

June 10, 2024

Chairman Sean J. Cooksey
Vice Chair Ellen L. Weintraub
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: REG 2024-01, Candidate Security

Dear Chairman Cooksey and Vice Chair Weintraub:

The Brennan Center for Justice at New York University School of Law¹ respectfully submits this Comment in response to the Commission’s Notice of Proposed Rulemaking re: Candidate Security (“NPRM”), published April 9, 2024 (89 FR 24738), concerning the use of campaign funds to pay for security measures for federal candidates and officeholders.

As Chairman Cooksey recently put it, officeholders and candidates must “be able to run for office and exercise their responsibilities without the fear of threats or physical harm to themselves or to their families” in order for a “democratic government to function.”² The Commission deserves praise for the series of advisory opinions it has issued approving the use of campaign funds for security measures in various instances, but the advisory opinion process is no substitute for comprehensive, well-crafted rules explaining to candidates and their campaigns what is permissible under the Federal Election Campaign Act (“the Act”). We applaud the Commission for commencing this rulemaking process and urge you to craft rules making clear that use of campaign funds for expenses related to reasonable security needs is broadly permissible while preserving

¹ The Brennan Center is a nonpartisan public policy and law institute that focuses on fundamental issues of democracy and justice. For more than 25 years, the Brennan Center has studied and drafted legislative solutions to address money in politics, voting, and election administration. The views expressed in this Comment do not reflect the views, if any, of the NYU School of Law.

² Joseph Konig, “FEC Wants to Allow Campaigns to Pay for Security Amid Rise in Threats Against Politicians,” *Spectrum News NY1*, March 28, 2024, <https://ny1.com/nyc/all-boroughs/politics/2024/03/28/fec-campaigns-security-threats-politicians>.

robust safeguards against abuse. Should the Commission hold a hearing in this proceeding, we would welcome the opportunity to testify.

I. Threats and harassment directed at public officials and candidates are widespread and increasing.

Research by the Brennan Center and others has documented an increasing number of threats and attacks directed at officeholders and candidates. This deteriorating environment constrains how officials interact with constituents, narrows the spectrum of policy positions they feel safe taking, and makes too many of them less willing to continue in public service.

A. Brennan Center research has documented increasing threats and harassment directed at state and local officeholders.

Earlier this year, the Brennan Center published a significant new report documenting rising levels of abuse directed at state and local officeholders.³ We conducted two national surveys over the course of 2023 — one of state legislators and four quarterly surveys of local officeholders — and three dozen in-depth interviews with state legislators. In total, the report draws on the experiences of more than 1,700 officials from all 50 states encompassing a range of ages, party affiliations, ideologies, genders, sexual orientations, racial and ethnic identities, and religions.

The report finds that state and local officeholders have faced an increasingly stark threat environment in recent years. Over 40 percent of state legislators who participated in the surveys had experienced threats or attacks within the previous three years.⁴ Nearly 20 percent of local officeholders surveyed had experienced threats or attacks within the past year and a half. These incidents were often shocking in their violence.⁵ One legislator recounted: “Last fall was the last really serious death threat I got. It was like date, time, location specific. They were going to kill me and then go to the police station and blow themselves up and take as many officers with them as possible.”⁶ Another explained that after hitting a speedbump “my window crashed and [I] ended up going back and looking and finding a bullet in my car. So [I] found out someone had shot my

³ Gowri Ramachandran et al., *Intimidation of State and Local Officeholders*, Brennan Center for Justice, January 25, 2024, <https://www.brennancenter.org/our-work/research-reports/intimidation-state-and-local-officeholders>. The *Intimidation of State and Local Officeholders* report is attached as Appendix 1 to this Comment.

⁴ Ramachandran et al., *Intimidation of State and Local Officeholders*, 4.

⁵ Ramachandran et al., *Intimidation of State and Local Officeholders*, 4.

⁶ Ramachandran et al., *Intimidation of State and Local Officeholders*, 3.

windows out.”⁷ Large numbers of officials surveyed — 89 percent of state legislators and 52 percent of local officeholders — have also experienced less severe forms of abuse, such as demeaning insults, stalking, or other forms of harassment.⁸

The frequency and severity of abuse appears to be getting worse. For instance, more than a third of state legislators surveyed reported that the amount of abuse they experienced had increased since they first took office, while only 16 percent reported a decrease; almost 30 percent also reported that the seriousness of the incidents had increased, while only 12 percent reported a decrease.⁹

Officeholders from marginalized groups often bear the brunt of these trends. For example, among state legislators, larger shares of women than men reported increases in the severity of abuse since first taking public office. Women serving in state legislatures were nearly four times as likely as men to experience abuse of a sexual nature. Abuse directed at women, people of color, religious minorities, and LGBTQ+ individuals in office often conveyed misogynistic, racist, antisemitic, Islamophobic, or homophobic hate. One woman of color serving in a state legislature said that during her first session, “it was just a lot about race. There was someone who made a lynching joke and a three-fifths comment.”¹⁰ Another female legislator discussed her experience with people “identifying my address My husband just showed me a thread on Reddit yesterday about people talking about — men — what they would do to me.”¹¹ Other female legislators, especially women of color, reported taking precautions, including changing travel routes and daily routines, at much higher rates than other groups.¹²

The Brennan Center’s study also found that abuse crossed party lines. Larger shares of Republican than Democratic state legislators reported an increase in severity and frequency of abuse — at times from self-identified members of their own party.¹³

⁷ Brennan Center for Justice, “Intimidation of State and Local Officeholders: A Threat to Democracy,” January 31, 2024, https://www.youtube.com/watch?v=u_piO_5grDw.

⁸ Ramachandran et al., *Intimidation of State and Local Officeholders*, 3.

⁹ Ramachandran et al., *Intimidation of State and Local Officeholders*, 4.

¹⁰ Ramachandran et al., *Intimidation of State and Local Officeholders*, 14.

¹¹ Ramachandran et al., *Intimidation of State and Local Officeholders*, 14.

¹² Grady Yuthok Short and Maya Kornberg, “Hostility and Abuse Threaten to Undermine Gains in Representative Democracy,” Brennan Center for Justice, February 27, 2024, <https://www.brennancenter.org/our-work/analysis-opinion/hostility-and-abuse-threaten-undermine-gains-representative-democracy>.

¹³ Ramachandran et al., *Intimidation of State and Local Officeholders*, 4.

Violent threats and harassment were not limited to the surveyed officials themselves, but also frequently targeted their families and staff. One legislator said their staff resorted to getting private numbers in order to protect themselves.¹⁴ A Republican state legislator with comparatively moderate views on abortion shared, “I’ve had abolitionists — so, people who believe in the abolition of abortion — make death threats against my family, my children, myself.”¹⁵ Larger shares of women and people of color serving in local elected office experienced abuse related to their families — including their children — compared to white or male officeholders. One female legislator reflected, “They don’t directly say, ‘I’m going to kill her children.’ But they’ll make comments like, ‘We’re going to take over her home. Here’s the address. Here’s a photo of it. She lives here in [town], but her kids don’t go to school [in town] — they go in [neighboring town].”¹⁶

Threats, harassment and other abuse directed at state and local officials have a concrete impact on how these officials engage with constituents and the democratic process — particularly for women. Among local officeholders, women were almost twice as likely as men to report that abuse had deterred them from participating in public events. A number of the women state legislators who were surveyed said they were wary of bringing their family members to events. One legislator reflected, “Is it worth me putting my family at risk because I vote a certain way, I espouse certain ideals?”¹⁷ Others said they were warier of going door-to-door to meet their constituents or allowing their staff to do so. One representative reported that during canvassing “several volunteers told me they had guns pulled on them.”¹⁸

At their most extreme, the risk of threats and intimidation directed at public officials can deter qualified people from running for office or seeking reelection. Approximately 40 percent of the respondents in the Brennan Center’s surveys said they were less likely to run for reelection or seek higher office because of the abuse they had suffered.¹⁹ Again, the effects are often felt disproportionately by women. For instance, 48 percent of women in local office, compared to 34 percent of men, said that abuse had lessened their desire to run for reelection. As one state legislative leader explained, “It has been very difficult to recruit candidates for this upcoming election cycle. I’ve noticed it

¹⁴ Ramachandran et al., *Intimidation of State and Local Officeholders*, 8.

¹⁵ Ramachandran et al., *Intimidation of State and Local Officeholders*, 16.

¹⁶ Ramachandran et al., *Intimidation of State and Local Officeholders*, 14.

¹⁷ Ramachandran et al., *Intimidation of State and Local Officeholders*, 16.

¹⁸ Ramachandran et al., *Intimidation of State and Local Officeholders*, 19.

¹⁹ Ramachandran et al., *Intimidation of State and Local Officeholders*, 4.

more this year than any other year that I've been involved in trying to get women and people of color to run for office.”²⁰

Finally, our research found that while many officeholders would like to install security measures to protect themselves, they often view the cost as prohibitive. When the survey asked whether they had taken specific precautions in response to threats — such as hiring personal security, subscribing to online security services, or moving to a temporary location — lower-income state legislators did each at considerably lower rates than higher-income ones.²¹ Here again, the burden disproportionately falls on women, people of color, working class individuals of all backgrounds, and others who typically have less access to wealth.²²

The Brennan Center's findings as to the deteriorating environment facing officeholders across the country are consistent with other work on the prevalence and impact of political violence in the United States and internationally. One important survey of state legislators in the United States found that that more than 80 percent of respondents reported having experienced either psychological abuse or physical violence, with women legislators reporting more physical violence than men.²³ A study of female legislators around the world found that 82 percent of respondents had experienced some form of threats or other psychological abuse, with nearly half receiving death or rape threats.²⁴ Globally, political violence is on the rise. In 2022 (the last year for which

²⁰ Brennan Center for Justice, “Intimidation of State and Local Officeholders: A Threat to Democracy,” January 31, 2024, https://www.youtube.com/watch?v=u_pjO_5grDw.

²¹ Grady Yuthok Short and Maya Kornberg, “Hostility and Abuse Threaten to Undermine Gains in Representative Democracy,” Brennan Center for Justice, February 27, 2024, <https://www.brennancenter.org/our-work/analysis-opinion/hostility-and-abuse-threaten-undermine-gains-representative-democracy>.

²² Rakesh Kochhar, “The Enduring Grip of the Gender Pay Gap,” Pew Research Center, March 1, 2023, <https://www.pewresearch.org/social-trends/2023/03/01/the-enduring-grip-of-the-gender-pay-gap/>; Elizabeth Hira, Julia Boland, and Julia Kirschenbaum, *Equity for the People*, Brennan Center for Justice, June 21, 2021, <https://www.brennancenter.org/our-work/research-reports/equity-people>; Elliot Imse and Gabriele Magni, *The Experiences of LGBTQ+ Women Candidates*, LGBTQ+ Victory Institute, March 27, 2024, <https://victoryinstitute.org/resource/the-experiences-of-lgbtq-women-candidates-a-report-from-the-when-we-run-survey/>; and Sara Suzuki, *Supporting Young People on their Path to Running for Office*, Center for Information & Research on Civic Learning and Engagement, September 8, 2022, <https://circle.tufts.edu/latest-research/running-for-office>.

²³ Rebekah Herrick and Sue Thomas, “Not Just Sticks and Stones: Psychological Abuse and Physical Violence among U.S. State Senators,” *Politics & Gender* (2021): 12, https://mlkrook.org/pdf/Herrick_Thomas_21.pdf.

