹⁵ A Nebraska man has pleaded guilty to making death threats against Colorado's top elections official in a what officials say is the first such plea obtained by a federal task force devoted to protecting elections workers across the United States. The suspect who made threats against secretary of State Griswold is the first guilty plea for the US election task force. Colorado Public Radio. <https://www.cpr.org/2022/06/21/threats-made-against-sect-of-state-griswold-guilty-plea-a-first-for-us-election-task-force/> (Last visited August 8, 2022).

¹⁶ Bureau of Justice Assistance, *Developing a Policy on Use of Social Media in Intelligence and Investigative Activities Guidance and Recommendations*, February 2013, available at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/developing_a_policy_on_the_use_of_social_media_in_intelligence_and_inves.pdf.

5. Utilize federal statutes or alternative prosecutions to fight threats, violence, and harassment of individuals and prosecutor offices.

Many incidences of election interference and violence demand unique prosecutorial solutions from law enforcement and prosecutors. For example, militia and group activity has become increasingly common in political violence incidents.¹⁷ Gang and hate crime statutes offer an innovative way to approach and address the new level of organized violent actors and militia groups. By understanding what constitutes unlawful militia activity, particularly around voting polls and political events, state and local prosecutors can exercise discretion in charging decisions to reflect the seriousness of threats and acts of violence.

Elected officials can turn to federal statutes or civil remedies that provide alternatives to prosecution to protect the elections process and hold violent actors accountable, such as the Ku Klux Klan Act (KKK Act).¹⁸ While state and local prosecutors may not be able to prosecute, maintaining an understanding of these federal laws can allow state and local prosecutors to cooperate with federal investigations to thwart, deter, and prosecute political violence incidents that fall under the federal purview.

6. Jurisdictions can establish and deepen connections with local FBI Election Crimes Coordinators and relevant Department of Justice (DOJ) agencies, including the Joint Terrorism Task Forces (JTTF), Office of the Attorney General, and Civil Rights Division.

By deepening partnerships with federal partners, state and local prosecutors can target both themes of political violence. Prosecutors can designate an office point of contact with federal agents to provide expertise and efficiency in collaboration. These collaborations can develop information-sharing guidelines and protocols to ensure information is obtained and shared both quickly and comprehensively. For example, a dedicated inbox to forward all communications and threats to JTTF agents and/or the Civil Rights Division can create a pathway to track threats or plots against elections officials or government actors. Even in case investigations that are not actionable at the state level, this information-sharing process for threats of

¹⁷ Gartenstein-Ross, Daveed, Clarke, Colin P., & Hodgson, Samuel. *Militia Violent Extremists in the United States: Understanding the Evolution of the Threat*, International Centre for Counter-Terrorism, Policy Brief (May 2022). See also, Institute for Constitutional Advocacy & Protection, *Prohibiting Private Armies at Public Rallies: A Catalog of Relevant State Constitutional and Statutory Provisions*, 3rd ed. (September 2020).

¹⁸In *Cervini v. Cisneros*, a lawsuit was filed on allegations of political violence that violated Texas state law and the federal Ku Klux Klan Act of 1871 against individuals in a convoy of Trump supporters who conspired to mount a coordinated vehicular assault against a Biden-Harris campaign bus on October 30, 2020. 1:21-CV-565-RP (W.D. Tex. March 23, 2022). See also 42 U.S.C. § 1983.

violence against public officials or election processes can allow for tracking of growing threats or unauthorized militia activity and deter future violence.

Designated prosecutors within state and local offices can also develop expertise to provide guidance to potential targets for violence. Many local bipartisan organizations or individuals that carry out free and fair government processes, such as elections, often find themselves the target of unanticipated threats and acts of violence. Providing a designated contact to these groups and individuals from the prosecutor's office and law enforcement agency can reduce confusion and ensure an efficient response to such actions. This collaboration can restore confidence in governing bodies and legitimacy of the individuals who carry out their duties.

7. Prosecutors and their law enforcement partners can organize cross-sectional and cross-jurisdictional efforts to combat threats and acts of violence.

