

## **Fact Sheet: Unlawful Militias in Nevada**

### **What is a militia?**

Federal and state laws generally use the term “militia” to refer to all able-bodied residents between certain ages who may be called forth by the government to defend the United States or an individual state. *See* 10 U.S.C. § 246. When not called forth, they are sometimes referred to as the “unorganized militia.” A group of people who consider themselves part of the able-bodied residents referred to as members of the militia under state or federal law is not legally permitted to activate itself for duty. A private militia that attempts to activate itself for duty, outside of the authority of the state or federal government, is illegal.

### **How do I know if a group of armed people is an unauthorized private militia?**

Groups of armed individuals that engage in paramilitary activity or law enforcement functions without being called forth by a governor or the federal government and without reporting to any government authority are acting as unauthorized private militias. They sometimes train together and respond to events using firearms and other paramilitary techniques, such as staking out tactical positions and operating in military-style formations. They often purport to have authority to engage in military and law enforcement functions such as protecting property and engaging in crowd control.

These groups often engage in behaviors that show their intent to act as a private militia, such as wearing military-style uniforms, tactical gear, or identifying insignia; wielding firearms or other weapons; and operating within a coordinated command structure. 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. Groups of armed individuals may engage in unauthorized militia activity even if they do not consider themselves to be “members” of a paramilitary organization.

### **Does the Second Amendment protect private militias?**

No. In fact, the Supreme Court decided in 1886—and repeated in 2008—that the Second Amendment “does not prevent the prohibition of private paramilitary organizations.” *District of Columbia v. Heller*, 554 U.S. 570, 621 (2008) (citing *Presser v. Illinois*, 116 U.S. 252 (1886)).

### **Is it legal to act as a private militia in Nevada?**

No. All 50 states prohibit private, unauthorized militias and military units from engaging in activities reserved for the state militia, including law enforcement activities. Nevada’s laws are described below:

***Nevada Constitution:*** The Nevada Constitution forbids private military units from operating outside state authority, providing that “the military shall be subordinate to the civil power.” Nev. Const. art. I, § 11.

#### ***Nevada Statutes***

***Prohibitions on private military units:*** Nevada law makes it illegal for groups of people to organize as private militias without permission from the state. Nev. Rev. Stat. § 203.080 provides that it is a misdemeanor for “any body of individuals other than municipal police, university or public school cadets or companies, militia of the State or troops of the United States, to associate themselves together as a military company with arms without the consent of the Governor.”

It is also a misdemeanor for any group, “other than the Nevada National Guard and the troops of the United States, to associate themselves together as a volunteer military company or volunteer military organization to drill or parade with arms in any city or town” in Nevada, “without the license of the Governor.” Nev. Rev. Stat. § 412.604.

*Prohibition on falsely assuming functions of law enforcement:* In Nevada, it is a crime for any person to “willfully exercise any of the functions or perform any of the duties” of a “public officer” “without having duly qualified therefor, as required by law.” Nev. Rev. Stat. § 197.120.

## What should I do if I see armed groups near a polling place or voter registration drive?

### First, document what you see:

- What are the armed people doing?
- What are the armed people wearing?
- Are they carrying firearms? If so, what type? If not, are they carrying other types of weapons?
- Are they wearing insignia? If so, what does it say or look like?
- Are they bearing signs or flags?
- Do they seem to be patrolling like a law enforcement officer might do?
- Do they seem to be coordinating their actions?
- Do they have a leader?
- Are they stopping or talking to people outside of their group?
- Do they appear to be provoking or threatening violence? If so, what are they doing specifically?
- Are people turning away from the polling station after seeing or speaking with them?

### Second, call Election Protection at 866-OUR-VOTE (866-687-8683) to report what you see.

Assistance is also available in **Spanish** at 888-VE-Y-VOTA (888- 839-8682), in **Arabic** at 844-YALLA-US (844-915-5187), and **Asian languages** at 888-API-VOTE (1-888-174-8683). A video call number for **American Sign Language** is available at 301-818-VOTE (301-818-8683).

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