²⁴ Inter-Parliamentary Union, *Sexism, Harassment and Violence Against Women Parliamentarians*, October 2016, 3, <https://www.ipu.org/resources/publications/issue-briefs/2016-10/sexism-harassment-and-violence-against-women-parliamentarians>.

comprehensive data exists), there were over 125,000 discrete events; a more than 25 percent increase relative to 2021.²⁵

B. Experiences of threats and harassment are also prevalent among federal officeholders and candidates.

While the Brennan Center’s research has focused on state and local officeholders, the same upsurge in violence and harassment has clearly impacted federal officials and candidates as well. The violent attack on the U.S. Capitol on January 6, 2021 is the most notable example, but hardly the only one. In 2017, for instance, an extremist went on a shooting spree at a practice session for the Republican congressional baseball team, seriously wounding Majority Whip Steve Scalise and a member of his security detail.²⁶ And in 2023 another extremist broke into the home of House Speaker Nancy Pelosi and attacked her husband.²⁷

While incidents of actual violence remain relatively rare, violent threats directed at members of Congress have become increasingly common. In 2023 alone, the Capitol Police investigated over 8,000 threat assessment cases, a 50 percent increase relative to 2018.²⁸ One prominent Democratic House member has reported that he receives about 50 threatening calls, emails, and letters every month that are credible enough to send to the Capitol Police.²⁹ A Republican member received “credible death threats and a barrage of

²⁵ ACLED, *ACLED Year in Review: Global Disorder in 2022*, January 2023, 7, https://acleddata.com/acleddatanew/wp-content/uploads/2023/02/ACLED_2022-Year-in-Review_Report_Jan2023.pdf.

²⁶ Michael D. Shear, Adam Goldman, and Emily Cochrane, “Congressman Steve Scalise Gravely Wounded in Alexandria Baseball Field Ambush,” *New York Times*, June 14, 2017, <https://www.nytimes.com/2017/06/14/us/steve-scalise-congress-shot-alexandria-virginia.html>; and Domenico Montanaro, “Sanders of Supporter and Alleged Shooter: ‘Violence of Any Kind Is Unacceptable,’” NPR, June 14, 2017, <https://www.npr.org/2017/06/14/532935398/sanders-of-supporter-and-alleged-shooter-violence-of-any-kind-is-unacceptable>.

²⁷ Daniel Trotta, “Federal Jury Convicts Man in Hammer Attack on Pelosi’s Husband,” Reuters, November 17, 2023, <https://www.reuters.com/legal/jury-deliberates-fate-man-who-attacked-nancy-pelosis-husband-2023-11-16/>.

²⁸ Danny Hakim, Ken Bensinger, and Eileen Sullivan, “‘We’ll See You at Your House’: How Fear and Menace Are Transforming Politics,” *New York Times*, May 19, 2024, <https://www.nytimes.com/2024/05/19/us/politics/political-violence.html>.

²⁹ Danny Hakim, Ken Bensinger, and Eileen Sullivan, “‘We’ll See You at Your House’: How Fear and Menace Are Transforming Politics,” *New York Times*, May 19, 2024, <https://www.nytimes.com/2024/05/19/us/politics/political-violence.html>.

threatening calls” in response to her vote in one of the 2023 speaker fights.³⁰ Another Republican member has also received graphic death threats and had a caller to his office tell a female staffer she should be “dragged onto the street and beaten until you are a bloody mess.”³¹

As the latter example demonstrates, the targets for threats are not only members themselves, but also family and staff. One House member was harassed at a fast food restaurant in the presence of his young son.³² A senator reported that her children “are certainly no longer free to ride around in the driveway on their bikes without an adult nearby who can quickly grab them and put them in the house.”³³ Threatening phone calls to a district office of another senator caused his staff to be afraid to come to work.³⁴

As with state and local politicians, this environment is increasingly impacting the work of national politicians and how they interact with their constituents. One congresswoman attributed threats to her safety as one reason to forgo in-person town hall meetings.³⁵ Another congresswoman said she thinks about potential threats every day, including when meeting with constituents.³⁶ And in 2022, a male member of Congress actually was physically assaulted at a campaign event, according to media reports.³⁷

³⁰ Justine McDaniel and Marianna Sotomayor, “Threats Continue Toward Republicans Voting Against Jordan for Speaker,” *Washington Post*, October 20, 2023, <https://www.washingtonpost.com/politics/2023/10/20/house-speakerjordan-threats/>; and Ali Vitali, Rebecca Kaplan and Antonio Planas, “Republican Lawmaker Says She Received Death Threats after Voting Against Jim Jordan in Speaker’s Race,” NBC News, October 18, 2023, <https://www.nbcnews.com/politics/congress/mariannette-miller-meeks-says-got-death-threats-voting-jordan-speakers-rna121142>.

³¹ Greg Morton, Marianna Sotomayor, and Camila DeChalus, “Lawmakers Are Spending Way More to Keep Themselves Safe. Is It Enough?,” *Washington Post*, September 18, 2023, <https://www.washingtonpost.com/politics/2023/09/18/congress-security-spending-violence-threats/>.

³² Greg Morton, Marianna Sotomayor, and Camila DeChalus, “Lawmakers Are Spending Way More to Keep Themselves Safe. Is It Enough?,” *Washington Post*, September 18, 2023, <https://www.washingtonpost.com/politics/2023/09/18/congress-security-spending-violence-threats/>.

³³ Candice Norwood and Mariel Padilla, “‘I Don’t Feel Safe’: A Year After January 6, Women in Congress Still Fear for Their Security,” *The 19th*, January 5, 2022, <https://19thnews.org/2022/01/january-6-congress-women-safety/>.

³⁴ Rob Kuznia et al., “A Deluge of Violent Messages: How a Surge in Threats to Public Officials Could Disrupt American Democracy,” CNN, December 7, 2023, <https://www.cnn.com/2023/12/07/politics/threats-us-public-officials-democracy-invs/index.html>.

³⁵ Candice Norwood and Mariel Padilla, “‘I Don’t Feel Safe’: A Year After January 6, Women in Congress Still Fear for Their Security,” *The 19th*, January 5, 2022, <https://19thnews.org/2022/01/january-6-congress-women-safety/>.

³⁶ Candice Norwood and Mariel Padilla, “‘I Don’t Feel Safe’: A Year After January 6, Women in Congress Still Fear for Their Security,” *The 19th*, January 5, 2022, <https://19thnews.org/2022/01/january-6-congress-women-safety/>.

³⁷ Michael Kaplan and Kathryn Watson, “Capitol Police Investigated About 7,500 Cases of Potential Threats Against Lawmakers in 2022,” CBS News, January 17, 2023, <https://www.cbsnews.com/news/threats-congress-2022/>.

C. Officeholders and candidates face cyber as well as physical threats.

The threats and abuse officeholders and candidates face increasingly include not only threats of physical violence, but also cyber threats. In the aftermath of the 2016 election, the ranking member of the Senate Finance Committee sent a letter to Senate leadership noting that Russian hackers and others had targeted the personal and official email accounts of senators and their senior staff.³⁸ These threats from abroad have continued; last March, the Department of Justice unsealed an indictment against state-backed hackers in China who sent emails containing spyware to high-ranking U.S. government officials, politicians, and election campaign staff from both major U.S. political parties.³⁹ Meanwhile, in 2018, a former Senate staffer was prosecuted for posting stolen personal information about several Republican senators online.⁴⁰ And last year, a serious data breach of the online marketplace that administers healthcare plans for Congress potentially exposed personal identifiable information (PII) of hundreds of lawmakers and staff.⁴¹ As generative AI and other tools become more sophisticated and widely available we can expect these sorts of cyber threats to increase in both frequency and severity.

II. The Commission should craft clear, flexible rules governing the use of campaign funds for security measures.

In recent years, security spending by federal candidates has increased exponentially — rising by more than 500 percent between the 2020 and 2022 election cycles.⁴² Given this new spending — and with even more likely needed — it is critical for the Commission to provide usable, comprehensive guidance to make clear what expenditures are permissible under the Act.

³⁸ Sen. Ron Wyden to Sens. Mitch McConnell, Charles E. Schumer, Amy Klobuchar, and Roy Blunt, September 19, 2018, <https://www.wyden.senate.gov/imo/media/doc/wyden-member-personal-email-cybersecurity-letter-to-leadership-rules-sept-19.pdf>.

³⁹ Department of Justice, “Seven Hackers Associated with Chinese Government Charged with Computer Intrusions Targeting Perceived Critics of China and U.S. Businesses and Politicians,” March 25, 2024, <https://www.justice.gov/opa/pr/seven-hackers-associated-chinese-government-charged-computer-intrusions-targeting-perceived>.

⁴⁰ Department of Justice, “District Man Sentenced to Four Years for Stealing Senate Information and Illegally Posting Restricted Information of U.S. Senators on Wikipedia,” June 19, 2019, <https://www.justice.gov/usao-dc/pr/district-man-sentenced-four-years-stealing-senate-information-and-illegally-posting>.

⁴¹ Ryan Nobles et al., “Data Breach Hits ‘Hundreds’ of Lawmakers and Staff on Capitol Hill,” NBC News, March 8, 2023, <https://www.nbcnews.com/politics/congress/data-breach-hits-lawmakers-staff-capitol-hill-rcna74061>.

⁴² Greg Morton, Marianna Sotomayor, and Camila DeChalus, “Lawmakers Are Spending Way More to Keep Themselves Safe. Is It Enough?” *Washington Post*, September 18, 2023, <https://www.washingtonpost.com/politics/2023/09/18/congress-security-spending-violence-threats/>.

A. The Commission’s current approach of authorizing the use of campaign funds for security measures on a case-by-case basis has inherent limitations.

As the Commission acknowledges in the NPRM, “[n]either the Act nor Commission regulations identify the use of campaign funds to pay for the costs of security measures for federal candidates or officeholders as *per se* personal use” — meaning that the permissibility of such expenditures is fact-specific.⁴³ To its credit, the Commission has issued a series of advisory opinions over the last fifteen years authorizing campaign spending for personal and home security in various circumstances.⁴⁴ These advisory opinions have provided guidance on certain scenarios where it is permissible to use campaign funds to cover common measures, including installation of residential security enhancements like improved exterior lighting and window security film, hiring personal security details, and the purchase of cybersecurity resources like consulting services and ongoing network monitoring.⁴⁵

At the same time, advisory opinions inherently have a limited reach. They are granted to individual requestors in response to specific circumstances; other parties have the right to rely on them only in circumstances that are “indistinguishable in all [] material respects” from the transaction that was the subject of the advisory opinion request.⁴⁶ Thus, there are many circumstances that the Commission’s advisory opinions do not address. For example, as the NPRM acknowledges, none of the Commission’s existing opinions address candidates who are not already federal officeholders.⁴⁷

Moreover, advisory opinions are not free — many requestors feel the need to hire private lawyers who are familiar with the Commission’s procedures.⁴⁸ Relying on this

⁴³ NPRM at 24738.

⁴⁴ See NPRM at 24738-39.

⁴⁵ Advisory Opinion 2011-17 (Giffords); Advisory Opinion 2022-05 (Crapo); Advisory Opinion 2021-03 (NRSC et al.); Advisory Opinion 2018-15 (Wyden); and Advisory Opinion 2022-17 (Warren).

⁴⁶ See 11 C.F.R. 112(a)(2); see also Daniel I. Weiner, Elizabeth Hira, and Ayomide Osobamiro, Comment to Federal Election Commission re REG 2021-01, Candidate Salaries, July 2, 2021, 3, <https://www.brennancenter.org/sites/default/files/2023-04/2021.07.02%20BCJ%20Comment%20REG%202021-01%20%284%29.pdf>; and Daniel I. Weiner and Harry Isaiah Black, Comment to Federal Election Commission re REG 2021-01, Candidate Salaries, February 10, 2023, 2, <https://www.brennancenter.org/sites/default/files/2023-03/2023.02.10%20FEC%20REG%202021-01%20Comment%20FINAL.pdf>.

⁴⁷ NPRM at 24739 (“Although the advisory opinions discussed [] explicitly addressed only federal officeholders or individuals who were both federal candidates and federal officeholders, the proposed rule would apply to all candidates, including those who are not officeholders.”).

⁴⁸ Some requests for an advisory opinion may even include references to paid field experts — adding another expense. See, e.g., Advisory Opinion 2018-15 (Wyden) (citing to Professor Thomas Rid, a cybersecurity expert at Johns Hopkins University School of Advanced International Studies).

process to provide regulatory guidance inherently favors candidates who already have access to significant resources. And yet, as Chairman Cooksey has pointed out, it is the least wealthy candidates who are most likely to need campaign funds to pay for security that they cannot afford themselves.⁴⁹ These candidates often come from the very groups most likely to be targeted by harassment and threats of violence when they decide to run for office.⁵⁰

Rather than continuing to issue advisory opinions on a case-by-case basis, the better approach is to craft generally applicable rules to provide clear, accessible guidance covering as many scenarios as possible. We applaud the Commission for starting this process and urge its completion as expeditiously as possible.

