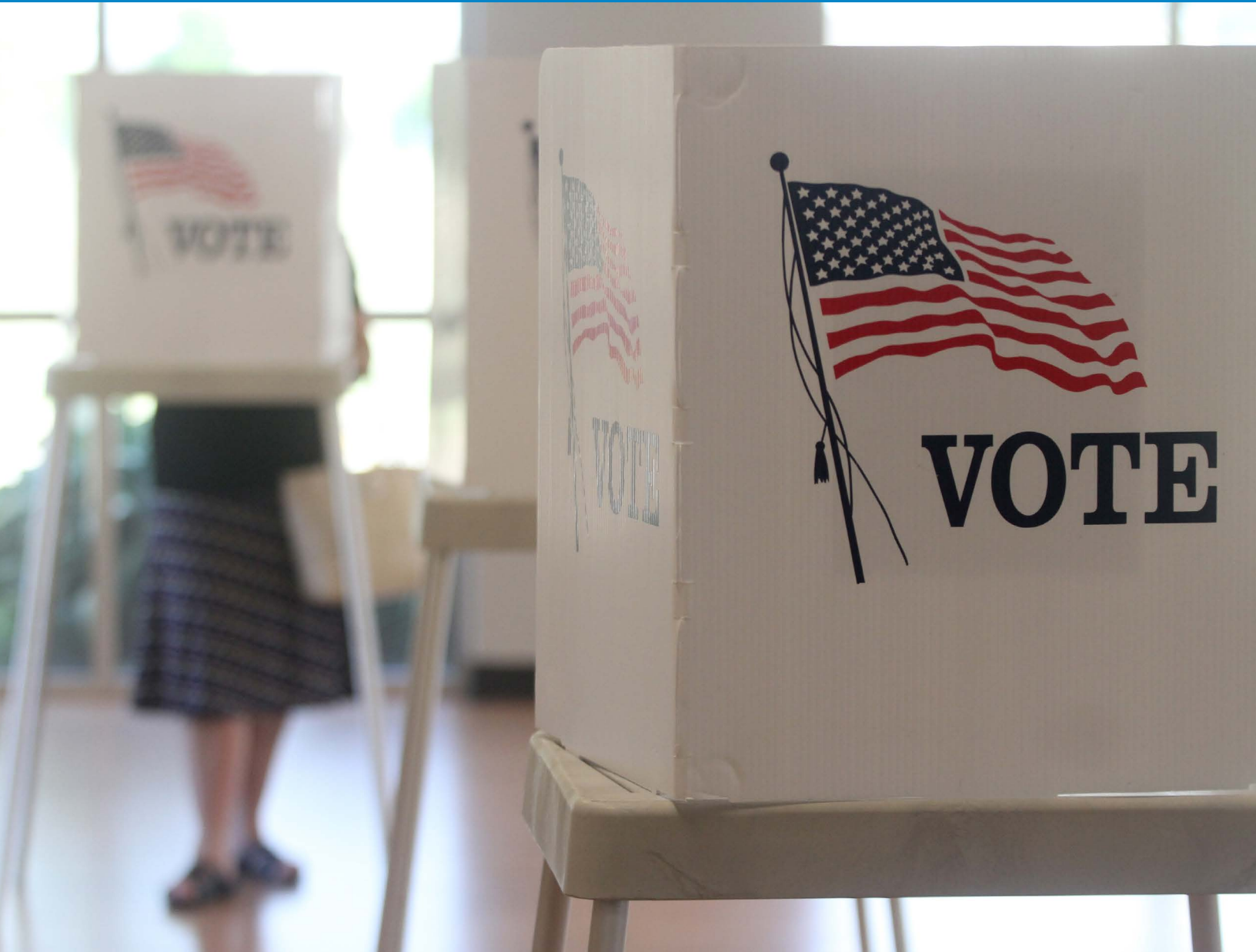


JULY 2024

# The Prosecutor's Role in Promoting and Protecting Free and Fair Elections



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## BACKGROUND

Public trust in democracy, the rule of law, the integrity of our government, and the electoral process is essential to public safety. When one of these systems is undermined or attacked, it compromises the ability of all systems, including our criminal legal system, to function. Thus, elected prosecutors have a critical role in ensuring fair and free elections—the essential building blocks of our democracy—and guarding against interference with the right to vote.

Several key stakeholders play crucial roles in protecting and ensuring the integrity of our elections and, working together with local district attorneys,<sup>1</sup> can help ensure a smooth-running and fair process:

- **Election officials and poll workers** are responsible for administering elections in a fair, transparent, and nonpartisan manner, and for accurately counting and certifying results.
- **Local and federal law enforcement officers**, including FBI agents and DHS agents, help maintain public safety and order at polling places, while also investigating potential voter or election worker intimidation, fraud, or other election crimes.
- **Attorneys General and U.S. Attorneys** are tasked with enforcing election laws and protecting the rights of voters.
- **Community leaders** help educate and mobilize the public, promote civic engagement, and serve as trusted messengers.
- **The electorate** exercises their right to vote while remaining informed and vigilant and holding officials accountable.

