



Litigating Against Extremism

ADL Litigation Against Hate and Extremism



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



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



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

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

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

Frequently Asked Questions

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

How can civil lawsuits help to combat extremism?

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

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

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

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

What types of civil claims may be available?

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

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

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

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

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

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

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

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

What remedies may be available through civil litigation?

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

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

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

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

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

How can ADL Help?

ADL has close relationships with partner civil rights organizations, including States United Democracy Center, that engage in litigation, as well as with pro bono counsel at major law firms across the country. This means that ADL may be able to provide legal support, policy guidance, or resources without cost to state and local governments that wish to file lawsuits against perpetrators of extremist violence. In certain circumstances, ADL and its pro bono partners may also be able to represent individuals or private organizations in civil lawsuits against extremists.

If you would like more information about how ADL can provide legal support or to schedule a briefing about the threats of domestic violent extremism or online hate please contact Leila Feuer, Assistant Director, Democracy Initiatives, at lfeuer@adl.org.