B. The Commission’s new rules should make it easy for officeholders and candidates to use campaign funds for reasonable security measures while retaining protections against abuse.

The proposed rules set forth in the NPRM are a good start to providing the sort of guidance that will benefit all candidates and their campaigns. We appreciate the opportunity to respond to some of the Commission’s specific questions as it considers how to refine these proposals into final rules.⁵¹

Federal officeholders and candidates: The NPRM asks whether the proposed rule should distinguish between candidates who are already federal officeholders and those who are not presently in office.⁵² In our view, there is no principled reason to do so as a general matter. As the Commission notes in the NPRM, officeholders and candidates are treated the same under the statutory and regulatory framework for personal use of campaign funds.⁵³ Given the heightened threat environments that exist for officeholders and candidates alike, they should usually be treated the same under the Commission’s

⁴⁹ Joseph Konig, “FEC Wants to Allow Campaigns to Pay for Security Amid Rise in Threats Against Politicians,” *Spectrum News NY1*, March 28, 2024, <https://ny1.com/nyc/all-boroughs/politics/2024/03/28/fec-campaigns-security-threats-politicians>.

⁵⁰ Grady Yuthok Short and Maya Kornberg, “Hostility and Abuse Threaten to Undermine Gains in Representative Democracy,” Brennan Center for Justice, February 27, 2024, <https://www.brennancenter.org/our-work/analysis-opinion/hostility-and-abuse-threaten-undermine-gains-representative-democracy>; Ruben Gonzales et al., *The Decision to Run: Uncovering the Barriers and Motivators for LGBTQ Women Running for Office*, Victory Institute, March 2021, 8-10, https://victoryinstitute.org/wp-content/uploads/2021/04/Victory-Institute_The-Decision-to-RunReport.pdf; and Elizabeth Hira, Julia Boland, and Julia Kirschenbaum, *Equity for the People*, Brennan Center for Justice, June 21, 2021, 25, <https://www.brennancenter.org/our-work/research-reports/equity-people>.

⁵¹ See NPRM at 24740-42.

⁵² NPRM at 24740.

⁵³ NPRM at 24739-40.

rules. This is especially important because it is non-incumbents who often have access to the fewest resources and are most likely to need campaign funds to pay for reasonable security needs.⁵⁴

While we do not believe it is appropriate to craft different rules for incumbents and non-incumbents as a general matter, there may be rare instances in which a candidate's status as an officeholder gives rise to specific security concerns impacting the sort of expenditures that would be considered "reasonable" for purposes of the Commission's rules. For example, certain more elaborate measures, like a round-the-clock, licensed security detail, might be easier to justify for a candidate or officeholder who is widely recognized as opposed to someone who is relatively unknown and has not been specifically targeted. But this determination should ultimately turn on the candidate's individual circumstances, not simply on whether they already hold office.

"Reasonable costs" standard: The NPRM asks whether a "reasonable costs" standard is appropriate for these rules. We believe it is, given the framework established by the Act, in which the permissibility of an expenditure depends on whether it plausibly arises out of a specific individual's role as a candidate or officeholder.⁵⁵ Nevertheless, we urge the Commission to provide as much usable guidance as possible in its final rules and the accompanying Explanation and Justification (E&J) to help members of the regulated community determine what would be considered "reasonable costs" in a given circumstance. For example, it is critical that the E&J provide hypotheticals addressing common scenarios in which candidates and officeholders are likely to use campaign funds to pay for security.

It would also help for the Commission to provide a non-exhaustive list of general considerations to guide candidates, officeholders, and campaigns in determining whether a given expenditure is reasonable. Based on our research and other work exploring the prevalence of intimidating abuse towards public officials and candidates, we suggest the Commission highlight at least the following factors as relevant to this determination:

- (1) the nature of the specific threat environment confronting the candidate or officeholder, including that person's individual circumstances and those of their immediate family and staff, and the general threat environment at the national, state, and local levels;

⁵⁴ OpenSecrets, "Incumbent Advantage," accessed June 7, 2024, <https://www.opensecrets.org/elections-overview/incumbent-advantage>.

⁵⁵ 11 C.F.R. 113.1(g)(1)(i).

- (2) the cost of the security measure and how commonly it is used, with less costly and more common measures likely to be reasonable in most circumstances;
- (3) whether the security measure has been recommended as part of a qualified security assessment of a home or office — meaning one conducted by a government agency or a private entity licensed by a state, local, federal, or tribal authority;
- (4) whether the officeholder or candidate — or someone in their immediate family or on their staff — would be considered a vulnerable person, such as a person living with a disability, an elderly individual, a minor child, or someone who has been the target of violence, credible threats, or other serious harassment in the past; and
- (5) whether personal identifiable information (PII) about the officeholder, candidate, family member, or staff member is publicly available.

“Ongoing” limiting language: The NPRM next asks whether it is appropriate to require security measures to be in response to “ongoing” threats.⁵⁶ We appreciate that the intent of this language is to comply with the requirements of the Act while affording candidates and officeholders significant flexibility, but are concerned that, without further explanation, use of the word “ongoing” could unduly hamper the ability to purchase much-needed protections.

We recommend that the Commission clarify that whether security threats are “ongoing” for this purpose need not depend solely on a candidate’s personal circumstances. In many instances, it may be appropriate to also evaluate the threat environment based on general national, state, and local conditions, taking into account patterns of gender, race, sexuality, or other identity-based abuse.⁵⁷ This approach is consistent with the approach adopted in several of the Commission’s past advisory opinions, as the NPRM acknowledges.⁵⁸ We also recommend that the Commission make clear that the “ongoing” requirement does not require early cancellation of any subscription-based service, such as an annual subscription to a security alarm company, before the ordinary expiration of the relevant contract.

“Heightened Threat Environment” Requirement: The NPRM next asks whether the Commission’s rules should explicitly require candidates or officeholders adopting

⁵⁶ NPRM at 24740.

⁵⁷ See Ramachandran et al., *Intimidation of State and Local Officeholders*, 8.

⁵⁸ NPRM at 24740.

security measures to face a “heightened threat environment,” based either on specific threats or general conditions.⁵⁹ We oppose such a blanket requirement. Many basic home and office security measures are reasonable to employ under any conditions and should be viewed as part of the ordinary cost of running for or serving in office. Second, any reasonableness determination should already factor in the nature of the threat environment, as explained above. There is no statutory basis or cognizable policy justification for imposing an additional requirement that a “heightened threat environment” exist on a blanket basis.

Role of Law Enforcement: The NPRM asks in several places whether there should be a requirement that law enforcement be involved in assessing security threats, or whether the availability of law enforcement protection should be considered in determining whether a particular expenditure is reasonable.⁶⁰ Law enforcement often plays a key role in assessing and countering threats to candidates and officeholders, but we believe the Commission should be wary of requiring their involvement.

Our research has shown a pattern of mixed experiences with law enforcement for candidates and officeholders. Many report positive experiences, like one state senator who explained that she could call her local officials and know they will arrive “in two seconds.”⁶¹ But others have serious concerns, such as a state representative who believed she had been denied police protection in part due to objections to her policies.⁶² Law enforcement’s assessment of a candidate or officeholder’s circumstances and recommendations will often be relevant to the determination of whether particular costs are reasonable, as has been the case in a number of advisory opinions, but the Commission has never suggested law enforcement involvement should be imposed as a universal condition for spending campaign funds on security.⁶³ We urge you to avoid imposing this sort of additional hurdle now.

Covering an officeholder and candidate’s staff members and family members: The NPRM also probes whether the proposed rule should permit campaign funds to also be used for the security of other persons, including staff members and immediate family.⁶⁴ In our view, it is essential to do so for staff and at least immediate family members who

⁵⁹ NPRM at 24740.

⁶⁰ NPRM at 24740-41.

⁶¹ Ramachandran et al., *Intimidation of State and Local Officeholders*, 15.

⁶² Ramachandran et al., *Intimidation of State and Local Officeholders*, 15.

⁶³ See, e.g., Advisory Opinion 2022-02 (Steube); Advisory Opinion 2021-03 (NRSC et al.); Advisory Opinion 2020-06 (Escobar); and Advisory Opinion 2011-17 (Giffords).

⁶⁴ NPRM at 24740-41.

reside with the officeholder or candidate (e.g., spouses, children, and any other family members who reside in the candidate’s household).

As discussed, numerous officeholders at the state and local level have described how abusers frighten or even target their staff, including online.⁶⁵ At the federal level, congressional staff have cited a range of threats and harassment at district offices, including verbal abuse, phone threats, and in-person encounters.⁶⁶ State and local officeholders have also seen serious threats extend to their family members, leading many to consider departing electoral politics altogether.⁶⁷ At least one House member, former Speaker Nancy Pelosi, had a close family member attacked.⁶⁸ A number of House members already use existing security funding to safeguard their homes, family cars, district offices, and some have hired security guards to protect staff in their districts.⁶⁹ These expenditures are entirely appropriate and should be allowed under the Commission’s rules.

Non-structural security devices: Consistent with prior advisory opinions, the proposed rule would identify non-structural security devices as a category of security measures for which reasonable expenses would not be personal use. Such measures include security hardware, locks, alarm systems, motion detectors, and security camera systems. The NPRM asks whether additional examples should be explicitly included.⁷⁰ We believe it would be helpful to do so, including explicitly mentioned non-structural security measures that are not “devices” as the word is commonly understood. Most importantly, the Commission should make clear that it is permissible to use campaign funds to pay for security training, which has proved effective in similar contexts.⁷¹

⁶⁵ One officeholder noted that their staff “had to do damage control on social media, report hundreds of posts and comments that were negative, had to edit settings to not be tagged.” Ramachandran et al., *Intimidation of State and Local Officeholders*, 8.

⁶⁶ Ryan Tarinelli and Justin Papp, “Political Staffers Bear Brunt of District Office Threats,” May 29, 2024, <https://www.governing.com/management-and-administration/political-staffers-bear-brunt-of-district-office-threats>.

⁶⁷ Ramachandran et al., *Intimidation of State and Local Officeholders*, 8, 16.

⁶⁸ Daniel Trotta, “Federal Jury Convicts Man in Hammer Attack on Pelosi’s Husband,” Reuters, November 17, 2023, <https://www.reuters.com/legal/jury-deliberates-fate-man-who-attacked-nancypelosis-husband-2023-11-16>.

⁶⁹ Greg Morton, Marianna Sotomayor, and Camila DeChalus, “Lawmakers Are Spending Way More to Keep Themselves Safe. Is It Enough?,” *Washington Post*, September 18, 2023, <https://www.washingtonpost.com/politics/2023/09/18/congress-security-spending-violence-threats/>.

⁷⁰ NPRM at 24741.

⁷¹ See, e.g., Yvonne Wingett Sanchez, “Election Officials Go on Offense to Prevent Disruptions of 2024 Vote,” *Washington Post*, February 9, 2024, <https://www.washingtonpost.com/politics/2024/02/09/election-worker-voting-preparation/> (describing security training for election officials); see also Ramachandran et al., *Intimidation of State and Local Officeholders*, 21.

Structural security devices: The NPRM also asks whether the use of structural security devices — intended solely to provide security and not to improve a property or increase its value — should be limited to particular properties.⁷² Prior advisory opinions have only permitted structural security devices to an officeholder or candidate’s residence, but we believe it is critical that the Commission also permit security measures at other locations.⁷³ Among other locations, we recommend making clear that security enhancements are also permissible at official campaign locations, such as a campaign headquarters or event spaces, and at the residences of other individuals, such as staffers or family members, who has received personal threats arising out of their family or professional connection to the officeholder or candidate.⁷⁴

Additionally, we recommend that that the Commission make clear that an incidental improvement or increase in value to a property resulting from installation of a structural security device does not render the use of campaign funds to pay for the installation impermissible. At the same time, extra features that are not for security purposes should be the candidate or officeholder’s financial responsibility. For example, it would be permissible in many instances to use campaign funds to install a basic fence around a candidate’s residence, but the difference in cost between a basic fence and a more expensive one selected for aesthetic purposes would be the candidate or officeholder’s responsibility.