Only through the active **collaboration, participation, and cooperation** of *all* stakeholders, including district attorneys, can we preserve trust in our democratic processes and institutions, and ensure free and fair elections. This document provides a set of recommendations, organized chronologically, for district attorneys committed to promoting trust in the electoral process and maintaining the integrity of our democratic systems.\*

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\* Thanks to the many people who contributed to this publication including current and past members of FJP's team who provided guidance, input, research, and assistance: Rebecca Blair, Amy Fetting, Christina Green, Miriam Krinsky, Robin Olsen, Victoria Sheber, and Noam Weiss. FJP is also grateful to Kathy Boockvar and David J. Becker for their invaluable comments, insights, and input.

<sup>1</sup> The terms "district attorney," "DA," and "elected prosecutor" are used generally, as well as herein, to refer interchangeably to any chief local prosecutor, including State's Attorneys, Prosecuting Attorneys, Commonwealth Attorneys, and Attorneys General with local jurisdiction. The labels used for these positions vary widely by jurisdiction.

## RECOMMENDATIONS FOR THE LEAD-UP TO THE ELECTION

### *In the Months Prior to the Election*

This section provides an overview of steps that prosecutorial offices can begin to undertake several months before the election in order to lay the groundwork to efficiently and effectively address challenges and support a free and fair election during the voting period. These recommendations focus on building relationships with key stakeholders, educating the office on relevant election laws and procedures, creating helpful resources and materials, communicating the office's commitment to ensuring a free and fair election, and mitigating barriers to electoral participation for justice-involved citizens.

### **Reach out and build relationships in advance with key stakeholders.**

- **Proactively engage** with law enforcement, local and state election officials, poll workers, attorneys general, U.S. Attorneys, and community leaders well before elections. Building relationships and **lines of communication** in advance will facilitate better coordination, information sharing, and rapid response to any issues that may arise during the election process.
  - In particular, reach out to your local FBI Field Office's Election Crime Coordinator (ECC) and your local U.S. Attorney Office's District Election Officer (DEO) well in advance of the election to forge a connection. They can help connect you with [federal officials and resources](#) such as [DHS's Cybersecurity and Infrastructure Security Agency \(CISA\)](#).
- **Create an inter-agency team or task force** with representatives from your office, law enforcement, federal agencies, community groups, and election officials. Develop a joint plan on how and when to respond to problems during voting.
  - Have a team of prosecutors, municipal attorneys, and/or election officials trained and ready to respond to any non-violent conflicts that do not demand a police response.
    - For example, the Philadelphia District Attorney's Office's [Election Task Force](#) deploys line prosecutors throughout the city on election day to monitor the polls and respond to reports of election interference, intimidation, or other illegal activity.



- Establish a **clear chain of information** within and among each of the relevant groups: poll workers, precinct captains, municipal election officials, law enforcement, and line prosecutors. Ensure any disturbances will be logged and promptly reported.
- Work with law enforcement partners and other key stakeholders to consider and develop **plans for addressing potential scenarios** and proactively reach [agreement](#) on:
  - General rules of engagement;
  - Routine security support for election operations;
  - Location of a command center (and a point person from your office to be on site);
  - Internal communication channels and day-of presence at the command center;
  - Division of authority and responsibility, including as to rapid response incidents;
  - Messaging themes and external communication coordination; and
  - The plan for incident response, including designated contacts who will be available to offer real-time guidance during incidents.

### Educate yourself and your office on pertinent election information.

- Review **relevant voting and voter protection laws** and designate one or more staff members as the in-house expert(s) on election-related laws.
  - For state-by-state overviews of election laws, see the Committee for Safe and Secure Elections' state-specific reference guides (scroll down [here](#)).
  - Familiarize yourself with all applicable (federal, state, and local) [laws and regulations](#) related to the voting process, including the following:
    - [Voter identification requirements](#) (including the right to a provisional ballot if a voter does not have the identification);
    - Access for and restrictions on [election observers](#), poll watchers, and challengers;
    - Qualifications required for election observers, [poll watchers](#), and challengers;
    - Policies on [provisional ballots](#). In most states, a voter whose eligibility to vote is in doubt on election day (for example, because their name is not on the voter rolls) is entitled under federal law to receive a provisional ballot that will be counted if the voter is later determined to be eligible;
    - Policies on [electioneering near polling places](#);
    - Laws against [tampering](#) with voting systems and ballots, as well as [insider threats](#); and
    - Applicable [voter challenger laws](#) and procedures for addressing challenges that may be made for partisan or discriminatory purposes.
  - Understand applicable [state](#) and [federal](#) laws concerning efforts to **intimidate voters and election officials**.
    - Review state legislation designed to [protect election officials](#), with the understanding that recent elections have seen a [surge](#) in [threats](#) of violence, intimidation, and harassment [against election workers](#).
    - Keep in mind that relevant legal prohibitions may not be specifically or overtly related to elections. Some instances of voter intimidation may violate general criminal or civil statutes (e.g., prohibitions on harassment, stalking, assault, etc.).

