



Litigating Against Extremism

ADL Litigation Against Hate and Extremism



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ADL (the Anti-Defamation League) is a leading anti-hate organization with over 100 years of experience in identifying, monitoring and combating domestic extremist threats, antisemitism and other forms of hate across the ideological spectrum. Through our Center on Extremism, we offer resources, guidance and educational briefings that enable law enforcement officers, public officials and community leaders to identify and counter emerging threats (both online and off), and to increase security, including related to elections. Our Center for Society and Technology mobilizes research, advocacy and engineering tools to fight hate and extremism online, including through direct engagement with tech companies. In addition, our Government Relations and Community Engagement teams mobilize communities to push legislative, regulatory and educational responses. Finally, our attorneys fight violent extremism in the courts.



Recent acts of extremist violence have put our democracy and communities under significant threat. In 2017, white supremacists marched in Charlottesville, Virginia, resulting in the death of one counter-protester and injury to many more. In 2020, members of an extremist group allegedly plotted to kidnap the governor of Michigan, as well as the governors of Ohio and Virginia. On January 6, 2021, groups and individuals motivated by extremist ideologies and conspiracy theories attacked our Capitol, seeking to prevent the lawful transition of presidential power, and resulting in several deaths, large numbers of injured (particularly among law enforcement personnel) and significant property damage. The threats to our democratic institutions and processes continue to gain traction with the targeting of election workers and other government officials, including states' secretaries of state, law enforcement officers, judges, and even medical professionals and local school officials.



In the wake of these attacks, ADL has, through its [Democracy Initiatives](#) framework, expanded its capacity to provide legal support to communities that find themselves subject to extremist violence. ADL experts advised and provided support in the Charlottesville case, and we currently serve as pro bono co-counsel representing the District of Columbia in a federal civil rights [lawsuit](#) against two extremist groups, the Proud Boys and Oath Keepers, and certain of their leaders and members for their role in the January 6, 2021 attack.

Today, ADL is ready to support municipalities and others interested in learning more about how to use the law to deter harm and hold individuals and groups responsible for violent extremist actions. The FAQs below provide answers to some key questions regarding the availability and use of civil lawsuits to combat extremist threats.

This document provides an overview of strategies and techniques to address, deter, and respond to election-related and other violence, many of which involve a discussion of laws currently in place. However, it is not intended as legal advice or guidance, and any decisions regarding application of the laws it references should be made in consultation with appropriate legal departments and advisors.

Frequently Asked Questions

Today, ADL is ready to support municipalities and others interested in learning more about how to use the law to deter harm and hold individuals and groups responsible for violent extremist actions. The FAQs below provide answers to some key questions regarding the availability and use of civil lawsuits to combat extremist threats.

How can civil lawsuits help to combat extremism?

When extremism or hate results in acts of violence, individual perpetrators likely will face arrest and criminal prosecution. Whether or not the perpetrators face criminal charges, however, civil lawsuits also play an important role in disrupting extremist threats, ensuring accountability and furthering deterrence. The existence of a criminal case does not prevent a civil lawsuit from being filed.

Civil lawsuits can serve as a deterrent to extremists who want to engage in acts of violence because they may result in significant monetary judgments and injunctive relief against responsible parties, including both individuals and organizations. Damages awards against individual perpetrators can be significantly disruptive: they may result in liens being placed on perpetrators' property or their wages being garnished. Such damages often diminish or eliminate funding to extremist groups themselves: when individuals associated with an extremist group are unable to continue providing funding at the same rate—or altogether—it can frustrate recruitment and generally diminish a group's ability to operate in the future.

Even if a suit does not result in significant monetary damages, injunctive relief is another important remedy that may be available. For example, a court could order extremist groups to refrain from engaging in certain activities or conduct, which in turn may prevent such groups from reorganizing and wreaking new havoc upon communities they have already victimized.

It is important, however, to remember that even in cases where civil claims are available and viable, there is no guarantee of a positive outcome.

What types of civil claims may be available?

The viability of a lawsuit against an extremist group or its members/affiliated individuals depends on the facts of the particular incident and the law of the relevant jurisdiction.

At the federal level, 42 U.S.C. § 1985 (part of a law known as the Ku Klux Klan Act, which dates back to the 1870s and the Reconstruction Era), establishes civil claims against those who conspire, by force, intimidation or threat, to obstruct justice or engage in witness intimidation, interfere with an individual's right to vote in federal elections, to deprive any person of the equal protection of the laws, or to prevent elected officials from accepting or holding any office under the United States or discharging their duties. In addition, 42 U.S.C. § 1986 provides a cause of action against anyone who had knowledge of, and failed to prevent, such a conspiracy.

Potential state law claims vary by jurisdiction. Traditional tort claims, such as civil conspiracy, assault, battery, and negligent and/or intentional infliction of emotional distress, may be available, as well as property damage claims like defacement and trespass. Separately, there are laws in every state that bar private individuals from engaging in military or law-enforcement activity outside of government authority. Some states also have laws establishing civil causes of action that allow Attorneys General (and in some cases, also private individuals) to pursue claims against those who commit bias-motivated crimes or who interfere with another person's civil rights by threats, intimidation, or coercion. Civil remedies are also available in some states under state-level racketeering statutes for those harmed by the unlawful activities of a criminal enterprise committed to obtain money or property.

