

## **Protecting Pride Events from Armed Extremist Activity**

Over the past year, armed extremist groups—including the [Proud Boys](#), who led the [breach](#) of the U.S. Capitol on January 6, 2021—have [increasingly targeted](#) LGBTQ+ community events. Across the country, drag events and [other LGBTQ+ community spaces](#) have been [vandalized](#), [disrupted](#), and violently [attacked](#). In some cases, this has resulted in violent clashes between protesters and counter-protesters. Given that these incidents have taken place amid a larger rise in [homophobia](#) and [transphobia](#), often driven by dangerous [conspiracy theories](#), it is possible that extremists—armed with firearms or other weapons, and sometimes acting as private militias—will attempt to target and interfere with upcoming Pride Month events, endangering LGBTQ+ individuals and their allies.

This guidance document draws on ICAP’s [expertise](#) in combatting armed activity by unauthorized private paramilitary groups in order to inform Pride organizers, LGBTQ+ community members, and their allies inside and outside government about what they can do to keep Pride Month safe.

### **Are Pride events legal?**

**Generally, yes.** Parades and other public assemblies are constitutionally protected as a form of free speech and association.<sup>1</sup> This means that although states and cities may regulate the time, place, and manner in which a parade or other public event takes place (for instance, by requiring permits for a parade route or for use of a park, or by limiting the times during which such events may occur), **they may not discriminate based on content or viewpoint.**<sup>2</sup> Governments may not use regulation as a pretext to prevent a constitutionally protected public gathering.<sup>3</sup>

Under these core First Amendment principles, members of the LGBTQ+ community and their allies are free to assemble and celebrate during Pride Month. In fact, courts have ruled that local governments can take appropriate action to protect Pride events, including by imposing regulations that minimize the risk of violence between event attendees and protesters,<sup>4</sup> so long as these regulations are content- and viewpoint-neutral, narrowly tailored to address the government’s interest in public safety, and leave open “ample alternative channels” for expression.<sup>5</sup>

ICAP’s online guide on constitutional rights during protests is available [here](#) for further reference.

### **But what about new laws that are targeting drag performances?**

As of May 2023, legislators in [at least fourteen states](#) have introduced legislation to criminalize activities related to drag shows: [Arizona](#), [Florida](#), [Idaho](#), [Kansas](#), [Minnesota](#), [Missouri](#), [Montana](#), [Nebraska](#), [North Dakota](#), [Oklahoma](#), [South Carolina](#), [South Dakota](#), [Texas](#), and [West Virginia](#).

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<sup>1</sup> *Cox v. Louisiana*, 379 U.S. 536, 544-45 (1965).

<sup>2</sup> *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134 (1992); see also Inst. for Const. Advoc. & Protec., *Protests & Public Safety: A Guide for Cities & Citizens* [hereinafter *Protests & Public Safety*], <https://constitutionalprotestguide.org>.

<sup>3</sup> *Shuttlesworth v. Birmingham*, 394 U.S. 147 (1969).

<sup>4</sup> *Marcavage v. City of Philadelphia*, 481 F. App’x 742, 747 (3d. Cir. 2012).

<sup>5</sup> *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984)); see also *Protests & Public Safety*.

Legislators in many of these states have introduced multiple bills on this topic, and more may follow. Language that criminalizes performances that occur in front of minors is [strikingly similar](#) across proposed and passed legislation, as well as language that targets performances where a performer exhibits a gender identity “different” from the performer’s gender as “assigned at birth.”<sup>6</sup>

At this point, anti-drag bills have become law in only two states: [Tennessee](#) and [Arkansas](#), although Tennessee’s statute has been temporarily blocked by a federal judge who found that the bill was likely to unconstitutionally constrain free expression.<sup>7</sup> Litigation in Tennessee is continuing and legal challenges are expected to be mounted in other states if more of these bills become law. Regardless of whether any of these laws withstand legal challenge, it is important to remember that private paramilitary groups do not have the power to enforce these criminal laws.<sup>8</sup>

**Private paramilitary groups have no authority to detain, attack, or attempt to police drag performers or gender-nonconforming persons at Pride events.**

## **How might armed extremists attempt to interfere with Pride?**

Over the past year, there have been documented instances of armed extremists seeking to disrupt LGBTQ+ community events, often by seeking to [block entry](#) with [armed demonstrations](#) or by [initiating conflict](#) with community members. At times, LGBTQ+ events have become the focus of rallying cries for armed extremists. In March 2023, hundreds of armed extremists, including neo-Nazis and other white supremacists, [descended](#) on a drag show in Wadsworth, Ohio. In June 2022, members of the white supremacist group Patriot Front were [intercepted](#) as they tried to approach a Pride event in Coeur d’Alene, Idaho.

Recent efforts have targeted drag events that are open to all ages, given the [focus](#) by [violent extremists](#) and private [paramilitary](#) organizations on the false narrative that LGBTQ+ communities are sexually “[grooming](#)” minors. Due to the public nature of many Pride events, armed extremists may attempt to interfere with gatherings on the pretext that they are open to minors.

## **What types of activities by armed extremists are considered unlawful?**

State and federal laws<sup>9</sup> prohibit violence against Pride participants. But state laws *also* prohibit private paramilitary activity, even where it does not involve physical violence against a targeted person or persons. [All 50 states](#) prohibit private, unauthorized militias from engaging in activities reserved for the official state militia (for example, the National Guard), including law enforcement activities. Nearly every state constitution prohibits groups functioning as military units from operating outside the

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<sup>6</sup> S.B. 201, 2023 Leg., Reg. Sess. (Kan. 2023); H.F. 1903, 93rd Leg., Reg. Sess. (Minn. 2023); L.B. 371, 108th Leg., 1st Sess. (Neb. 2023); H.B. 2736, 59th Leg., 1st Sess. (Okla. 2023); H.B. 4129, 88th Leg., Reg. Sess. (Tex. 2023).