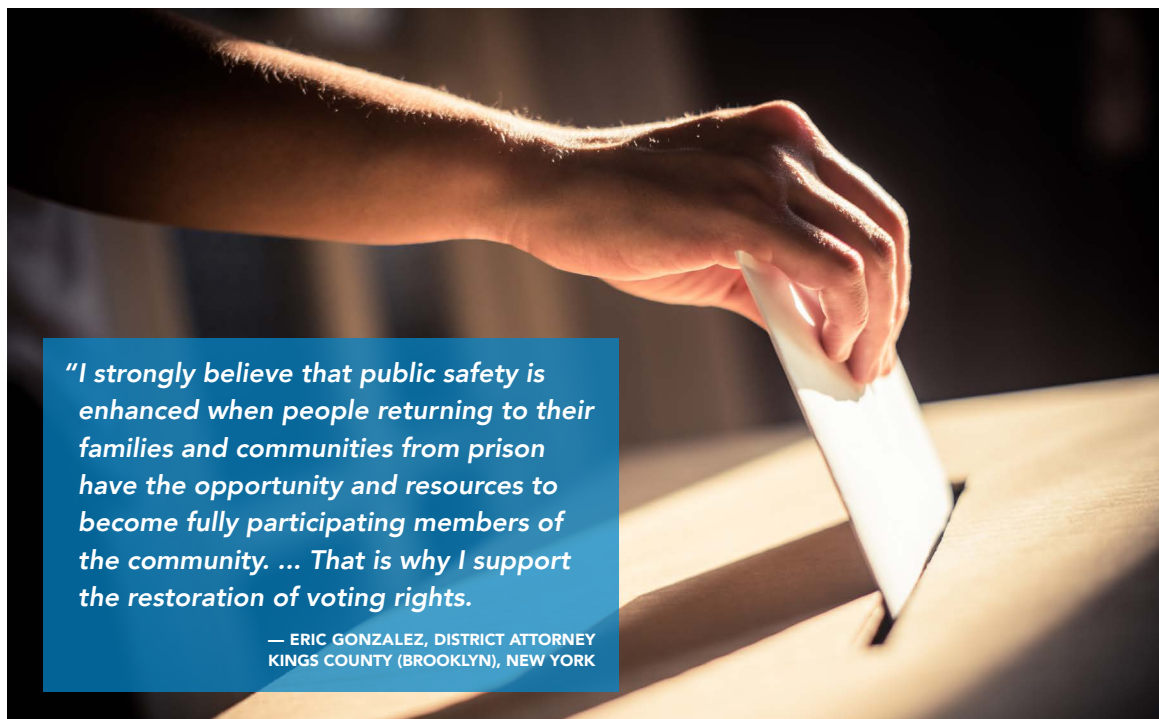


- Look specifically at policies on [armed voter intimidation](#). Relatedly, know your state's [open carry and gun laws](#) and review regulations that limit the right to carry weapons in buildings that host polling places, like [schools](#), [college campuses](#), [government-owned buildings](#), and other [locations](#).
- For more information about federal election crimes, review the Department of Justice's [Election Crimes Manual](#).
- Learn your state's policies on armed [militia or paramilitary groups](#).
  - No states allow armed paramilitary groups to rally in public and the Constitution does not protect the right of private militias to intimidate voters.
  - Review your state's [fact sheet](#) on laws barring unauthorized private militia groups and what to do if groups of armed individuals are near a polling place or voter registration drive.
- Address **voter fraud and misinformation**.
  - Familiarize yourself with information about [voter fraud myths](#). Marshal and share key facts such as:
    - Voter fraud [incident rates](#) are incredibly low, constituting an estimated 0.0003 percent to 0.0025 percent of total votes cast.
    - The increase in the use of [mail voting](#) has not impacted voter fraud, as the rates remain low.
    - Most reported incidents of voter fraud are actually traceable to other sources, such as clerical errors or bad data matching practices.
  - Understand applicable **security measures**.
    - States have a variety of tools to address security concerns for mail ballots, including:
      - Identity verification;
      - Bar codes on ballots or envelopes;

- Ballot tracking through the United States Postal Service;
  - Secure drop-off locations and drop-boxes;
  - Penalties for individuals who commit voter fraud;
  - Post-election audits; and
  - Access to in-person polling sites as a fail-safe.
- Consider conducting a tour with relevant staff members of your local ballot processing facility to see how the process works and become familiar with the redundancies in the process that help ensure accuracy.

### Identify and create guidance on applicable laws and develop training materials.

- Locate—or, if needed, create—and distribute a concise **summary sheet** or **“guidebook”** of the key election laws, policies, and procedures that are most relevant to your jurisdiction, and, if feasible, create brief **video trainings** to accompany these materials (see the reference guides available for many states towards the bottom of [this](#) page).
  - Election officials may also be able to provide relevant training to law enforcement officers or line prosecutors.
- Distribute this guidance to your office staff and local law enforcement officers. Arrange for election administrators to provide this information to election workers to ensure everyone has a shared understanding of the rules and their respective roles in protecting the integrity of the election.
  - See this [resource](#) prepared by the Michigan Department of Attorney General for law enforcement partners.