Professional security personnel and services: The NPRM questions whether professional security personnel should be *bona fide*, legitimate, professional personal security or have additional qualifications or licenses.⁷⁵ We agree that professional security personnel obtained using campaign funds should be licensed by a government entity (federal, state, local, tribal) and be up to date on all required certifications. This will help ensure that campaign funds are used appropriately and reduce the risk of candidates and officeholders employing untrained personnel who are more likely to engage in hazardous or otherwise harmful behavior.

⁷² NPRM at 24740.

⁷³ NPRM at 24741 n.28.

⁷⁴ Greg Morton, Marianna Sotomayor, and Camila DeChalus, “Lawmakers Are Spending Way More to Keep Themselves Safe. Is It Enough?,” *Washington Post*, September 18, 2023, <https://www.washingtonpost.com/politics/2023/09/18/congress-security-spending-violence-threats/>. For example, Arizona Representative Gabrielle Giffords was shot at a campaign event in 2011 — an event which prompted the Commission to clarify that existing rules allowed candidates to use campaign funds for home security. Advisory Opinion 2011-17 (Giffords).

⁷⁵ NPRM at 24741.

Cybersecurity measures: Finally, we urge the Commission to affirm that officeholders and candidates may use campaign funds not only to combat physical threats and abuse but also for implementation of reasonable cybersecurity protections for themselves, their staff, and immediate family members. As explained above, cyber threats are a significant aspect of the threat landscape. In the context of these rules, there is no principled reason to differentiate safeguards against such threats from other security measures.

* * *

The decision to put oneself forward for public service often requires considerable public courage. Americans from all walks of life should be able to pursue this calling without having to fear for their personal safety or that of their families and staff. We commend the Commission for the steps it is taking to move this aspiration closer to reality and urge the prompt adoption of final rules reflecting the considerations set forth in this Comment.

Respectfully submitted,

/s/

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Appendix 1

Intimidation of State and Local Officeholders

The Threat to Democracy

By Gowri Ramachandran, Chisun Lee, Maya Kornberg, Kimberly Peeler-Allen,
Ruby Edlin, Julia Fishman, Jiyoon Park, and Grady Yuthok Short JANUARY 25, 2024

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Introduction

The January 6 insurrection at the Capitol seemed to mark a new peak in extremist intimidation targeting public officials. But it was hardly the only act of political violence to break the period of relative stability that followed the assassinations of the 1960s.¹ There was the 2017 shooting of U.S. Rep. Steve Scalise and colleagues by a Trump detractor.² There was the hammer attack on U.S. Rep. Nancy Pelosi’s husband by a right-wing conspiracy theorist who sought the then House speaker in her home. Then there were threats by Republican extremists against Republican members of Congress for refusing to support their preferred candidate for speaker.³ These acts grabbed headlines and spurred increases in security for federal officials.⁴

Yet over the same period, with far less attention and often little recourse, officeholders serving in local and state government across the country have faced a barrage of intimidating abuse. Threats and attacks constrain how freely officeholders interact with constituents, narrow the spectrum of policy positions they feel safe to support, and make them less willing to continue in public service. Unaddressed, the problem stands to endanger not just individual politicians but, more broadly, the free and fair functioning of representative democracy — at every level of government.

“Last fall was the last really serious death threat I got,” one state legislator told the Brennan Center. “It was like date, time, location specific. They were going to kill me and then go to the police station and blow themselves up and take as many officers with them as possible.”

A series of national surveys completed in October 2023 — one of state legislators and four quarterly surveys of local officeholders — and three dozen in-depth interviews reveal how significantly abuse affects the tenure of these officeholders and shapes their decisions. Taken together, the data sets represent more than 1,700 officials from all 50 states and include a range of ages, party affiliations, ideologies, genders, sexual orientations, racial and ethnic identities, and religions.

Officeholders across these demographic categories reported experiencing threats or attacks within the past three years. And the volume and severity of abuse have increased in recent years, they said. More than 40 percent of state legislators experienced threats or attacks within the past three years, and more than 18 percent of local officeholders experienced threats or attacks within the past year and a half. The numbers balloon to 89 percent of state legislators and 52 percent of local officeholders when less severe forms of abuse — insults or harassment such as stalking — are included.⁵

The surveys and interviews revealed important variations among officeholders’ experiences. Abuse directed at women, people of color, religious minorities, and

Degrees of Abuse

- **Insults:** Demeaning, derogatory, or offensive comments, gestures, or actions that upset, belittle, and/or humiliate
- **Harassment:** Persistent, uninvited behavior, attention, or actions that cause distress, fear, or discomfort, such as stalking
- **Threats:** Explicit or implicit expressions communicating an intention to harm, injure, or cause damage to an individual or others associated with them, implying imminent risk to a person’s well-being and safety
- **Physical attacks:** Slapping, pushing, subjection to projectiles, beating, abduction, assassination attempts, or other acts of physical violence

LGBTQ+ individuals in office often conveyed misogynistic, racist, religious, or homophobic hate.

Some respondents mentioned viral social media and deregulation of guns as aggravating factors. Significant numbers were unaware of formal procedures to report incidents or of any recent increases in government-provided security for buildings or their transport.

In a time of heated debate about existential issues such as reproductive autonomy, gun regulation, and racial equity, these threats to the free and fair functioning of representative government implicate everyone.

As Virginia House Delegate Eileen Filler-Corn put it, “We were going to help improve others’ lives. But we never thought our lives, or most importantly, our family members’ or significant others’ lives, would be in jeopardy. I think you’re going to lose a lot of good people because of it.”

Major Findings

State and local officeholders report alarming, increasing levels of threats and other abuse.

- Forty-three percent of state legislators experienced threats.
- Eighteen percent of local officeholders experienced threats.
- Thirty-eight percent of state legislators reported that the amount of abuse they experience has increased since first taking public office, while only 16 percent reported that it has decreased.
- Twenty-nine percent of state legislators reported that the seriousness of the incidents has increased, while only 12 percent reported that it has decreased.

The severity and nature of abuse varies across demographic groups.

- Larger shares of women than men, and larger shares of Republicans than Democrats, reported increases in the severity of abuse since first taking public office.
- Women were three to four times as likely as men to experience abuse targeting their gender.
- Officeholders of color were more than three times as likely as white officeholders to experience abuse targeting their race.
- Larger shares of women and people of color serving in local elected office experienced abuse related to their families — including their children — than did other officeholders.
- Women serving in state legislatures were nearly four times as likely as men to experience abuse of a sexual nature.

Abuse threatens the free and fair functioning of democracy.

- More than 40 percent of local officeholders said they were less willing to run for reelection or higher office at the time they were surveyed because of abuse. For women, the rates of possible attrition are higher, with approximately half saying they were less willing to continue serving.⁶
- Approximately 20 percent of state officeholders and 40 percent of local officeholders acknowledged they

were less willing to work on controversial topics due to abuse.

- Fifty-three percent of state legislators believed that abuse had deterred their colleagues from taking on controversial topics.
- Approximately half of officeholders reported reluctance to communicate via social media because of abuse.
- Twenty-three percent of state legislators said they were less likely to hold events in public spaces because of abuse.

Given the prevalence of abuse facing local and state officeholders — and the threat it poses to representative democracy — government and other authorities must act quickly to mitigate the problem.

Key Recommendations

Officeholders and other influential figures should condemn abuse and promote officeholder safety.

- State and local governments should provide officeholders training, conducted by experts, in resisting hate-based violence that includes techniques in bystander intervention — how those not directly perpetrating or experiencing abuse can help to reduce the problem.
- Other influential figures, including business and community leaders, should publicly reject abuse of officeholders.
- States should provide officeholders and staffers with mental health services and encourage their use.

States should systematize security and safety practices to protect both officeholders and the public.

- States should systematically monitor threats against officeholders, taking care not to impinge on civil liberties.
- States should provide adequate physical security resources and training for officeholders.
- States should regulate open and concealed carry of guns in places where officeholders engage with the public.
- States should permit candidates and officeholders to restrict guns at town halls, campaign rallies, and other public events.

- States should update campaign finance laws to permit candidate and party spending on legitimate security measures.

States, officeholders, and social media companies should update speech and privacy policies.

- States should protect local and state officeholders' personal information, such as home addresses, with appropriate exceptions to enable public accountability.
- Legislative bodies, officeholders, and social media companies should prioritize the freedom to safely engage in public discourse as they update policies to reduce serious harm online.

Even in the current atmosphere of risk, many officeholders stressed that elected public service remains

imperative and often rewarding for those who believe their communities deserve a voice in policymaking. Women and people of color in office especially expressed concern that exposing the frequency of abuse they experience could dissuade emerging leaders from forging ahead.

“It is a privilege and oftentimes a joy to be able to hold elected office and serve one’s community,” said Glynda Carr, president and CEO of Higher Heights, a nonpartisan nonprofit focused on expanding pipelines for Black women at all levels of elected government.

“But there is a long way to go, still. This study shows that those with power and resources must do more to foster the conditions for all talented people to be able to step up and lead,” she added. This perspective underscores the need for remedies that ultimately enable more people to participate safely and freely in the democratic process while avoiding unduly restricting civic spaces.

I. Overview of Sources and Methods

This report draws on three original data sets: 1) three waves of an ongoing national survey totaling more than 1,350 local officeholders, conducted in 2023 in partnership with the Bridging Divides Initiative at Princeton University and CivicPulse;⁷ 2) a national survey answered by more than 350 state legislators, conducted August through October 2023 and administered by the Eagleton Center for Public Interest Polling at Rutgers University; and 3) in-depth interviews with three dozen current and former state legislators in 2023.

Survey administrators sent the local officeholders survey to randomized samples of officeholders. For state legislators, the survey went to all serving in 2023, with targeted outreach to achieve geographic, racial, and gender diversity within this difficult-to-reach group.⁸

To ensure that findings were as representative as possible of actual populations of state and local officeholders, analysts weighted the data by characteristics such as gender and political leanings of the local populations. Both the local officeholder and the state legislator surveys asked participants to self-identify their race and ethnicity, choosing from a wide range of options. This study defines those who chose any category besides white, and those who marked “Hispanic,” as people of color.⁹

State legislators answered a single survey covering their current term of office as well as the campaign period preceding that term — typically two to three years. The survey did not ask respondents to enumerate

separate instances of abuse. But local officeholders answered quarterly surveys that asked about experiences in the previous quarter, providing multiple opportunities to report cases of abuse. (The method of analysis avoids overrepresenting repeat respondents.) Alarming high rates of reported threats — 43 percent of legislators — appeared in the state legislator survey, as compared with 18 percent of local officeholders. But racial and gender disparities emerged with sharper clarity in the local officeholder survey, potentially due to more frequent reports of abuse from officeholders of color and women officeholders.¹⁰

Insights from this project’s advisory council, prior social science and legal scholarship, and news accounts informed this study’s design and interpretation. These varied sources enabled nuanced analysis of the prevalence, nature, and consequences of abuse targeting state legislators and local officeholders.

II. Officeholders’ Experiences of Abuse

Within the past several years, abusive language and actions have hounded officeholders at the state and local levels. In response to survey questions that provided four gradations of abuse — insults, harassment, threats, and physical attacks — a remarkable share of officeholders across race, gender, age, political parties, and regions reported experiencing abuse of the most serious types.

The survey of state legislators defined these gradations as follows:

- **Insults:** Demeaning, derogatory, or offensive comments, gestures, or actions that upset, belittle, and/or humiliate
- **Harassment:** Persistent, uninvited behavior, attention, or actions that cause distress, fear, or discomfort, such as stalking
- **Threats:** Explicit or implicit expressions communicating an intention to harm, injure, or cause damage to an individual or others associated with them, implying imminent risk to a person’s well-being and safety
- **Physical attacks:** Slapping, pushing, subjection to projectiles, beating, abduction, assassination attempts, or other acts of physical violence

As shown in table 1, 43 percent of state legislators experienced threats of harm to themselves or someone close to them during their current term or preceding campaign,

according to responses from all 50 states. The same number experienced harassment. Four percent of state legislators experienced physical attacks.