Threats and acts of political violence will often necessitate cross-jurisdictional collaboration. As noted, many incidences of violence against public officials or government institutions are planned virtually across jurisdictions or state lines. In particular, threats of political violence that can be posted online or called into an office from any location demand heightened cross-jurisdictional collaboration to determine their origin and lethality for violence prevention and prosecution.

Prosecutors are uniquely positioned to identify partnerships and key individuals across jurisdictions that can formulate a coordinated information-sharing network. These efforts can develop into coordinated state and local intake and intelligence to capture, track, and share threats with relevant federal partners or criminal justice stakeholders. Information-sharing between law enforcement agencies at the state and local level allows for a more rapid and informed response to ensure the safety of threatened individuals and the public at large.

Prosecutors can also establish relationships between law enforcement and elections/board officials early in the election cycle to strategize for efforts to combat election interference, fraud, and intimidation. Throughout the year, prosecutors can develop a working group or periodic roundtable to ensure all stakeholders are connected, address partnership concerns, and provide updates on database/tracking of threats.

8. Engage third-party partners for additional resources and assistance with prosecutions or alternative legal tactics to hold violent actors accountable.

In cases that are not actionable, prosecutors can also develop support networks for victims and their families to pursue alternative pathways to accountability. For instance, referrals to organizations such as the [Election Official Legal Defense Network](#) can be made for elections officials facing threats or intimidation. Such referrals can provide resources to the victim and their family while exploring alternative legal actions.

Prosecutors can also engage specialized national organizations for state-specific training or technical assistance on related topics, such as election interference or intimidation. National organizations combating violence, such as the States United Democracy Center¹⁹ and the Institute for Constitutional Advocacy and Prevention²⁰, can also offer prosecutors guidance on alternative legal strategies and explore available civil remedies to hold accountable individuals who threaten public officials or democratic processes. These organizations can provide insight and expertise on politically motivated violence and strategies to maintain the integrity of elections. Many of these efforts can be preventative and state-specific.

Additionally, partner organizations mentioned above as well as groups such as Bridging Divides Initiative (BDI); The Atlantic Council's Digital Forensic Research Lab (DFRLab); and the Armed Conflict Location & Event Data Project (ACLED) can be resources for actionable intelligence if a case were to move forward. BDI produces action-oriented, responsive research that can fill existing gaps or empower local leaders.²¹ DFRLab has operationalized the study of disinformation by exposing falsehoods and fake news, documenting human rights abuses, and building digital resilience worldwide.²² ACLED is a disaggregated data collection, analysis, and crisis mapping project whose team conducts analysis to describe, explore, and test conflict scenarios, and makes both data and analysis open for free use by the public.²³

Please refer to the resources section for more information.

¹⁹ See <https://statesuniteddemocracy.org>.

²⁰ See <https://www.law.georgetown.edu/icap>.

²¹ See bridgingdivides.princeton.edu.

²² See <https://www.atlanticcouncil.org/programs/digital-forensic-research-lab/>.

²³ See <https://acleddata.com/dashboard/#/dashboard>.

9. Establish periodic training for new and experienced prosecutors and law enforcement partners on topics related to political violence.

Violent actors, militia members, and political extremists often seek to extort the complex regulations around the First and Second Amendments to defend and continue their abusive threats and actions. New prosecutors and those specifically assigned to political violence cases must have a concrete understanding and training on the limits of free speech as contrasted with unprotected speech, as well as what constitutes illegal intimidation, election interference, and infringement on voter rights.

Many national organizations offer free trainings and state-specific fact sheets on general First and Second Amendment limits²⁴ as well as election interference and intimidation by militia presence at voting locations. This training can assist prosecutors in their charging decision analysis and provide guidance to law enforcement in investigations and arrests of violent actors and political extremists.

10. Ensure preventive efforts to address threats and acts of violence are done in a culturally competent, trauma-informed and nonpartisan manner through exercising procedural justice principles.