*"The integrity of elections is important because voting is the most sacred and the most sacrosanct of our rights."*

— PARISA DEGHANI-TAFTI, COMMONWEALTH ATTORNEY  
ARLINGTON COUNTY & CITY OF FALLS CHURCH, VIRGINIA

### Communicate your abiding commitment to ensuring a free and fair election and your trust in the electoral process.

- Publicly **affirm your office's dedication to protecting the right to vote** and the **integrity of the democratic process**, emphasizing that you will swiftly and impartially investigate and prosecute any attempts to interfere with or undermine free and fair elections. Communicate this commitment clearly to both your office staff and the general public through official statements, press releases, interviews, and community outreach.
- **Communicate to office staff** your commitment to investigating and evaluating for prosecution past allegations of illegal voter intimidation or other efforts to interfere with the voting process. Ensure that appropriate staff members recognize the importance of taking these cases seriously and pursuing appropriate recourse quickly.
  - For example, Philadelphia District Attorney Larry Krasner brought charges against armed individuals who attempted to interfere with the voting process in 2020 and [called for further protections](#) for voters and election officials in future elections.
- Express your **trust in the election process** and unwavering support for democracy and the rule of law at every opportunity throughout the election period. Emphasize the importance of **accepting election outcomes** of a lawful, free, and fair election, even if they may not align with personal preferences. Consistently reinforce these messages to bolster public confidence in the integrity of the democratic process and maintain your credibility among audiences with high levels of distrust in the electoral process.

### Work to mitigate barriers to electoral participation for justice-involved citizens.

- Host or promote events that assist returning citizens in regaining voting rights.
  - For instance, in 2020, the Kings County (Brooklyn, NY) District Attorney's office held a "[Re-entry Outreach Event](#)" to provide services to formerly incarcerated individuals, including assistance with voter registration.

- Adopt programs that restore voting rights altogether for returning citizens.
  - For instance, State Attorney Andrew Warren (Thirteenth Judicial Circuit, FL) [implemented](#) a program that modified sentences en masse and restored the right to vote for those eligible under Amendment 4, a voter-approved 2018 ballot initiative that restored the right to vote for individuals who had previously been convicted of felonies.
- Encourage your local sheriff, other corrections officials, and election officials to open [polling precincts inside of local jails](#). Keep in mind individuals retain their voting rights during pre-trial detention but that logistical barriers prevent many incarcerated individuals from voting.
- To encourage voter turnout and ensure that individuals with prior system involvement are not intimidated from exercising their suffrage rights, reassure the public that your office will not pursue criminal penalties against individuals who attempt to register or vote while ineligible if they did not know that they were ineligible. Acknowledge the complexity of the laws governing re-enfranchisement and affirm that criminal justice and election agencies are responsible for communicating voters' eligibility status.

### ***In the Weeks Prior to the Election***

Building on the foundation established in the previous section, the recommendations in this section focus on actions to be taken in the weeks and days preceding the election. These recommendations center on educating the public on their voting rights (while recognizing that this education can and should occur in the months before the election as well), working to build community trust in the electoral process, and preparing for the start of voting. By implementing these recommendations, the district attorney's office will be well-positioned to support a smooth and secure election.

### **Educate the public on the electoral process.**

#### ***Provide non-partisan and readily accessible voter information.***

- Use your elected platform to **promote non-partisan public education** on voting. Make key information from a trusted source on voting, such as the secretary of state's office, publicly available and easily accessible through platforms like social media, office newsletters, press releases, and your office's website.
  - Include information on:
    - Voting dates and hours;
    - Who is eligible to vote;
    - How to get vote-by-mail ballots;
    - Location and hours of operation of in-person polling sites and secure drop-boxes for ballots; and
    - A link to the state/local voter registrar, voting FAQs, vote centers, and election department websites.
  - Look to examples such as:
    - Web pages from the Office of the Attorney General for the District of Columbia:
      - [District Voting Rights and Information](#)
      - [D.C. Voter Checklist](#)
      - [Voter Advisory: Protecting D.C. Residents from Unauthorized Poll Monitoring and Voter Intimidation](#)



- Web pages from the Michigan Department of State with information on:
  - [Locating polling places](#) and [early voting locations](#)
  - [How to register to vote](#) and [how to vote absentee](#)
  - Information for voters with [disabilities](#), [military and overseas voters](#), and [students](#)
- Work with trusted sources in the community and partners (both governmental and non-governmental) to build out key messages to deliver consistently.
- Provide the public with **hotline and referral** information.
  - One great resource is the non-partisan, multi-lingual national [Election Protection hotline](#): 866-OUR-VOTE (866-687-8683).
  - In addition to providing [voter information for all 50 states](#), they also document problems people encounter while voting and work on the ground to help remove these barriers.
- Proactively **engage with journalists and local media outlets** to establish the district attorney's office as one reliable and informed source of election-related information, ensuring the public receives accurate, non-partisan facts about the election process and any post-election developments.