ADL and its *pro bono* counsel continuously track and research potential constitutional, statutory and common law causes of action, as well as other approaches to accountability and redress.

What types of conduct could give rise to civil legal claims?

The legal claims available to a state or municipality will depend on the facts of a particular incident and the laws of the state where the incident took place. Below are some examples of extremist conduct that could trigger civil legal action.

- After a rally in a city's downtown neighborhood, a white supremacist group causes extensive damage to city property, requiring the city to expend funds to repair the damages.
- Members of an extremist group assault people marching for racial equity while yelling racial slurs. Law enforcement officers respond and are struck by members of the extremist group who are wielding metal flagpoles.

Note that civil litigation would not be an option in cases where the conduct or speech is protected by the First Amendment to the U.S. Constitution. Protected speech/conduct includes peaceful protests where demonstrators hold signs bearing offensive language or use hateful language that does not constitute a true threat against any individual (although such speech may be evidence that acts of violence were bias-related). In these cases, ADL may be able to provide other support – including providing guidance on how to prepare for rallies, demonstrations, or other similar protected conduct, so that these events remain peaceful.

What remedies may be available through civil litigation?

If a state, city or municipality, or other claimant, is successful on the merits, both monetary relief and injunctive relief may be available.

There are different types of monetary damages, and their availability can vary by the applicable laws in each jurisdiction. The calculation of compensatory monetary damages would depend on the specific claims and the harm resulting from the conduct but could include restitution for damage to government property or compensation arising from injuries to government personnel that required physical or mental health treatment, or where the extremists' actions

led to government employees needing leaves of absence. Monetary damages could also include the cost of engaging goods and services that would otherwise not have been incurred, or losses in government receipts. In addition, if conduct is particularly egregious, punitive damages may be available to punish the offenders and deter similar conduct.

Other forms of relief, including injunctive and equitable relief, can be essential tools for curbing extremist threats. For example, a lawsuit related to the 2017 “Unite the Right” rally in Charlottesville, Virginia resulted in [consent decrees](#) that permanently barred the defendants from returning to Charlottesville as a group of two or more people, while armed and acting in concert, at any demonstration, rally, protest, or march. A violation of the consent decrees could subject the defendants to contempt charges and additional penalties. In addition, even before a case goes to verdict, there are times when a court may impose sanctions or contempt charges on defendants who do not comply with the court’s orders during the case. In the Charlottesville case, some of the defendants publicly complained about the significant constraints such sanctions and contempt charges placed on their ability to travel and continue to operate.

In addition, there is room for creativity in reaching unique settlement agreements with defendants in cases like these, pursuant to which the perpetrators may, for example, agree to undergo anti-hate or anti-bias training, appear publicly or privately with those whom they injured in an effort to achieve understanding and seek forgiveness, or engage in forms of community service.

How can ADL Help?

ADL has close relationships with partner civil rights organizations, including States United Democracy Center, which, like ADL, is serving as pro bono co-counsel in the District of Columbia’s pending lawsuit arising from the January 6th attack. ADL also has a vast network of pro bono counsel at major law firms across the country. This means that ADL may be able to provide legal support, policy guidance, or resources without cost to state and local governments that wish to file lawsuits against perpetrators of extremist violence. In certain circumstances, ADL and its pro bono partners may also be able to represent individuals or private organizations in civil lawsuits against extremists.

If you would like more information about how ADL can provide legal support or to schedule a briefing about the threats of domestic violent extremism or online hate please contact litigatingagainstextremism@adl.org.



Examples of Civil Lawsuits Used to Combat Hate and Extremism

In addition to the District of Columbia's pending federal [lawsuit](#) against the Proud Boys and the Oath Keepers and individuals affiliated with those groups, in which ADL serves as pro bono co-counsel, some other examples of civil lawsuits filed to combat hate and extremism are:

