



Team,

The right to vote is one of the most fundamental and important principles of our democracy. Like many across the country, I am concerned about the potential for violence in the days leading up to and following this year's election. I do not expect Baltimore City to be a flashpoint, but as prosecutors we must be ready to ensure the law is followed and applied in all circumstances.

- In Maryland, Board of Elections vice chair Patrick Hogan recently issued a [warning](#) on voter intimidation, reiterating that individuals "may not influence or attempt to influence a voter's decision whether to go to the polls to cast a vote through the use of fraud, force, threat, menace, intimidation, bribery reward or offered reward."
- Police in Frederick, Maryland, are currently investigating a threatening [letter](#) sent to voters. Among other things, the letter states that "If you are a Biden-Harris supporter, you will be targeted. We have a list of homes by your election signs. We will not comply or give anything up, especially our guns."
- Montgomery County election officials are [working](#) with the local police on plans to increase law enforcement presence at polls and prevent voter intimidation.
- It was [reported](#) this month that the Department of Justice and FBI are "planning for the possibility of election day violence, voting disruptions."
- The Department of Homeland Security recently [asserted](#) in a threat assessment that white supremacists represent the "most persistent and lethal threat in the homeland through 2021." The report warned that "open-air, publicly accessible parts of physical election infrastructure," including polling places and voter registration events, could be "flash points for potential violence."
- A recent [report](#) expressed concern that our state lacks laws expressly prohibiting guns at polling sites.

We must also be prepared. While the integrity of elections and voter fraud are under the jurisdiction of Maryland's Attorney General, State Prosecutor, and the State Board of Elections, and can be the purview of the Department of Justice, any violence associated with the election that results in arrests by the Baltimore Police Department will ultimately result in cases prosecuted by our office. I am asking you to be vigilant for these types of cases and ensure that such cases receive a forceful response from our office.

Accordingly, I am asking deputies, division chiefs and line ASAs to pay special attention to alleged crimes **that occur in the context of the election, appear to be politically motivated, occur in or around a polling location, or are aimed at voters or election officials.**



In particular, please pay attention to the following offenses:

- Assault 1
- Assault 2
- Reckless Endangerment
- Any firearm offense

Please also note that Maryland law explicitly provides that “a body of persons may not associate as a military company or organization or parade in public as a military company or organization without the permission of the Governor” (Md. Code Ann., Public Safety § 13-214).

Maryland law also makes it a misdemeanor for a person “[w]ithout authority under the laws of the United States or this State,” to “wear a uniform or distinctive part of a uniform *or an item similar to a uniform or a distinctive part of a uniform* of:

- (1) the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; or
- (2) the National Guard of this State, another state, or the United States;
- (3) the Maryland Defense Force; or
- (4) an auxiliary of any of the military units listed in this subsection.

(Md. Code. Ann. Public Safety § 13-901(b)) (emphasis added).

Evidence that a group of people is associating as a private militia includes wearing military-style uniforms, tactical gear, or identifying insignia; wielding firearms or other weapons; coordinating their activities as a unit; and purporting to engage in law enforcement activities such as patrolling a line of voters or protecting against voter fraud. Other factors—such as statements by leaders or members’ efforts to direct the actions of others—also may suggest that a group is acting as a private militia. Even if individuals do not consider themselves to be “members” of a paramilitary organization, their conduct might still establish that they are associating as a private militia.

Please note that the U.S. Supreme Court rejected a Second Amendment challenge to a conviction under a nearly identical law to Md. Code Ann., Public Safety § 13-214, *Presser v. Illinois*, 116 U.S. 252, 264-65 (1886), and the Court reaffirmed in *District of Columbia v. Heller* that such laws are constitutional, 554 U.S. 570, 621 (2008).

In addition to the above offenses, you should be aware of Maryland’s prohibitions on voter intimidation involving threats, violence, or breaches of the peace. Specifically, Maryland law makes it a misdemeanor to: “influence or attempt to influence a voter’s voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward”; “influence or attempt to influence a voter’s decision whether to go to the polls to cast a vote through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward”; or “engage in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.” (Md. Code Ann. Elec. Law § 16-201(a)(5), (6) & (7)). Maryland law also makes it a misdemeanor to “hinder or impede the conduct of official electoral activities” by a “breach of the peace,” “disorder,” or “violence or



threat of violence." Md. Code Ann., Elec. Law § 16-204. We would likely refer these types of offenses to the Attorney General or State Prosecutor, so please consult with the front office when making a decision.

For bail purposes, any recommendation should be consistent with our traditional bail recommendations, which emphasize public safety threats, and therefore and we may wish to request that certain individuals meeting this criterion be held until the results of the election have been finalized.

Keep up the great work.

A handwritten signature in black ink, reading "Marilyn J. Mosby". The signature is written in a cursive style with a large, stylized "M" and "J".

Marilyn J. Mosby