The roundtable participants noted the impact of increased feelings of disenfranchisement and discontent by community members with governing bodies, further creating an environment of mistrust and political divisiveness. Prosecutors can counteract these sentiments by working with partners to ensure trauma-informed and culturally competent initiatives and nonpartisan responses are used at political events, such as voting polls, Board of Elections meetings, or political debates. For example, prior to disbursing officers to voting stations during an election, law enforcement must understand the impact that armed officers will have given the historical and racial composition of the community members. Strategizing violence prevention efforts at roundtable or committee meetings that include both criminal justice stakeholders and community members well in advance of election cycles can inform the appropriate preventive measures and inform the community of the prosecutor's efforts. By treating all voices with dignity and respect, officials can elevate the trust and legitimacy of the democratic process and the governing bodies that represent them.

²⁴ See States United Democracy Center, *Threats to Election Officials: Informational Guide for Law Enforcement*, May 2022, available at <https://statesuniteddemocracy.org/wp-content/uploads/2022/06/2022.5.Threats-to-Election-Officials-Informational-Guide-for-Law-Enforcement.pdf>.

11. Work to shield personal information of elected officials, public officials, and those who work in this area.

In response to the rise in violence against public officials and others, protecting their personal information, including addresses, phone numbers, and even last names of their children,²⁵ has entered the public discourse. This renewed vigor to protect personal information may lead to legislative changes in multiple state laws regarding other government officials and elected positions while allowing for the verification of a candidate's eligibility to run for elected office. Prosecutors can work with state legislators to ensure clear language that will include the position of the public officials and others, as well as their families, in any legislative revisions.²⁶ A goal of drafted legislation is that prosecutors, along with other public officials, can continue to allow transparency in their official duties and allow access to public documents without sacrificing their safety and that of their families.

Proactive steps to remove or shield unnecessary personal information from the public sphere can also reduce threats or acts of violence targeting public officials and others, including their families. Offices can implement regular cyber hygiene training and testing to ensure that all employees stay updated on current model practices and policies for safe sharing of their personal information. These efforts can minimize hacking or access to personal information through official and personal online mediums.

In jurisdictions that do not require publication of personal information, obtaining P.O. boxes for professional use can simultaneously keep personal information private and provide a screening process for professional communications. Additionally, utilizing accessible databases for storing public information can assist with ensuring accurate and updated information is provided to the public, other government officials, and the media.

In jurisdictions that require the publication of information of prosecutors running for or already in office, hiring third-party companies to conduct periodic data cleaning from the internet can greatly reduce the visibility of this information. Including the information of key staff and family members in the data cleaning process can further this effect and promote the safety of public officials and their families.

²⁵ One prosecutor at the roundtable shared that their child has no last name listed in the school yearbook to prevent association with the office.

²⁶ See, e.g., Kentucky's recent law change to include the shielding of information of prosecutors, along with other criminal justice stakeholders, available at <https://apnews.com/article/kentucky-open-government-d20cc3b8dcbb2e85a3661be758235608>.

12. Critically examine language and public statements around political events and cases to avoid divisive language or weaponization of the office.

Prosecutors and public officials can ensure that language promoted in public documents and releases remains inclusive and reduces the divisive nature of political rhetoric in their community. Prosecutors can draft language related to cases, policies, and practices in a manner that clearly communicates their message to the public without further political division. By choosing language for public communications that remains inclusive and transparent, prosecutors can build trust, credibility, and deepen prosecutorial legitimacy.

Conclusion

Elected officials, public servants, and the government bodies they serve continue to face attacks and threats of violence each day. Prosecutors have an opportunity to shape the policies and practices that provide accountability for these actions and maintain the integrity of the democratic process. Through these efforts, prosecutors, their law enforcement partners, and others can simultaneously instill protections for elected and public officials, public servants, and their families and continue to advance the legitimacy of democratic institutions and improve public trust in representative government.

Resources

Active engagement and collaboration with organizations that specialize in combating political violence and defending government processes is paramount to the success of the recommended prosecutorial strategies. Many of the below partners participated in the prosecutors' roundtable and have provided their resources to lend additional assistance to prosecutors across the country in implementation of these efforts.