**Educate voters on their legal rights.**

- Distribute a **"know your rights" fact sheet** developed in consultation with election officials through your platforms, community groups, non-partisan non-profits, and election officials.
  - The sheet should include a description of [voter rights](#) in your state (as well as links to other jurisdiction-specific information and guidance, such as those available through this [interactive map](#)), including the:
    - Right to vote if you are in line at the time when the polls close;
    - Right to bring voter information materials into the booth;
    - Right to not be intimidated;

- Right to language assistance for voters who are unable to speak or understand English adequately enough to participate in the electoral process;
- Right to have a ballot brought to your car if you are elderly or disabled, if applicable in your state; and
- Right to receive a replacement ballot if a mistake is made.
- Share information on **early voting** as available in your state.
  - Look to examples such as FJP's [2020 Early Voting Fact Sheet](#).
- The sheet should also include information about any applicable **restrictions on rights** such as:
  - [Voter-ID laws](#);
  - [Open carry restrictions](#) that could apply to polling places;
  - [Third-party ballot drop-off restrictions](#); and
  - [Absentee voting requirements](#).
- Inform voters about steps they can take when and if their voting rights are infringed upon.
- Provide information on state and local laws against voter **interference or intimidation**. [See above](#) for particular laws about which to familiarize yourself.
- Issue a **public advisory** reaffirming your office's commitment to prosecuting those who interfere with others' right to vote.
  - See the Voter Protection Program's [advisory template](#) for sample language.
- Include information on how and where to **report rights violations**, including any **hotline number** established by your office.

### Work to build community trust in the electoral process.

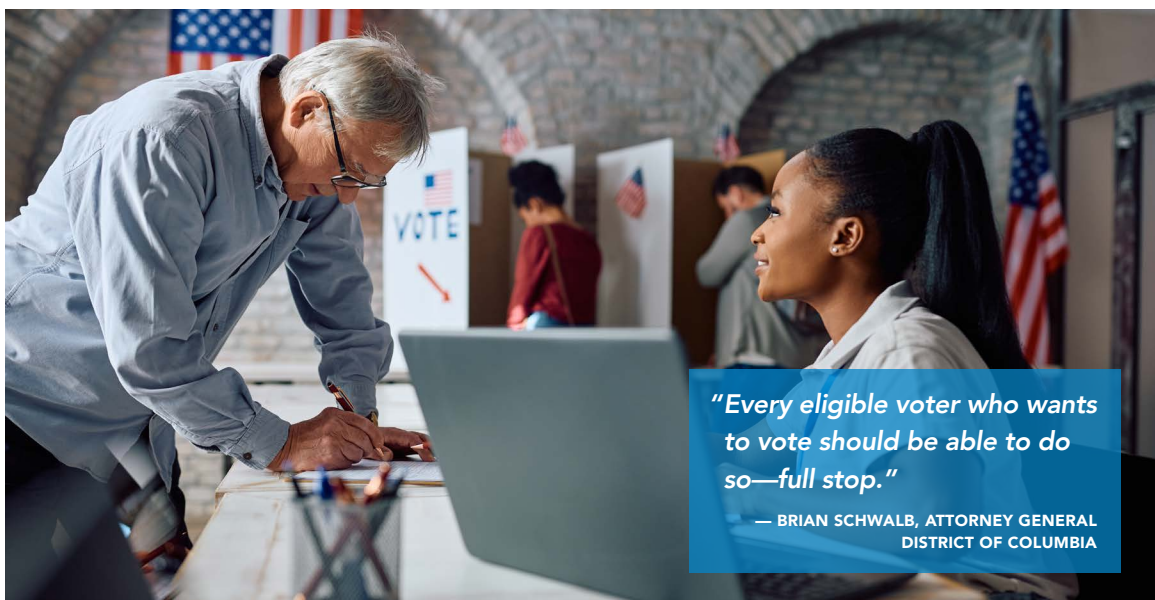
- Emphasize to the public that voting is **easy, safe, and secure**.
- Work to **counter misinformation** with the potential to deter people from voting or sow distrust in the electoral system.
  - Highlight research demonstrating that—despite ongoing efforts to restrict voting access—voting today is [easier](#) and [more secure](#) than it has ever been.
  - Reassure voters that robust security protocols are in place to [ensure the legitimacy of mail-in ballots](#).
  - Publicize data underscoring the fact that [voter fraud](#) is extremely rare.
  - Foster an ongoing dialogue within the community around electoral disinformation.
    - For example, Cuyahoga County's "[Voting Myths Busted](#)" program, organized by election officials in advance of the 2020 election, hosted voters at the public library to debunk the most common election and voting myths.
    - Review [resources](#) available in your state to counter disinformation.
  - Remind voters that if they aren't sure if information they are reading about elections is accurate, they can check with their local election official or the secretary of state, who often have websites with facts about elections.
- Assure the public that voter intimidation will not be tolerated and **outline criminal penalties** for intimidators, **without overstating the extent of the threats**.