- Charlottesville, Virginia community members injured during the 2017 "Unite the Right" rally [filed suit in federal court](#) against the rally's organizers, alleging federal civil rights violations, state-law tort claims, and violations of Virginia's law against hate-based harassment. Following a trial, the defendants were held liable and ordered to pay damages of more than \$25 million.
- The city of Charlottesville, along with businesses and homeowner associations, filed [another lawsuit](#) related to the "Unite the Right" rally in state court, bringing claims under the state constitution, state anti-paramilitary statutes, and common law torts. This suit resulted in [consent decrees](#) barring the defendants from returning to Charlottesville as unauthorized armed groups attending rallies, protests, or demonstrations.
- Metropolitan A.M.E. Church in Washington, D.C. [sued](#) the extremist group Proud Boys International LLC for alleged vandalism of church property, asserting property claims and claims under the District's Bias-Related Crime Act. The judge entered defaults against the group and four of the individual defendants. As of September 2022, claims against Proud Boys leader Henry "Enrique" Tarrio and several John Doe defendants are pending.
- NAACP Colorado, League of Women Voters Colorado, and Mi Familia Vota [filed a lawsuit](#) against the United States Election Integrity Plan (USEIP), a group whose members have allegedly used public voter lists to go to voters' homes and intimidate them by asking questions about their method of voting, interrogating them about so-called fraudulent ballots, and levying baseless allegations of fraud. The suit brings [claims](#) under the Ku Klux Klan Act and the Voting Rights Act of 1965.
- Two election workers in Georgia [filed civil suits](#) against individual and organizational defendants, including The Gateway Pundit, a website that allegedly disseminates mis- and disinformation, alleging that the defendants spread false stories that the election workers engaged in fraud during the 2020 presidential election. The suit seeks damages for claims of defamation and intentional infliction of emotional distress based on the racist harassment and threats the election workers endured.
- The Illinois Attorney General filed a [civil suit](#) against individuals who lynched an effigy of their Black neighbor, hung a confederate flag, and scrawled a racial slur on a window facing the man's home. The lawsuit makes allegations of intimidation and disorderly conduct under the state's expanded hate crime statute and [seeks](#) both monetary damages and injunctive relief that would bar the defendants from engaging in similar conduct.
- In 1981, victims won monetary relief for the first time under the Reconstruction-era Ku Klux Klan Act in a [lawsuit](#) alleging that the Justice Knights of the Ku Klux Klan terrorized a Black community and shot several Black women. The suit also resulted in an injunction that permanently barred the group from entering that community and committing violence. In 1987, another Ku Klux Klan Act lawsuit was filed against the United Klans of America, resulting in a [\\$7 million judgment](#) that essentially bankrupted the organization and forced the sale of its headquarters. And in 1990, a lawsuit brought by ADL and Southern Poverty Law Center under the KKK Act resulted in a [\\$12.5 million judgment](#), bankrupting the White Aryan Resistance.

We monitor extremism across the ideological spectrum. Our staff of investigators, analysts, researchers and technical experts strategically **monitor, expose and disrupt extremist threats** on the internet and on the ground. Today the ADL Center on Extremism (COE) is the foremost authority on extremism, terrorism and hate, both foreign and domestic. We provide resources, expertise and trainings that help law enforcement, public officials, community officials and tech companies identify emerging threats. COE expertise supports ADL's legal advocacy against extremists, and our experts have provided testimony in a range of extremism-related court cases.

With a combined century of experience in the arena, our analysts serve as expert witnesses, provide congressional testimony and speak at national and international conferences about threats posed by extremism, antisemitism and hate. Find all COE research and publications at adl.org/coe.

We inform law enforcement, media and policymakers.

In the first half of 2022:



Our work was referenced in the media more than **6,500 times**.



Our staff provided law enforcement with critical intelligence about extremist threats **1,075 times**.



We produced **57 reports and articles** on extremism.

The ADL Center on Extremism is “the most authoritative source” of information on domestic terror and extremism.

— The New York Times Editorial Board
November 24, 2018

Elections and Protecting Democracy

Selected available briefings (delivered by COE experts):

- Accelerationism
- Anti-government extremists: Oath Keepers, Three Percenters, the Boogaloo movement and more
- Anti-immigrant extremism
- Center on Extremism and its investigations
- The Constitutional Sheriffs and Peace Officers Association
- Election conspiracies and the undermining of democracy
- Extremism & hate online
- Goyim Defense League
- Murder and extremism
- Overview of extremism in America
- Proud Boys
- Sovereign Citizens: ideology, tactics and criminal activity
- Symbols of white supremacy
- The changing landscape of extremism in America: Charlottesville and beyond
- White supremacist movement and activity

Selected Democracy and Election-Related Resources/Content (2022):

[The Oath Keepers Data Leak: Unmasking Extremism in Public Life](#) (September 7)

[President Biden's Speech About Saving Democracy Angers Right-Wing Extremists, Politicians](#) (September 2)

[Conspiracy Theories and How to Help Family and Friends Who Believe Them](#) (August 23)

[Right-Wing Extremists Notch Wins in 2022 Primaries](#) (August 4) (updated on August 12)

[Radical Anti-Israel Candidates in 2022 Primaries](#) (August 4)

[Right-Wing Extremists Eye Leaked Abortion Ruling as Opportunity for Violence](#) (May 31)

[CPAC Conference in Hungary Views Viktor Orban's Nationalism as a Model to Follow](#) (May 24)

[Responding to Buffalo Shooting, Far-Right Politicians, Pundits Parrot Extremists](#) (May 18)

[AFPAC III: Elected Officials Support White Supremacist Event](#) (February 26)

[AFPAC III: The Groyper Army Seeks to Normalize White Nationalism](#) (February 25)

[Extremism on the Ballot in 2022](#) (January 24)

[The January 6 Effect: An Evolution of Hate and Extremism](#) (January 6)

[A Year After the Insurrection, Election Lies Continue to Animate the Right](#) (January 5)