Voter Intimidation and Legal Guidance

1. States United Democracy Center, Protect Democracy, et al., "A Democracy Crisis in the Making: How State Legislatures are Politicizing, Criminalizing, and Interfering with Election Administration," (2022), <https://statesuniteddemocracy.org/>.
2. States United Democracy Center, Voter Intimidation Toolkit, Fall 2020, <https://statesuniteddemocracy.org/resources/voter-intimidation-toolkit/>. This toolkit contains additional resources, such as template guidance for attorneys general on advisory opinions on state voting laws and voter intimidation and legal and messaging guidance for private armed "guards" at polling places.
3. Institute for Constitutional Advocacy and Protection, "Guidance for Election Officials to Prevent and Address Voter Intimidation," (Oct. 2020), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2020/10/ICAP-Election-Official-Guidance-10-27-20.pdf>.
4. Institute for Constitutional Advocacy and Protection, "Actions Law Enforcement Can Take to Address and Prevent Voter Intimidation," (Oct. 2020), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2020/10/ICAP-General-Law-Enforcement-Guidance.pdf>.
5. Institute for Constitutional Advocacy and Protection, "State Fact Sheets: Laws Pertaining to Unauthorized Private Militia Groups," <https://www.law.georgetown.edu/icap/our-work/addressing-the-rise-of-unlawful-private-militias/state-fact-sheets/>. This interactive resource allows users to select one-pager fact sheets for individual states on laws on unauthorized private militia groups and armed groups near polling places or voter organization spaces.
6. Institute for Constitutional Advocacy and Protection, et al., "Fact Sheet on Threats and Incitement to Violence Related to the Election," (Mar. 2020), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2020/12/Fact-Sheet-on-Threats-Related-to-the-Election.pdf>.

7. Voter Protection Program, et al., “What Police Need to Know About Protecting the Count,” (Nov. 2020) <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2020/11/Protecting-the-Count-Law-Enforcement-Guidance-11.4.20.pdf>.

Constitutional Principles and Extreme Risk Protective Order (ERPO)

8. Institute for Constitutional Advocacy and Protection, “Protests & Public Safety Toolkit: A Guide for Cities & Citizens,” <https://constitutionalprotestguide.org/>.
9. Institute for Constitutional Advocacy and Protection & States United Democracy Center, “Countering Bigotry and Extremism in the Ranks: A First Amendment Guide for Law Enforcement Agencies,” (Apr. 2022), <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2022/04/2022.4.7.-Countering-Bigotry-and-Extremism-in-the-Ranks.pdf>.
10. Bloomberg American Health Initiative & Johns Hopkins Center for Gun Violence Solutions, “Extreme Risk Protection Order: A Tool to Save Lives,” (2022), <https://americanhealth.jhu.edu/implementERPO>.
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²⁷ The Educational Fund to Stop Gun Violence is now the John Hopkins Center for Gun Violence Solutions. Their most recent website with updated resources and firearm dispossession projects is available at <https://publichealth.jhu.edu/departments/health-policy-and-management/research-and-practice/center-for-gun-violence-solutions>.

July 31, 2022

The Public’s View of the Role of Prosecutors in Mitigating Threats of Political Violence