Eighteen percent of local officeholders reported threats in each three-month period the survey waves covered, as shown in table 2. Thirty-six percent of them reported harassment. About 1 percent of local officeholders reported physical attacks.

Less surprising, though still disturbing to many on the receiving end, is that 86 percent of state legislators and 49 percent of local officeholders experienced insults, including racist, homophobic, and misogynistic slurs. Thirty-eight percent of state legislators reported that the volume of abuse has increased over time, and 29 percent reported that its severity also has increased (see table 3).

These results align with recent research by others that examined narrower groups of officeholders and particular venues for abuse. One study found that, in the first half of 2019, the average state senator “experienced harassment and social media abuse monthly.”¹¹ A 2017 study found that mayors “face meaningful levels of physical violence and psychological abuse — and these events are widespread across types of cities.”¹² In San Diego County,

TABLE 1

Abuse Reported by State Legislators

DURING CURRENT TERM AND THE PRECEDING CAMPAIGN

Insults	86%
Harassment	43%
Threats	43%
Attacks	4%

Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder’s legislature to achieve more nationally representative measures. Margins of error range from approximately ±2.8 percentage points to ±6.5 percentage points depending on the sample proportion. The sample is composed of 354 responses.

Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

TABLE 2

Abuse Reported by Local Officeholders

OVER PREVIOUS THREE MONTHS

Insults	49%
Harassment	36%
Threats	18%
Attacks	1%

Note: Results were weighted by demographic and political characteristics of the local officeholder’s jurisdiction to achieve more nationally representative measures. Margins of error range from approximately ±1 percentage point to ±2.5 percentage points depending on the sample proportion. The sample is composed of 1,909 responses from 1,744 unique respondents.

Source: Bridging Divides Initiative/CivicPulse/Brennan Center surveys fielded in August 2022, November 2022, May 2023, July 2023, and October 2023.

TABLE 3

State Legislators’ Perceptions of Trends in Abuse Since Taking Office, by Gender and Party

	MEN	WOMEN	DEMOCRATS	REPUBLICANS	OVERALL
Frequency					
Increased	35%	43%	32%*	45%*	38%
Stayed about the same	39%	37%	40%	34%	38%
Decreased	17%	14%	20%	13%	16%
Seriousness					
Increased	24%*	37%*	28%	31%	29%
Stayed about the same	54%	49%	50%	51%	51%
Decreased	14%	8%	14%	10%	12%

* The difference in proportions between demographic groups is statistically significant at the alpha=0.1 level.

Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder’s legislature to achieve more nationally representative measures. Margins of error range from approximately ±4.4 percentage points to ±9.6 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 354 responses. These questions were posed to respondents who reported experiencing hostility in any previous or current campaign or term in office.

Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

California, 75 percent of elected officeholders across parties reported experiencing threats and harassment in 2022, according to a different study.¹³

Numerous officeholders described how abusers frighten or even target their staff. One said, “My district staff I would be more concerned with, because they’re more on the ground.” Another noted that “staff have had to get private numbers, have been told they are on the wrong side of history, had to do damage control on social media, report hundreds of posts and comments that were negative, had to edit settings to not be tagged.”

Identity-Based Abuse

The severity of abuse — ranging from insults to threats and attacks — tended to be higher for local officeholders from historically marginalized backgrounds, including women and people of color. These officeholders also experienced more abuse targeting their children and families. Women and people of color at all levels of office experienced more abuse targeting their gender and race.¹⁴ In interviews, officeholders identifying as members of religious minorities or as LGBTQ+ individuals reported abuse targeting these aspects of their identity. Officeholders who cross multiple categories of identity — women of color, for instance — often experienced compound abuse and particularly acute harms.

Among women in state legislatures, 22 percent experienced gendered abuse. They also reported more increases

in the severity of abuse than men. Fifty-five percent of state legislators of color experienced racialized abuse (see figures 1 and 2).

Republican state legislators reported more increases in the volume of abuse than did Democrats. As their leaders have at times failed to condemn violence and violent rhetoric, state and local Republican officeholders have experienced abuse from within their own party for refusing to back extreme positions.¹⁵

Among local officeholders, 12 percent of women reported hostile comments about their gender. Fourteen percent of people of color experienced hostile comments about their race or ethnicity (see figures 3 and 4).

Among local officeholders, women and people of color reported experiencing more, and more severe forms of, abuse than male or white respondents (see table 4). Twenty-three percent of women reported threats, compared with 16 percent of men. Twenty-five percent of officeholders of color reported threats, compared with 18 percent of white officeholders.

For state legislators, race and gender disparities were not as clear (see table 5), and differences in survey design may help explain this. Because state legislators answered a single survey covering one period spanning multiple years, differences in the frequency of abuse within that period were not apparent: A “yes” referring to two or more instances of abuse in that time counted the same as a “yes” referring to just one instance. But local officeholders answered multiple surveys, each covering just three months, creating the possibility of multiple “yes” responses over time.

FIGURE 1

Subjects of Hostile Comments Reported by State Legislators, by Gender

DURING CURRENT TERM AND THE PRECEDING CAMPAIGN

Age*



Appearance



Gender identity*



Party affiliation or political ideology



Perceived danger to the community



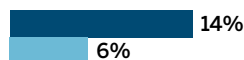
Policy positions



Religion*



Sexual orientation*



● Men ● Women

* Actual or perceived

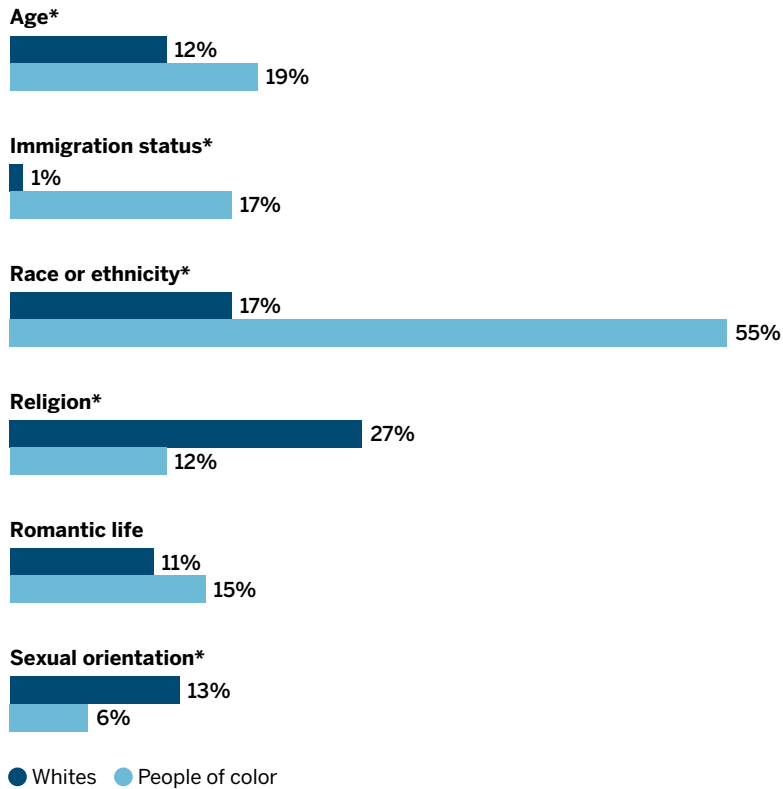
Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder's legislature to achieve more nationally representative measures. Margins of error range from approximately ± 3 percentage points to ± 9 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 354 responses. We did not find meaningful differences by gender for other options provided: actual or perceived socioeconomic status; romantic life; spouse, children, or other family members; actual or perceived race or ethnicity; actual or perceived immigration status; and actual or perceived physical ability.

Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

FIGURE 2

Subjects of Hostile Comments Reported by State Legislators, by Race/Ethnicity

DURING CURRENT TERM AND THE PRECEDING CAMPAIGN



* Actual or perceived

Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder's legislature to achieve more nationally representative measures. Margins of error range from approximately ± 1.5 percentage points to ± 13.5 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 354 responses. We did not find meaningful differences by race/ethnicity for other options provided: appearance; actual or perceived gender identity; actual or perceived socioeconomic status; spouse, children, or other family members; actual or perceived physical ability; party affiliation or political ideology; policy positions; and the perceived danger posed to the community.

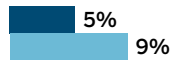
Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

FIGURE 3

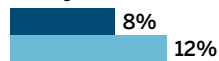
Subjects of Hostile Comments Reported by Local Officeholders, by Gender

OVER PREVIOUS THREE MONTHS

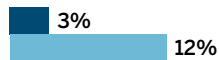
Appearance



Family members



Gender



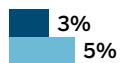
Party affiliation or political ideology



Policy positions



Sexual orientation or romantic life



● Men ● Women

Note: Results were weighted by demographic and political characteristics of the local officeholder's jurisdiction to achieve more nationally representative measures. Margins of error range from approximately ± 1.5 percentage points to ± 4.5 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 1,440 responses from 1,379 unique respondents. We did not find meaningful differences by gender for other options provided: race or ethnicity; religion; age; comments expressing desire to harm you or for harm to come to you; and loyalty to America.

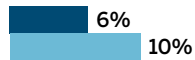
Source: Bridging Divides Initiative/CivicPulse/Brennan Center surveys fielded in May 2023, July 2023, and October 2023.

FIGURE 4

Subjects of Hostile Comments Reported by Local Officeholders, by Race/Ethnicity

OVER PREVIOUS THREE MONTHS

Appearance



Family members



Party affiliation or political ideology



Policy positions



Race or ethnicity



Religion



● Whites ● People of color

Note: Results were weighted by demographic and political characteristics of the local officeholder's jurisdiction to achieve more nationally representative measures. Margins of error range from approximately ± 1 percentage point to ± 8 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 1,440 responses from 1,379 unique respondents. We did not find meaningful differences by race/ethnicity for other options provided: gender; comments expressing desire to harm you or for harm to come to you; loyalty to America; age; and sexual orientation or romantic life.

Source: Bridging Divides Initiative/CivicPulse/Brennan Center surveys fielded in May 2023, July 2023, and October 2023.

TABLE 4

Abuse Reported by Local Officeholders, by Gender and Race/Ethnicity

OVER PREVIOUS THREE MONTHS

	MEN	WOMEN	WHITES	PEOPLE OF COLOR	OVERALL
Insults	43%*	59%*	49%	53%	49%
Harassment	32%*	43%*	35%	40%	36%
Threats	16%*	23%*	18%*	25%*	18%
Attacks	1%	1%	1%	3%	1%

* The difference in proportions between demographic groups is statistically significant at the alpha=0.1 level.

Note: Results were weighted by demographic and political characteristics of the local officeholder's jurisdiction to achieve more nationally representative measures. Margins of error range from approximately ± 1 percentage point to ± 7 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 1,909 responses from 1,744 unique respondents.

Source: Bridging Divides Initiative/CivicPulse/Brennan Center surveys fielded in August 2022, November 2022, May 2023, July 2023, and October 2023.

TABLE 5

Abuse Reported by State Legislators, by Gender and Race/Ethnicity

DURING CURRENT TERM AND THE PRECEDING CAMPAIGN

	MEN	WOMEN	WHITES	PEOPLE OF COLOR	OVERALL
Insults	84%	89%	88%*	77%*	86%
Harassment	41%	43%	43%	42%	43%
Threats	46%*	35%*	44%	42%	43%
Attacks	5%*	1%*	4%	3%	4%

* The difference in proportions between demographic groups is statistically significant at the alpha=0.1 level.

Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder's legislature to achieve more nationally representative measures. Margins of error range from approximately ± 2 percentage points to ± 13 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 354 responses.

Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

People of color at both the state and local levels were at least three times as likely as white officeholders to experience abuse related to their race. One woman of color serving in a state legislature recalled race-related comments from her own colleague: “My first session, it was just a lot about race. There was someone who made a lynching joke and a three-fifths comment.” She added, of abuse more generally, “I think the ones that I remember the most are the ones where I was called the n-word. But I’m sure there’s more than that.”

Women officeholders were at least three times as likely as male officeholders to experience abuse related to their gender. Women state legislators were nearly four times as likely as their male counterparts to experience hostile behavior of a sexual nature.¹⁶ Officeholders in the youngest and oldest cohorts, along with women state legislators, were more likely than other officeholders to experience abuse related to their age.

Among local officeholders, greater shares of women and people of color reported abusive comments about their children and families, compared with men or white officials. While these gender and race disparities were not apparent among state legislators, this may be explained, again, by a survey design that counted one respondent’s single experience of abuse the same as another respondent’s multiple experiences of abuse over the same three-year period. Even without group differences, the response from state legislators was striking: 22 percent reported experiencing abusive comments about their children and families.

One female state legislator recounted a detractor’s abusive message to her: “Essentially he wanted me to go back to the kitchen where I belong, because a woman has no place up at the Capitol writing laws. And I should be at home raising my family and making sure that my husband has dinner on the table every night and making sure that his balls were drained.”

Lena Taylor, a Black woman serving in the Wisconsin State Senate, described experiencing multiple vectors of abuse: “I have been called everything, a c—, a n—, a b—, you name it.”

Survey results indicating that women and people of color tend to face more intense abuse than other officeholders align with previous research. The 2017 study of mayors found that women were more likely than men to experience physical violence and psychological abuse.¹⁷ Among congressional candidates in 2020, women of color were most likely to experience sexist, racist, and violent abuse online, another study found.¹⁸

Interviews revealed identity-based abuse of LGBTQ+ legislators as well, though the number of self-identified LGBTQ+ respondents in surveys was too low to analyze statistically. State Rep. Kelly Cassidy, a lesbian lawmaker serving in Illinois, said, “No matter what we’re talking about, I’m a dyke, right? It’s just: gun control, ‘dyke.’ Cannabis, ‘lezzy freak.’ . . . And the misogyny. . . . ‘No

wonder you’re a lesbian. No man would have you. You’re hideous.’ It’s always something like that.”

One female state legislator discussed her experience with people “identifying my address or talking about my daughter or my mom or, you know, making overt rape or death threats. . . . My husband just showed me a thread on Reddit yesterday about people talking about — men — what they would do to me. And we women just sort of have to compartmentalize it.”

Another female legislator said of her abusers, “They don’t directly say, ‘I’m going to kill her children.’ But they’ll make comments like, ‘We’re going to take over her home. Here’s the address. Here’s a photo of it. She lives here in [town], but her kids don’t go to school [in town] — they go in [neighboring town].’”

Aggravating Factors

Officeholders reported that deregulation of gun carrying and the virality of social media have made abuse more harmful and prevalent.

Guns

Eight percent of state legislators reported having been intimidated by a person wielding a weapon, and 2 percent of local officeholders reported that they or their staff experienced intimidation with weapons. Members of the public are allowed to carry guns into some legislative chambers and office areas.¹⁹

State Rep. Caleb Hemmer of Tennessee recalled one heated legislative session about gun safety that drew high public attendance, where members of the public with concealed carry permits could bring guns to the areas of the Capitol with member offices: “We had a wide variety of visitors at the Capitol, including scared mothers of schoolchildren, armed Proud Boys, and gun rights advocates,” he said. “I thought it was ridiculous and dangerous that guns could be allowed into the building during the protests and heated political debates. I had security staff tell me how many guns they had checked at just one of the entrances one day during the special session. It was estimated around 30.”

Mary González, a state representative from Texas, said, “Sometimes we’re on the legislative floor, and in the galleries above us there are people who are armed. And especially when we’re having those controversial debates, I’m thinking, ‘God, one person. It just takes one person.’ We’re like sitting ducks. I’m still going to do what I’m going to do as far as legislating. But I’m not naive enough to think it could never happen to us.”

A different state legislator recalled attending an event on gun safety outside the Capitol, in a room one over from a story-time gathering for children. Detractors, she said, “came to show force with their guns. It’s a method of intimidation in and of itself.”

Social Media

Many state and local officeholders indicated that the viral nature of social media is an accelerant of abuse. The U.S. Capitol Police has similarly attributed the rise in threats against members of Congress over recent decades to “people on social media hav[ing] a false sense of anonymity and feel[ing] more emboldened.”²⁰

New York Assemblymember Jo Anne Simon recalled how the subject of guns and social media blowback combined to create a heated atmosphere: “We were looking at some gun legislation, and the state NRA affiliate did their online newsletter and took a picture of me and my colleague. We hadn’t even drafted it yet. They put what looked like maybe a Polaroid frame, like a little frame and bullets around our heads. I have never seen my Twitter blow up like that. I had all these harassing tweets fairly quickly.”

New Jersey Assemblywoman Sadaf Jaffer, who previously served as mayor of Montgomery Township, recalled the social media aftermath of a news report highlighting that she was the first Muslim mayor in the United States. “I started reading all the comments that were negative or hostile, and I think the news website shut down comments and deleted them all. And then that article was shared by a conservative blog,” she said. “And when that happened, the online harassment really ramped up, especially on Twitter. ‘I wish death on you and your family’ and ‘All the Muslims need to be eradicated.’ You know, really, that message over and over and over.”

Another legislator, State Rep. Ruwa Romman of Georgia, described her frustration with how social media can fan the flames of extremism. “These people or bots will come into my mentions and harass others, and they’ll get all this traction and commentary,” she said. “And then what we see happen is suddenly their follower account goes up, right? Their interactions go up. They are much more likely to reach people they never would have reached if it wasn’t for my page. I just don’t want my page to be that kind of resource or space for that kind of behavior.”

Lack of Safety Protocols and Resources

Public resources to mitigate the risk and effects of abuse vary widely across the country and often are inadequate, leaving many officeholders to fend for themselves. The dearth of resources especially impairs women and people of color, who tend to have less personal and donor wealth

to rely on than other legislators, as well as less seniority to influence statehouse security policies.²¹

Attica Scott, a Black woman who served in the Kentucky House of Representatives, noted that there was no support for her as she faced threats, “except for my legislative assistant. It wasn’t like there was some kind of employee assistance program for me as a legislator that I could go to.”

Women in office, and especially women of color, report having to take extra time and adopt special tactics to stay safe. Women in state legislatures were nearly twice as likely as men — 39 percent of women versus 22 percent of men — to change their travel routes because of abuse concerns. They were more than six times as likely as men to avoid traveling alone — 38 percent of women versus 6 percent of men. Fifty-five percent of women of color said they avoid traveling alone.

Many officeholders described risk mitigation as an individual challenge complicated by the lack of resources. “Most of the district offices are like strip malls and so it’s direct access to the public,” Florida State Rep. Anna Eskamani explained, drawing a contrast with high-rise offices that provide building security. She acknowledged the positive aspect of street access: “For people who never engage with government, it feels less stuffy.” But to try to keep herself and her staff safe, she installed a security camera and created her own set of protocols: keep the door locked; always check the camera and ask for the purpose of the visit before admitting someone; provide seating outside for visitors and offer them water.

Officeholders described mixed experiences with law enforcement support. North Carolina State Sen. Natalie Murdock said, “I have great relationships with my local law enforcement. Not everyone does. I can call my police chief or my sheriff, and they would be here in two seconds. If I wanted to call Capitol Police, they will come to my home. They make it clear that wherever you feel unsafe, wherever you feel there’s a threat, they can go across the entire state. They make it very clear from day one — if there is an email that feels threatening, if there is a phone call — they teach our staff to report all of that.”

But others reported that law enforcement withheld protection for political reasons. “I don’t feel supported by the police,” said Colorado State Rep. Jennifer Bacon. “You know, you don’t get to pick and choose who you protect. But it’s hard not to feel like it’s a punishment for our policies and for having the nerve to say Black lives matter.”

III. The Civic Impact of Officeholder Abuse

Abuse harms not just individual officeholders but all those who rely on a safe, free, and equally accessible democratic process. Many state and local officeholders report that abuse has dampened their willingness to seek reelection or higher office; to lead on controversial issues such as reproductive freedom, gun regulation, criminal justice reform, and LGBTQ+ rights; and to engage with constituents online and at public events (see figures 5 and 6).

Attrition from Public Service

Among local officeholders, 39 percent said that abuse lessened their desire to run for reelection, with 48 percent of women saying so compared with 34 percent of men. Thirty-seven percent said that abuse lessened their desire to run for another or a higher office, with 46 percent of women saying so compared with 33 percent of men. Twelve percent of state legislators reported less desire to run for higher office, and 50 percent believed a colleague could decline to run for reelection or higher office because they had experienced abuse. As State Sen. Linda Lopez of New Mexico told reporters after a political candidate from an opposing party allegedly arranged for gunshots to be fired at her home and those of other officials, “Is it worth me putting my family at risk because I vote a certain way, I espouse certain ideals?”²²

These findings align with the Brennan Center’s previous research into threats against local election administrators — the thousands of public servants who run elections, approximately 81 percent of whom are women.²³ An April 2023 survey found that 30 percent of election administrators have been harassed, abused, or threatened because of their job. The abuse has led many to leave their positions, and, because of this turnover, more than one in five election administrators will be administering their first presidential election in 2024.²⁴

The likelihood of attrition because of unaddressed abuse is particularly concerning for groups that historically have faced barriers to attaining political office and remain significantly underrepresented at all levels of government.²⁵ Equal opportunity in representation matters not merely for the sake of inclusion, but also because policymaking by more representative legislatures better serves all constituents.²⁶

Though more than half the U.S. population is female and 40 percent is Hispanic or people of color, these groups hold far smaller shares of elected office at every level.²⁷ Only 28 percent of members of Congress and 33 percent of state legislators are women.²⁸ People of color

hold only 25 percent of congressional seats.²⁹ Women of color are especially underrepresented in office, making up nearly a quarter of the population but constituting only 9 percent of members of Congress and 8 percent of state legislators as of 2021.³⁰

Departures from electoral politics due to unaddressed abuse risks exacerbating underrepresentation not just in local and state offices but also at higher levels of government. Nearly half of the current Congress previously served in state legislatures.³¹

“To achieve a truly reflective democracy, we must stop the threats and abuse toward anyone running for office, especially women and people of color,” said Erin Vilardi, founder and CEO of Vote Run Lead, a national training program that helps women win elected office at every level of government.

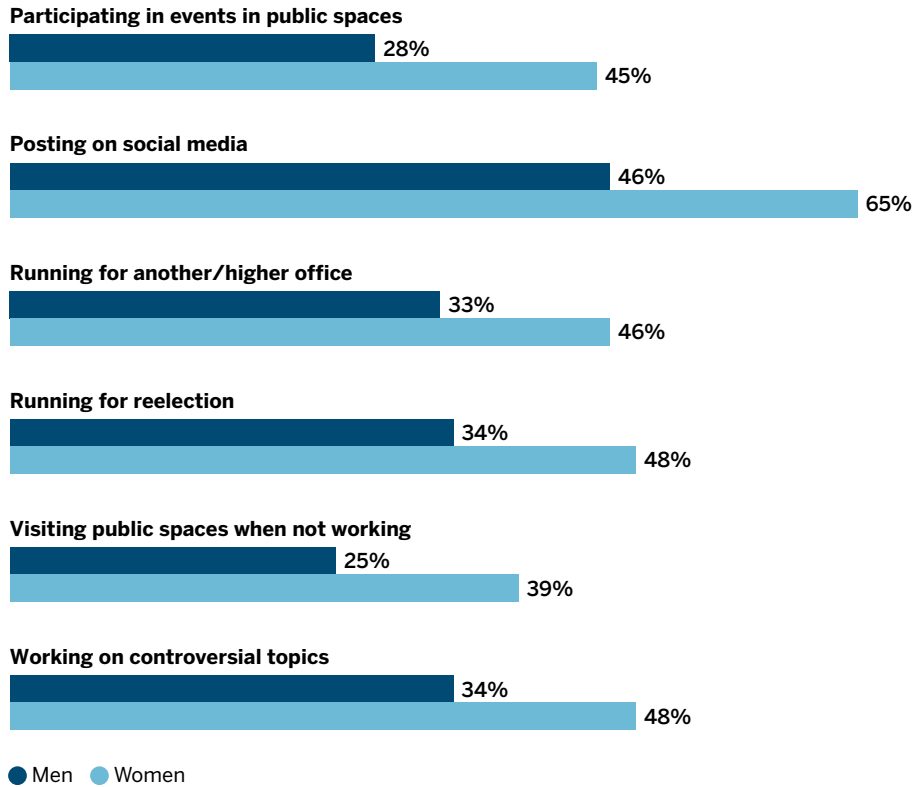
Reluctance to Address Hot-Button Policy Issues

Even after choosing to run, overcoming abuse, and winning, officeholders find their ability to advance certain issues is also constrained by abusive backlash. Forty-four percent of local officeholders and 87 percent of state legislators report having experienced abuse related to policy positions they took. Thirty-nine percent of local officeholders and 21 percent of state legislators report that they are less willing to advocate for contentious policies due to abuse. Fifty-three percent of state legislators believe that abuse has deterred their colleagues from taking on issues made controversial by so-called culture warriors.