- While affirming your commitment to addressing threats and disruptions, be mindful that alarmist messages can unintentionally create anxiety, among election officials or the public, that may be counterproductive. Aim to strike a balance between assuring audiences of the safety and integrity of the electoral process while also maintaining your commitment to addressing potential threats.
- Use calm, clear, and direct language to discuss your office’s approach to those who threaten the democratic process.
- Emphasize that your office and law enforcement partners are prepared and equipped to address these threats quickly with minimal disruptions to the voting process.
- Reiterate your commitment to ensuring that the results of the election are respected, regardless of the outcome. Avoid language that could be interpreted as political or partisan when discussing election integrity, processes, or security.
  - Work to “call in” rather than “call out” those with whom you disagree. Engage those individuals with probing questions, and answer their questions in an informed and neutral manner.

### Prepare for voting and any potential disturbances.

**Work with office staff and partner agencies to plan for potential problems during voting and establish clear communication channels with points of contact.**

- Ensure that any previously established inter-agency team or task force properly complies with prior agreements that were settled in the [months leading up to the election](#).
  - Consider issuing a **joint statement** explaining how prosecutors, law enforcement, and election officials will work together to protect voting rights and maintain public safety.
    - For example, see this [joint statement](#) issued by commonwealth’s attorneys in Virginia in partnership with their law enforcement partners in 2020 as a starting point.



*“Every eligible voter who wants to vote should be able to do so—full stop.”*

— BRIAN SCHWALB, ATTORNEY GENERAL  
DISTRICT OF COLUMBIA

- Create an **internal protocol** to guide your office’s response to disturbances.
  - Offices serving larger jurisdictions may consider creating a **designated hotline** to field day-of-voting questions. For example, the Philadelphia District Attorney’s Office created [a hotline](#) for their Election Task Force, which was activated when the polls opened.
  - Offices serving smaller jurisdictions may consider designating a **single point-person** or a small team to assess and document incoming reports. These offices should also ensure that law enforcement, poll workers, election officials, community groups working on voter protection, and other key stakeholders know how to directly reach your point person or team.
  - Prepare and circulate a **contact list**—and perhaps also a protected messaging group—with internal office contacts as well as direct phone numbers for key stakeholders and partners. Ensure that law enforcement has a number to call to get advice about incidents from a knowledgeable staff member.
  - Create a protocol for referring and **documenting reports of intimidation or interference** at the polls.
    - As noted above, the national election protection hotline at [1-866-OUR-VOTE](#) will be on hand to document and assist with disturbances during voting.
    - Your state’s [ACLU affiliate](#) may be available to offer legal advice or assist with litigation.
- Ensure that relevant stakeholders—including law enforcement, election officials, and your office staff—continue to receive appropriate training and guidance.
- Ensure all responders are trained in voter rights and ready to step in if an unauthorized party [questions a voter’s eligibility or makes unwarranted demands](#) (e.g., demanding to personally inspect voters’ IDs, questioning voters’ citizenship, providing false information on how to cast a ballot, saying that voters must pay to vote, saying voters must pass a test to vote, or posing as election officials).

**Identify and track potential threats to the voting process.**

- Work with election officials and law enforcement partners in advance of the election to **identify any unlawful militia activity or other threats** to elections in your area. Ensure that all key criminal justice leaders are briefed on likely threats. For real-time intelligence on threats, consider reaching out to:
  - Your state’s [Department of Homeland Security Fusion Center](#);
  - Your federal district’s [United States Attorney Office’s](#) District Election Officer (DEO);
  - Your local [FBI Field Office’s](#) Election Crime Coordinator (ECC); and
  - Georgetown Law’s Institute for Constitutional Advocacy and Protection ([reachICAP@georgetown.edu](#)).
- Should you learn of plans for unauthorized militias or armed groups of individuals to station themselves near early-voting or election-day polling places, or should such groups show up, contact the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown Law—at [reachICAP@georgetown.edu](#)—or call the Election Protection hotline at 866-OUR-VOTE. These groups are working together to quickly respond to unauthorized militia activity aimed at interfering with free and fair voting.

## RECOMMENDATIONS FOR DURING THE ELECTION

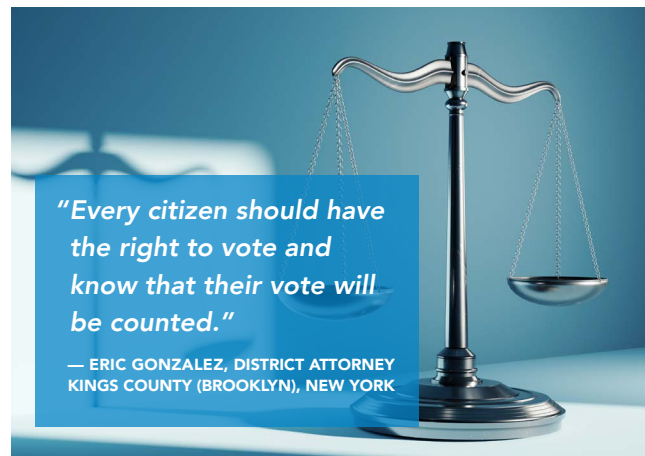
This section provides recommendations for actions to be taken during the voting period itself. The district attorney's office should be prepared to speak out promptly and forcefully against any conduct that threatens to erode voting rights or obstructs a free, fair, and secure election; work with law enforcement to address disruptions without unintentionally deterring voters; maintain real-time communication with local election officials; and investigate and consider prosecuting these cases. By following these recommendations, the district attorney's office can play a crucial role in protecting the legitimacy of the election, instilling faith in the integrity of the process, ensuring that every eligible voter can cast their ballot freely and fairly, and deterring future subversive or obstructive conduct.