To: Association of Prosecuting Attorneys

From: GQR

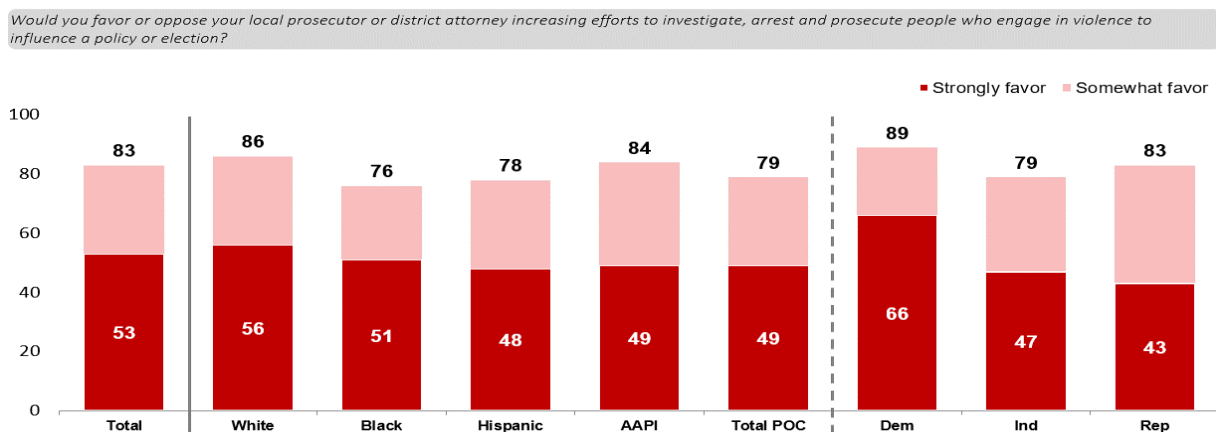
The public recognizes political violence is a problem (73 percent problem, 49 percent major problem) and overwhelmingly supports policies designed to reduce political violence, particularly steps led by law enforcement and prosecutors. This outcome is hardly surprising. In focus groups, participants were asked to define political violence and distinguish these acts from lawful protest. Their dividing line is the law. When a protest or other act breaks the law, it loses First Amendment protections and becomes a matter for law enforcement.

This memorandum summarizes findings from a survey with a base sample of 1,000 adults. This survey also included oversamples among Black people, Hispanics, Asian-American Pacific Islanders, and oversamples in 14 states.ⁱ With these oversamples, a total of 6216 online interviews were conducted. This research was completed between January 28 to April 11, 2022, and informed by an analysis of the social-media landscape around political violence, an initial online survey of 800 U.S. adults, and a suite of four focus groups among gun owners, people of color, self-ascribed conservatives, and young people. This research project was commissioned by The Joyce Foundation, Trusted Elections Fund, and the Klarman Family Foundation.ⁱⁱ

A huge majority support local prosecutors increasing efforts to investigate, arrest and prosecute political violence.

A total of 83 percent support efforts to ramp up prosecution of political violence. This majority is bipartisan and reflects a consensus among different racial groups.

Figure 1: Huge Majority support prosecutors cracking down on political violence



The public also expects a swift law enforcement response to acts of political violence.

In this survey, we posed a hypothetical situation of an online report of armed protestors gathering at the polls on Election Day and asked respondents what would make them feel the most safe while showing up and voting. The two leading responses—by far—involved law enforcement. Although support for a law enforcement response runs a bit lower in the Black community, this still represents the leading response.

Figure 2: Proximate threats require law enforcement response

<i>Imagine that is a week before Election Day and you read a rumor in social media about armed protesters planning on gathering at the polls on Election Day. Which TWO of the following would make you feel the most safe about showing up and voting in person:</i>	Total	Black adults
A statement from law enforcement saying the police will patrol polling stations to prevent violence.	46	32
Statements from local and federal law enforcement saying interfering with an election is a crime and they will prosecute anyone convicted of using violence or intimidation on Election Day.	38	33
An emergency declaration by the Secretary of State saying that anyone nervous about voting will have the option of voting by mail.	26	27
A statement by bi-partisan group of state and local elected leaders including the Governor, Mayor, city council representatives and state legislators pledging to prevent any violence and intimidation on election day.	16	12
A statement from state election officials guaranteeing safe access to voting.	16	25
A statement from a non-partisan voter protection group saying they will provide community volunteers and escorts so ensure everyone can safely vote.	13	11
A statement from civil rights groups saying that how important it is for all people to vote and providing escorts and volunteers to ensure everyone can safely vote.	11	18
A statement from faith leaders and clergy saying they will provide community volunteers and escorts to ensure everyone can safely vote.	9	8

Conclusion.

Political violence represents a growing threat to our country and our democracy, and the public recognizes that threat. Moreover, the country strongly supports steps to meet that threat. Most people we talked to believe political violence is more about crime than about politics, and crime necessarily demands an energetic response from law enforcement.

ⁱ States include AZ, CA, CO, FL, GQ, MI, MN, NC, NH, OH, OR, PA, TX, and WI.

ⁱⁱ Complete survey results can be viewed here: <https://www.joycefdn.org/news/new-public-opinion-research-public-attitudes-towards-political-violence>

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