The problem likely distorts policymaking in ways that fail broad constituencies and make nuanced, bipartisan lawmaking often impossible. A Republican state legislator with moderate views about abortion said, “I’ve had abolitionists — so, people who believe in the abolition of abortion — make death threats against my family, my children, myself. I’ve had people advocating to legalize marijuana make threats. And so, it’s constant. It comes from every direction.”

FIGURE 5

Activities Local Officeholders Report Being Deterred From Due to Abuse, by Gender

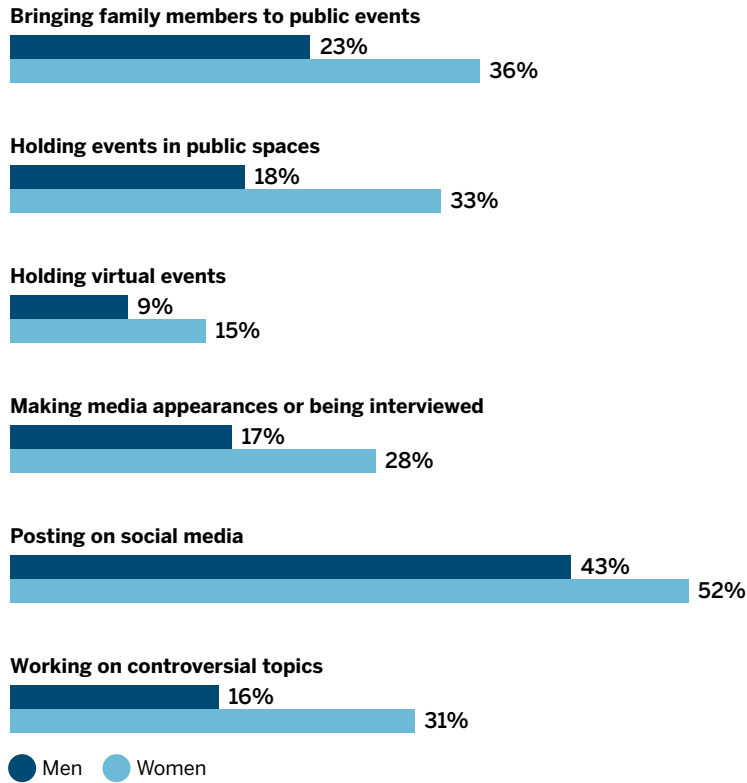


Note: Results were weighted by demographic and political characteristics of the local officeholder's jurisdiction to achieve more nationally representative measures. Margins of error range from approximately ± 3 percentage points to ± 4.5 percentage points depending on the sample proportion and subgroup in question. The sample is composed of 1,440 responses from 1,379 unique respondents.

Source: Bridging Divides Initiative/CivicPulse/Brennan Center surveys fielded in May 2023, July 2023, and October 2023.

FIGURE 6

Activities State Legislators Report Being Deterred From Due to Abuse, by Gender



Note: Results were weighted by census division, chamber, party, gender, year elected, state-level estimates of political ideology, and the level of professionalization of the officeholder's legislature to achieve more nationally representative measures. Margins of error range from approximately ± 5 percentage points to ± 9 percentage points depending on the sample proportion. The sample is composed of 354 responses. We did not find meaningful differences by gender for other options provided: working across party lines and moving policy forward.

Source: Brennan Center/Eagleton Center for Public Interest Polling survey fielded in fall 2023.

Gun regulation came up repeatedly in interviews as an issue that drew abuse and gave lawmakers pause. Representative Cassidy of Illinois explained that she decided not to lead bills about gun regulation because “my kids were too little, the threats were too common and too on point.”

Sometimes extremist lawmakers stoke public criticism of more moderate members of their own party. One lawmaker said, “They can’t step out from the party orthodoxy on issues like abortion, like guns, like LGBTQ rights. And as a consequence, we can’t get anything done on those things where we have divided government.”

The nation saw such intraparty extremism unfold during the fight for speaker of the U.S. House of Representatives in 2023. Republican members reported abuse from Republican voters ranging from “lots of profanity” to “credible death threats and a barrage of threatening calls.”³²

Reduced Interaction with Constituents

Officeholders left to mitigate the risk of abuse on their own often cut back on opportunities for the public to interact with them, virtually or in person. The result is less constituent access and civic engagement.

Forty-six percent of state legislators stated that abuse has reduced their willingness to interact with constituents by posting on social media. Fifty-two percent of local officeholders reported the same. More women than men reported reluctance to engage online for this reason: in state legislatures 52 percent of women versus 43 percent of men, and among local officeholders 65 percent of women versus 46 percent of men.

Some officeholders reported that they cope by restricting their social media communications to periodic press releases and do not engage members of the public in dialogue. Many expressed regret that they needed to avoid an easy mode of conversing with constituents. Some

officeholders and their families also restrict their personal social media activity.

Some officeholders even limit their traditional media engagements: 28 percent of women state legislators avoid media appearances or being interviewed because of abuse, compared with 17 percent of men. Women state legislators are also less likely than their male counterparts to hold events in public spaces or bring their family members to events.³³ Local officeholders also expressed concern about attending in-person public events. Forty-five percent of women local officeholders expressed this concern, while 28 percent of men expressed the same.

“Unchecked threats and harassment will disadvantage candidates who may have to take steps to reduce their public exposure, especially women and people of color because they get such hateful abuse,” said Ghida Dagher, CEO and president of New American Leaders, a national nonpartisan nonprofit organization that helps leaders of immigrant background and their allies run for elected office. “That limits their ability to campaign fully and freely and give voters the chance to really get to know them.”

Officeholders expressed fear for their constituents and supporters as well, both online and at their offices, town halls, legislative hearings, or other venues. One state lawmaker reported experiencing “bullying” on social media, “which is intended in the first case to have a chilling effect on my speech, but also certainly on the speech of other people who disagree with the bullies on a particular issue.”

Washington State Rep. Kristine Reeves described how “several volunteers told me they had guns pulled on them” during canvassing. Representative Romman of Georgia also identified the potential dangers of canvassing, saying that she “didn’t let canvassers canvass alone. Some of my more seasoned ones got really annoyed with this, but to me it was just not worth the risk. We asked people to come back once it got dark, too, which was a pain in the winter, but it is what it is.”

IV. Recommendations

Individual officeholders should not be left to manage abuse on their own. States and local governments, political parties, law enforcement agencies, and social media companies all have a critical role to play in ensuring that the democratic arena is safe and accessible to all. Crucial to developing and implementing protective measures is understanding that the beneficiary of greater safety is not just the elected official, but also everyone who counts on a healthy representative democracy.

>> States and local governments should provide bystander intervention training.

Some officeholders who experienced abuse reported that some fellow officeholders fanned extremism while others expressed support in the face of hateful conduct. States should offer lawmakers and staff training to reduce harmful behavior within statehouses, using the techniques of bystander intervention. Business and community leaders should also employ these techniques.

Bystander intervention is a standard aspect of anti-hate and conflict resolution training. In launching the United Nations' anti-hate speech initiative in 2019, Secretary-General António Guterres urged leaders to counter hate speech "like any other malicious act: by condemning it unconditionally, refusing to amplify it, countering it with the truth, and encouraging the perpetrators to change their behavior."³⁴ The U.S. Department of Justice provides related trainings and resources in community-based conflict resolution involving issues of race, gender, religion, and other differences.³⁵ Conflict resolution experts also recommend speaking up against anti-democratic speech because doing so can reduce fear, resist the normalization of hate in political culture, and provide hope for those targeted.³⁶

Many local officeholders who have experienced abuse reported "lack of support from fellow elected officials," according to a 2023 report by the Bridging Divides Initiative based on interviews of elected and appointed local officials. But, they said, support from fellow officials, particularly across party lines, was helpful. In one case, a local officeholder who received a death threat came to "feel much more safe in the community" after his supervisor, who belongs to another political party, made a public point of investigating the incident.³⁷

Assemblymember Liz Ortega, a Latina legislator serving California, described fellow lawmakers' public support after a detractor disseminated her home address: "It was like a community came around me and current and former elected officials called it out on social media and asked for accountability. That was really helpful and something I was not expecting. It felt good to see that I wasn't alone and that there were other women who actually had experienced similar threats or situations but

didn't allow them to stop what they were doing, to hold them back from public service. If anything, they double down."

Another legislator of color recalled the impact of community backup. "Some supporters of my opponent went all in on the 'She's a terrorist' commentary, and it really backfired. There's a local, predominantly right-leaning group of older white people that we go talk to, and in response, they became really protective of me," she said. "That's the power of community and especially local offices, is that — you tend to have people looking out for you. I think it really does inoculate against some of this stuff, because it immediately says this behavior isn't accepted here."

>> States should monitor threats and harassment.

Publicly accountable authorities should systematically monitor and analyze instances of threats and harassment of officeholders. Such data collection will enable authorities to form a more objective, evidence-based understanding of the threat landscape than ad hoc responses allow and thus to more effectively design mitigation strategies and allocate resources.

Potential models exist. The U.S. Capitol Police (USCP) tracks threats against members of Congress and publicly reports the number it investigates. The data enables the USCP to identify trends and responsively allocate security resources. In 2021, for instance, it opened offices in Florida and California due to increasing threats in those states.³⁸ At least three-quarters of states have an analogous security authority, typically tasked with protecting state employees and statehouse visitors.³⁹ These agencies should track threats and harassment against officials, their staff, and their families.

While monitoring is important to understand and effectively address risks, states must ensure that their tracking systems, data analyses, and law enforcement actions respect and protect civil liberties and do not incorporate bias.⁴⁰ They should use standardized definitions of the behaviors being tracked and analyze the data for actionable trends.⁴¹ They should create and make publicly available a plan for addressing these issues. Monitoring authorities should also have to report publicly on their

tracking methods, aggregate findings, and actions taken in response to threats. Public reporting would not only help to justify government spending on security measures but also ensure accountability for monitoring. To impinge unnecessarily on people’s constitutional rights in the name of protecting their elected representatives would turn the project of strengthening democracy on its head.⁴²

>> States and local governments should provide physical security resources and training.

Many jurisdictions fail to provide basic physical security resources or training. They should offer centralized resources, developed and delivered by experts, to both state and local officeholders.

States and cities could assess office spaces for vulnerabilities and recommend improvements such as video surveillance and key card access to nonpublic areas where staff can isolate in emergencies.⁴³ The Florida Legislature recently appropriated more than \$61 million for windows at its Capitol, including some with bulletproof glass.⁴⁴ In 2021, Texas legislators proposed spending \$40 million on additional security measures, such as panic buttons and video cameras, for their Capitol.⁴⁵

Many officeholders noted that they would welcome guidance on choosing a secure location for district offices, installing security cameras, reporting threats, or strengthening cybersecurity practices to avoid inadvertently exposing sensitive information about themselves and their families or staff, such as the location of a child’s school.