<sup>7</sup> *Friends of George’s, Inc. v. Tennessee*, Nos. 23-cv-02163, 23-cv-02176, 2023 WL 2755238, at \*7 (W.D. Tenn. Mar. 31, 2023).

<sup>8</sup> Private militias and paramilitary organizations are not protected by the Constitution and their paramilitary conduct is prohibited in every state. See Inst. for Const. Advoc. & Protec., *Prohibiting Private Armies at Public Rallies: A Catalog of Relevant State Constitutional and Statutory Provisions* 1-8, (Sept. 2020) [hereinafter *Prohibiting Private Armies*], <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2018/04/Prohibiting-Private-Armies-at-Public-Rallies.pdf>.

<sup>9</sup> Violent offenses motivated by a victim’s sexual orientation or gender identity can be prosecuted as a federal hate crime. See Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. 249. In addition, state laws generally prohibit assaults and other violent conduct, and many also prohibit hate crimes.

authority of the state government. Dozens of state statutes prohibit groups of people from organizing as private military units without governmental authorization; dozens of state statutes criminalize paramilitary activity; and many states prohibit the false assumption of law enforcement duties and/or the wearing of uniforms confusingly similar to military uniforms.<sup>10</sup> State-specific fact sheets from ICAP are available [here](#) for further reference.

This means that armed groups that self-deploy to Pride events and stake out tactical positions, operate in military-style formations, or purport to engage in law enforcement functions like policing, patrolling crowds, or protecting property, are likely in violation of state law. Armed extremists who attempt to intimidate others or perform law enforcement functions may also be violating state laws.

## What can Pride organizers do to protect community members?

If Pride event organizers receive threats or know that a vigilante militia group plans to patrol or otherwise synchronize protest movements, they should consider the following options:

- **Understand local gun restrictions and anti-paramilitary laws:** Become familiar with the laws related to [firearms possession](#) and [paramilitary activity](#) in the jurisdiction in order to understand the types of armed conduct that may be unlawful.
- **Communicate with law enforcement:** Share information about threats and vigilante militia plans with local police departments, alongside ICAP's [video guidance](#) and [written materials](#) to provide them an opportunity to prepare for potential disruption, prevent illegal coordinated activities, and establish safety plans. Be specific about potential unlawful activity.
- **Communicate with threat researchers:** Get in touch with ICAP and similar organizations, such as your local ACLU chapter, to become better aware of extremist threats to events.
- **Create an action plan:** Identify local, state, and federal actors beyond law enforcement who can be reliable partners. This could include city council members, state representatives, legal aid organizations, state attorney general offices, national civil rights organizations, and Members of Congress. Use those resources, alongside information from law enforcement and threat researchers, to plan for paramilitary activity or violence.
- **Consider hiring private security:** Private security forces should always be licensed professionals who are compliant with state and local law, with credible websites, experience, and credentials. Stay in communication with law enforcement and ensure that you are compliant with local and state regulations if you opt for this measure. You **should not** hire or agree to use unauthorized armed paramilitary groups as security.

## How can Pride organizers ensure that they comply with prohibitions on private militia activity? Why is it important to do so?

Because anti-paramilitary laws are viewpoint-neutral, private armed militia who are acting in support of the LGBTQ+ community are also unauthorized. Their actions could violate the same state laws described in this guidance, and they could be subject to similar penalties. If, after liaising with law enforcement, Pride organizers still have concerns about their security, it is best to research state private security regulations and approach a licensed company for security support while maintaining open communication with the police. Armed counter-protesters who are not properly licensed as security could escalate the potential for violence at an event, which will put attendees at risk.

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<sup>10</sup> See *Prohibiting Private Armies*, *supra* note 8, at 4-8.

## **QUICK GUIDE: What should I do if I see armed groups at a Pride Event or other LGBTQ+ community event?**

**First, contact law enforcement if you feel unsafe or believe there is immediate danger. If you are comfortable, try to document the following specific factors:**

- What are the armed people doing?
- What are the armed people wearing?
- Are they carrying firearms? If so, what type?
- If there are no firearms, what other weapons do they have?
- Do they appear to have any shared insignia? If so, what do they say or look like? **Look for armband, hats, etc.**
- Are they bearing signs or flags?
- Do they seem to be patrolling like a law enforcement officer?
- Do they seem to be coordinating their actions?
- Do they have leaders?
- Are they stopping or talking to people outside of their group?
- Do they appear to be provoking or threatening violence? **Document specific actions.**
- Are attendees being affected by the armed group? Are they leaving the event?

**Being able to describe these things will help law enforcement determine an appropriate response, if one is needed.**

**Finally, please consider reporting the incident to ICAP's team at [reachICAP@georgetown.edu](mailto:reachICAP@georgetown.edu). We will be ready to help.**

*This guidance was prepared by the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center. ICAP's mission is to use strategic legal advocacy to defend constitutional rights and values while working to restore confidence in the integrity of governmental institutions. Connect with ICAP at [www.law.georgetown.edu/icap/](http://www.law.georgetown.edu/icap/), [reachICAP@georgetown.edu](mailto:reachICAP@georgetown.edu), or [@GeorgetownICAP](https://twitter.com/GeorgetownICAP).*