### Speak out when conduct that can erode voting rights comes to light.

- Promptly and publicly respond to and **address any reported instances of voter intimidation, suppression, or election interference**, making it clear that such conduct is unacceptable and will not be tolerated.
  - For instance, in 2020, [Bexar County District Attorney Joe Gonzales](#) sent a [letter to the Texas Attorney General](#) underscoring his concerns with “troubling reports” of reductions in USPS services and attempts to interfere with the electoral process that “could result in the disenfranchisement of...thousands of Texas voters within his jurisdiction,” citing applicable laws that make it a crime to “attempt to subvert or manipulate the electoral process,” and asking for an advisory opinion on his ability to prosecute federal officials for these violations of state criminal election laws.

### Work with law enforcement to address disruptions without over-policing the voting process.

- Ensure that [earlier-provided training](#) and [internal protocols](#) are readily available and followed on election day.
- Make clear that the **role of law enforcement at the polls** is to protect the right to vote and not to make unnecessary arrests.
  - Keep law enforcement presence at the polls minimal, distant, and in accordance with [your state's laws](#) restricting police presence at polling locations. If police presence is absolutely necessary, consider recommending the use of plainclothes officers.
  - Ensure officers know that elections are civilian-led processes and that they are not responsible for checking voters' IDs or examining the voter rolls.
  - Encourage officers to rely on [de-escalation techniques](#) and utilize the least restrictive means necessary to mitigate a disruption. Arrests should be made sparingly



and only when absolutely needed to promote the goal of facilitating safe and fair voting.

- If your local police department has a team specifically trained in de-escalation and community relations, encourage law enforcement leaders to designate those officers to respond to conflicts at the polls.
- Make sure law enforcement protects peaceful protests that do not interfere with the right to vote.
- Encourage law enforcement partners to refrain from nonessential police activity—warrants, minor offense arrests, etc.—that may have a chilling effect on voters at polling locations. Make clear to the community and to law enforcement your office’s plans to not prosecute these offenses.
- Be ready to address and speak out publicly against any unlawful deployment of federal law enforcement at the polls or efforts by local law enforcement to police the polls unnecessarily and/or in a manner that intimidates voters.
- Do not allow unauthorized observers to be stationed at the polls, and ensure officials know that even legal poll workers [may not](#) engage in voter intimidation or harassment.
- When possible, consider whether members of the DA’s office can appropriately and effectively serve as **poll observers** or otherwise engage on-site.
  - Consider offering “poll escorts” to guide intimidated voters to the ballot box.
  - Also consider, if DA office staff cannot fill this role but observation is needed, reaching out to the DOJ for poll observers.

### Maintain real-time communication with local election officials.

- Ensure that poll workers and election officials have access to any [resources your office has created](#) or distributed related to relevant laws. Consider providing a physical copy of those resources to every polling precinct.
- Create an open line of communication with your county’s top election official so that on Election Day you receive regular reports from poll workers and precinct captains.
- Ensure that all poll workers are given a single phone number to call in case of concerns or disturbances.
- As noted above, establish a contact list and phone tree within your office team and a facile mechanism for quick and real-time sharing of information.

### Swiftly investigate and consider for post-election prosecution instances of voter and election worker intimidation and interference.

- If applicable criminal voter protection laws exist, be ready to prosecute locally or refer to the appropriate enforcement authorities (such as your state attorney general or your federal district’s U.S. Attorney) any voter or election worker intimidation, interference, or threats that warrant criminal engagement, and ensure that incidents are documented.
  - Even in cases where threats may not meet the criteria for prosecution, they may still warrant other actions, like reporting and investigating the alleged conduct, adding the allegation to a central database or record of such cases, or notifying partner agencies of the allegation.
- If helpful, [work with your local U.S. Attorney’s office](#) and FBI field office to address complaints of violence and voter intimidation.

## RECOMMENDATIONS FOR AFTER THE ELECTION

The role of elected prosecutors in protecting free and fair elections does not end when the polls close. In the days and weeks following the election, a range of concerns may arise that could threaten the integrity of the democratic process and undermine public trust in the election results.

These **potential post-election issues and concerns** include, but are not limited to:

- Challenges to the legitimacy of the outcome;
- Attempts to delay or obstruct the certification of results;
- Threats or acts of violence against election officials; and
- The spread of misinformation or disinformation about the election process or results.