Statehouse authorities should also train officeholders, staff, and volunteers to de-escalate potentially threatening situations at public events and while canvassing. Organizations including the U.S. Cybersecurity and Infrastructure Security Agency offer tips for recognizing when an individual may become violent and how to report threats.⁴⁶

Some legislators raised concerns that security measures such as stationing police at public events and district offices could discourage members of the public from participating in civic life. As Cyndi Munson, Democratic minority leader of the Oklahoma House of Representatives, said, “Not only does it make it a strange place to work, it keeps the public from coming in. People who really should and need to be coming in don’t want to. They’re scared, especially the most vulnerable and the most marginalized. They don’t want to go to a place where there’s, you know, a swath of state troopers.”

Enhanced security measures and trainings should incorporate anti-bias education for officers, sensitivity to police–community dynamics, and strong safeguards against overcriminalizing abuse. Some legislators called for a centralized security agency distinct from local law enforcement because of negative interactions they or their constituents have experienced with police.

>> States and local governments should provide and normalize mental health services.

Mental health support for legislators and staffers who experience abuse would help not only public servants but also their constituents, because stress from abuse can cause even politicians accustomed to the limelight to underperform.⁴⁷

Most states already offer this support as part of health insurance coverage for state legislators. But as of 2021, three states — South Dakota, Vermont, and Wyoming — did not offer health coverage to all legislators, and five states offered health insurance plans that users needed to buy entirely out of pocket.⁴⁸

Former Representative Scott of Kentucky said, “Legislators need something like an employee assistance program. I mean, I didn’t have anyone I could go talk to that was a professional, a mental health professional, about what I was experiencing. And I couldn’t afford it myself.”

Representative González of Texas wanted mental health support for her staff, who work in a statehouse that admits visitors carrying guns. “If I think about my staff this session, with the exception of three, they were all brand new. If they’re struggling with depression or anxiety or stress, it’s a lot and ramps up super quickly,” she said. “I know it’s terrifying for a 19-year old intern to come in and there are guns everywhere.”

Legislators stressed that availability of mental health support must come with messaging that normalizes its use, to diminish the common stigma. “Not everybody is going to go out and seek out their own help,” Leader Munson of Oklahoma said. “But maybe it would help to know that it’s available and it’s just necessary now if you’re in this line of work. Allowing or having our staff be able to have that, I think, is really good, too.”

>> States should permit candidate and party spending on security.

Many state and local officeholders reported experiencing abuse not just after election, but also while still on the campaign trail. Without the ability to spend campaign funds on personal safety, candidates are left to pay from their personal finances or forgo security measures if they cannot afford them.

States should update campaign finance rules, whose purpose is to prevent corruption, to allow candidates to spend campaign funds on verifiable security needs. The Federal Election Commission already allows candidates for federal office to spend campaign funds on personal safety.⁴⁹ After the January 6 insurrection, candidates for Congress increased their campaign spending on security by more than 500 percent.⁵⁰ Minnesota allows such spending, as does California when law enforcement has

corroborated threats.⁵¹ But campaign finance laws in most states are ambiguous on the subject, with some defining prohibited spending on personal expenses broadly enough to potentially include security measures.

Political parties should centralize security funds and training for candidates, to alleviate the cost to individuals. Since party resources are in high demand during campaign season, states should consider allowing parties to fundraise for a dedicated candidate security account, with a separate cap from already permitted fundraising, as long as donations and expenditures are publicly disclosed.⁵²

>> States should provide personal privacy protections.

Several legislators reported that people who had targeted them with abuse knew and even publicized their home addresses or facts about their children. Many states already enable some private citizens and public servants to keep confidential personal information, such as home addresses, that could expose them to risk. States should extend these protections as appropriate to officeholders and make any necessary adjustments to the publication of candidate filing forms that include home addresses. Some already offer protections that could apply to elected lawmakers but should do more to communicate their availability.

Address confidentiality protections exempt certain classes of people from having to publicly disclose their residence when they conduct routine civic business, such as registering cars or registering to vote. Forty-one states, for example, offer survivors of domestic violence some degree of address confidentiality.⁵³

Many states have extended confidentiality protections to other groups for whom the risk of violence is a reasonable concern. Several shield reproductive health-care workers and their families.⁵⁴ California recently extended address confidentiality to public health officials who faced threats during the Covid-19 shutdown.⁵⁵ When disinformation campaigns stoked extremist rage against election workers who ran the 2020 presidential election, at least seven states — Arizona, California, Colorado, Nevada, Oklahoma, Oregon, and Washington — extended address confidentiality to them.⁵⁶

The public's right to know is at its zenith with respect to the people it elects into power. Campaign and ethics rules often require that candidates and officeholders report home addresses and other personal information, to enable accountability for meeting residency and property disclosure requirements.⁵⁷ But with care states can and should craft privacy protections for candidates and officeholders that also preserve the public interest.

Twenty-one states extend address confidentiality to officeholders, but 13 undermine that protection, likely unintentionally, by publishing candidate filings.⁵⁸ And not

all states allow the use of a post office box instead of a physical residence address.⁵⁹ Authorities should review their filings, publicly certify candidates' compliance, and redact personal information from the public record. Delaware requires candidates to show good cause before it permits them to redact their mailing addresses.⁶⁰ California will lift address confidentiality for specific law enforcement needs but requires that investigators keep the information out of public records.⁶¹

>> Legislative bodies, officeholders, and social media companies should prioritize freedom to safely engage in public discourse as they create guidelines to reduce serious harm on social media.

Vigorous debate is a fundamental component of American democracy, but threats, harassment, and other forms of abuse deter officeholders and constituents from participating in civic life online. The Supreme Court is set in 2024 to grapple with at least four cases touching on the relationships among government officials, social media companies, and constituents. Two of these cases consider when and how government can influence social media companies' content policies — the companies' decisions about what posts to remove, label, or limit in reach.⁶² Two others ask when public officials' use of social media constitutes government activity such that the officials' decisions to block commenters or delete posts should be subject to First Amendment restrictions.⁶³ When counsel for legislative bodies, public officials, and social media companies ultimately respond to these rulings, they should adopt clear policies that center one of the core functions of free speech rights: the protection of democracy and dissent against government.

Social media companies will likely reconsider their content policies in light of these cases. When they do, they should consider that harassment — of both public officials and regular users — deters healthy democratic discourse. Likewise, policies that are difficult for users to understand or inconsistently enforced undermine free debate.

Similarly, counsel for public officials may revise their guidance for comments on official social media pages. When doing so, they should consider how to avoid inconsistent enforcement and vague guidelines that would fail to protect the public's ability to disagree with officials — and each other — in these forums. Instead, narrowly tailored rules that apply equally to those who agree and those who disagree with officials will promote the kind of spirited debate that most legislators interviewed for this study said they welcome. Striking the right balance, and doing so transparently, is a challenge. The Supreme Court's upcoming decisions will likely set the parameters for such policies.⁶⁴

The chief of staff for one state senator explained how helpful the advice of counsel was for protecting constituents' ability to engage online and be safe from abuse: "We were told that as a public figure, you were not allowed to block anybody, to delete anything. But as we got so many people from outside of the district, you know, just hounding people and basically taking advantage of that public space to just harass other people, that's where we worked with our legal staff to come up with a policy that basically says, you know, if it's not germane to the post, you can't have this conversation here and we reserve the right to delete it."

>> States should regulate firearms in spaces where officeholders and candidates engage with the public.

Many legislators discussed the need for gun regulation to reduce risks to themselves, their staff, and their constituents. Their perception that proliferation of gun carrying presents a growing risk tracks with data showing that 1 in every 20 Americans now owns an AR-15-style semi-automatic rifle.⁶⁵ States should enact or improve gun regulation to reduce this risk. The Supreme Court's 2022 decision in *New York Rifle and Pistol Association v. Bruen* severely constrains gun regulation, but it nevertheless leaves room for commonsense limits to protect civic engagement.

As Washington State Sen. Patty Kuderer, who introduced a bill prohibiting open carry in the Capitol, told reporters, "The purpose of openly carrying a weapon is to chill other people's voices. And it works."⁶⁶

Representative Reeves of Washington State described the terror of working in the Capitol without restrictions on guns before the legislature changed its policy following the January 6 insurrection. "The way that our floor is structured — you have the House floor, and then the next floor up is the galleries, and the galleries are public. And so people would come down for gun rally days and they would come with their assault rifles, their semiautomatic weapons, and they would literally line up in their Kevlar vests and all of that in the galleries or in the rotunda. Row upon row upon row. And I don't think I've ever felt more scared in my life as a mom of two young kids to be standing on the House floor knowing that all they had to do was shoot. It was like a fishbowl. All they had to do was shoot into the fishbowl."

As Minnesota State Sen. Erin Maye Quade said, "I would love to ban guns from at least the chamber itself or the gallery of the chamber." She acknowledged the constitutional constraints after *Bruen* but said, "I think that there is a narrowly tailored policy that would prevent people from carrying guns above the people who are voting on legislation."

In fact, even as it struck down a swath of gun regulations in *Bruen*, the Supreme Court described legislative assemblies as a historical "sensitive place" in which gun regulation is permissible without further justification. Other examples the Court named include schools, polling places, government buildings, and "new and analogous sensitive places."⁶⁷

But some states have moved in the wrong direction, even overriding municipal ordinances that would limit guns in sensitive places. Some recently began permitting people to carry guns in locations often used for voting and other forms of civic engagement, including houses of worship, government buildings, college campuses, and even elementary schools.⁶⁸ In Montana, a 2021 law undid a long-standing prohibition on concealed firearms in the statehouse.⁶⁹

States should resist these rollbacks. Instead, they should prohibit people from unnecessarily carrying guns in locations where constituents and their representatives conduct the core business of democracy, including statehouses and, with notice from the organizers, pre-announced public officeholder events such as town halls or campaign rallies.

In public places where citizens and their representatives engage in the democratic process, heightened tensions increase the risk of violence. States can and should provide security to obviate the need some citizens may feel to arm themselves in self-defense.

As the Georgia Supreme Court recognized in 1874, "The right to go into a court-house and peacefully and safely seek its privileges, is just as sacred as the right to carry arms . . . [If] a visitor . . . is compelled to mingle in a crowd of men loaded down with pistols and Bowie-knives, or bristling with guns and bayonets, his right of free access to the courts is just as much restricted as is the right to bear arms infringed by prohibiting the practice."⁷⁰ Similarly, states should protect the right of citizens and their representatives to engage in the democratic process free from armed intimidation.

Conclusion

On the third anniversary of the January 6 insurrection, abuse of officeholders shows no signs of diminishing. To the contrary, during the battle for speakership of the U.S. House of Representatives in October 2023, Republican lawmakers received death threats from their own constituents. In early 2023, a political challenger allegedly paid for drive-by shootings targeting the homes of two New Mexico state legislators and two county commissioners. Flint, Michigan, saw councilmembers and residents show up heavily armed to an October 2023 county committee meeting to protest newly installed metal detectors.⁷¹

Conventional wisdom may call such intimidating conditions the price of holding elected office. But its fallout harms everyone who relies on a free, fair, and functional democratic process. By deterring officeholders from seeking reelection or running for higher office, taking on important policy positions, or interacting with their constituents, unchecked extremist intimidation

distorts government's ability to represent the people it serves.

State and local governments must act. Measures to transparently and systematically monitor the problem, provide security, and enact commonsense gun restrictions will help to ensure a safe, accessible, and representative democracy for all.

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The Brennan Center for Justice at NYU School of Law is a nonpartisan law and policy institute that works to reform and revitalize — and when necessary defend — our country’s systems of democracy and justice. The Brennan Center is dedicated to protecting the rule of law and the values of constitutional democracy. We focus on voting rights, campaign finance reform, ending mass incarceration, and preserving our liberties while also maintaining our national security. Part think tank, part advocacy group, part cutting-edge communications hub, we start with rigorous research. We craft innovative policies. And we fight for them — in Congress and the states, in the courts, and in the court of public opinion.

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