During this post-election period, district attorneys should continue to speak out in support of the democratic process and the rule of law, and be available to work with partners to address attempts to undermine the integrity of the election results. While this document does not aim to provide an exhaustive list of or detailed solutions for all possible post-election scenarios, it is crucial that district attorneys anticipate and prepare for these potential challenges.

The following recommendations highlight some key areas where planning and preparedness can help district attorneys effectively respond to post-election concerns and protect the integrity of the electoral process:

- **Consider, plan for, and talk through with key partners** possible post-election concerns and scenarios, including:
  - **Unsubstantiated and frivolous challenges** to, or interference with, local electoral processes, including attempts to disrupt or delay the counting of ballots, questioning the legitimacy of mail-in ballots, or making baseless claims of voter fraud;
  - The spread of **myths and misinformation** suggesting that the time spent counting ballots, particularly mail-in ballots and provisional ballots, is indicative of fraudulent activity or a lack of transparency in the election process;
  - Efforts by individuals or groups to **stop voting processes and/or seize ballots** or ballot boxes, potentially through intimidation, threats, or physical force, in an attempt to undermine the integrity of the election;
  - **Challenges to the authority or legitimacy of duly appointed electors**, such as attempts to pressure electors to vote against the will of their state's voters or to replace electors with individuals who may not respect the election outcome;
  - Interference with state or federal **certification of election results**, including attempts to delay or obstruct the certification process, or to pressure officials to not certify the results based on unsubstantiated claims of fraud or irregularities; and
  - **Threats, harassment, or acts of violence** directed at election workers, officials, or volunteers, which may aim to intimidate individuals involved in the election process or discourage them from performing their duties.
- **Deliver clear messages** around the often lengthy process and integrity of the results.
  - **Pivot messaging** from the pre-election focus on encouraging participation and protecting the right to vote, to **post-election messaging** that emphasizes the integrity of the process, the importance of counting every legal vote, and the need for patience as the process unfolds.

- **Coordinate and collaborate on messaging** with other elected officials, law enforcement leaders, and key stakeholders to ensure a consistent, unified response to any challenges or attempts to undermine the election results. This may involve establishing regular communication channels, sharing information and resources, and presenting a united front in support of the democratic process.
- **Encourage candidates, regardless of whether they win or lose, to stand together** in defending the democratic process and the integrity of the election results. This may involve reaching out to candidates and their campaigns to emphasize the importance of respecting the will of the voters and the rule of law and discouraging any rhetoric or actions that could undermine public trust in the election outcome.
- Serve as a **credible source of reassurance and clear information** for the public, media, and other stakeholders. This may involve proactively communicating about the post-election process, addressing any concerns or misinformation that arises, and providing regular updates on the status of vote counting, certification, and any legal challenges. By being transparent, accessible, and responsive, district attorneys can help maintain public confidence in the election process and results.

As trusted voices in their communities, district attorneys are uniquely positioned to counter misinformation, ease tensions, and promote public confidence in the integrity of our elections. By working proactively to educate the public, build relationships with key stakeholders, and swiftly address any attempts to undermine the electoral process, prosecutors can play a vital role in safeguarding our democracy.

## SUMMARY CHECKLIST

### *In the Months Prior to the Election*

- Reach out and **build relationships** in advance with key stakeholders.
  - Consider establishing an **inter-agency team or task force** with key stakeholders.
- Educate** yourself and your office on pertinent election information.
  - Review relevant voting and voter protection laws.
  - Identify and address voter fraud myths and misinformation.
- Identify, or, if needed, create and distribute a **summary sheet or “guidebook”** on applicable laws, and develop video trainings if possible.
- Communicate** your and your office’s abiding commitment to ensuring a free and fair election and your trust in the electoral process.
- Work to **mitigate barriers** to electoral participation for justice-involved citizens.

### *In the Weeks Prior to the Election*

- Educate the public** on and **build trust** in the electoral process.
  - Provide non-partisan and readily accessible **voter information**.
    - Build web pages that provide basic voting and hotline information.
    - Reach out to local media to establish the DA’s office as a reliable and informed source of information.
  - Educate voters** on their legal rights.
    - Create and distribute a “know your rights” fact sheet.
- Work to **build community trust** in the electoral process.
- Prepare for voting and any **potential disturbances**.
  - Work with office staff and partner agencies to plan for potential problems during voting and establish **clear communication channels** with points of contact.
    - Create internal and agreed-upon **rapid response protocols** and rules of engagement for addressing and documenting any disturbances.
  - Identify and track potential threats to the voting process.

### *During the Election*

- Speak out** when conduct that can erode voting rights comes to light.
- Work with law enforcement to **address disruptions without over-policing** the voting process.
- Maintain **real-time communication** with local election officials.
- Swiftly investigate** and consider for post-election prosecution instances of voter and election worker intimidation and interference.

**FOR MORE INFORMATION:** Contact FJP at [info@fairandjustprosecution.org](mailto:info@fairandjustprosecution.org)

