

## United States Department of Justice

*United States Attorney's Office for the Western  
District of Wisconsin*

*United States Attorney's Office for the Eastern  
District of Wisconsin*



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To: Wisconsin Law Enforcement Partners, Election Officers, and Election Administrators

Nationwide, there has been a sharp uptick in threats against law enforcement, judges, election officials, and other public servants. If your community is confronted with a situation that escalates from spirited debate and legitimate exercise of free speech into possible threats of violence, harassment, or intimidation, this guide to federal and state crimes involving threats may be of assistance.

No one should be targeted because of who they are or what they believe. When hateful words become hateful acts, the Wisconsin U.S. Attorney's Offices will use every tool at hand to protect the public and secure justice.

### I. Offenses under Federal Law

Offense	Description
<b>Threats by Interstate Communications</b> 18 U.S.C. § 875(c)	This statute makes it unlawful to transmit in interstate commerce any communication containing a threat to injure another person. The sender must have intended or known that the communication would be viewed as a threat. Threats sent over social media or via email could fall under this statute.
<b>Threats by Mail</b> 18 U.S.C. § 876(c)	This statute makes it unlawful to use the U.S. mail to transmit a threat to injure another person. The sender must have intended or known that the communication would be viewed as a threat.
<b>Interstate Stalking</b> 18 U.S.C. § 2261A(1)	This statute makes it unlawful to travel in interstate commerce with intent to kill, injure, or harass another person. The course or result of such travel must have caused substantial emotional distress or placed a person in reasonable fear that the person, an immediate family member, spouse, or intimate partner would be killed or suffer serious bodily injury.
<b>Cyberstalking</b> 18 U.S.C. § 2261A(2)	This statute makes it unlawful to use the mail, an interactive computer service, or other facility of interstate or foreign commerce to engage in a course of conduct that: (1) places a person in reasonable fear of death or serious bodily injury to that person, an immediate family member, a spouse / intimate partner, or that person's animal; or (2) causes, attempts to cause,

	or would be reasonably expected to cause substantial emotional distress to that person, an immediate family member, or a spouse or intimate partner. The statute requires a showing that the offender acted with the intent to kill, injure, harass, or intimidate.
<b>Interfering with Voting Rights</b> 18 U.S.C. §§ 594 and 245(b)(1); and 52 U.S.C. §20511(1)	Several federal statutes make it unlawful to intimidate, threaten, coerce, or use force against a person to interfere with that person’s right to vote, register to vote, or act as an election worker or poll watcher.

## II. Offenses under Wisconsin Law

Offense	Description
<b>“True Threat” in Wisconsin</b>	<p>‘True threat’ means that a reasonable person making the threat would foresee that a reasonable person would interpret the threat as a serious expression of intent to do harm. It is not necessary that the person making the threat have the ability to carry out the threat. You must consider all the circumstances in determining whether a threat is a true threat.</p> <p>WI JI-Criminal 1238, 1240B, 1240D, 1241B, 1242, 1244, as examples, citing to State v. Perkins, supra, 2001 WI 46, ¶ 28-29</p>
<b>Disorderly Conduct</b> § 947.01	This statute makes it unlawful to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.
<b>Unlawful Telephone Use</b> § 947.012	<p>This statute makes it unlawful to use a telephone:</p> <ul style="list-style-type: none"> <li>• With intent to frighten, intimidate, threaten, abuse, or harass, calls and threatens to inflict injury or harm on a person or property</li> <li>• Uses obscene, lewd, or profane language with intent to frighten, intimidate, threaten or abuse or suggest any lewd or lascivious act <b>or</b></li> <li>• Calls another or causes another’s telephone to repeatedly ring with intent to harass anyone at the called number</li> </ul>
<b>Unlawful Computer/Computerized Communication System</b>	This statute makes it unlawful to use a computer or computerized communication system:

<p><b>Use</b> § 947.012</p>	<ul style="list-style-type: none"> <li>• With intent to frighten, intimidate, threaten, abuse, or harass, emails or sends any other electronic communication and threatens to inflict injury or harm on a person or property <b>or</b></li> <li>• Uses obscene, lewd, or profane language in an email or other electronic communication with intent to frighten, intimidate, threaten or abuse or suggest any lewd or lascivious act</li> </ul>
<p><b>Harassment</b> § 947.013</p>	<p>This statute makes it unlawful to do the following with intent to harass or intimidate:</p> <ul style="list-style-type: none"> <li>• Strike, shove, kick, or otherwise subject another person to physical contact or attempt or threaten to do so <b>or</b></li> <li>• Engage in a course of conduct or repeatedly commit acts which harass or intimidate another person and which serve no legitimate purpose.</li> </ul> <p>The penalties for harassment increase if the act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm <b>or</b> if the actor is violating a court order or injunction limiting contact with the victim.</p>
<p><b>Terroristic Threats</b> § 947.019</p>	<p>This statute makes it a felony to threaten to cause the death of or bodily harm to any person or to damage any person's property under any of the following circumstances:</p> <ul style="list-style-type: none"> <li>• The actor intends to prevent the occupation of or cause the evacuation of a building, dwelling, school premises, vehicle, facility of public transportation, or place of public assembly or any room within a building, dwelling, or school premises;</li> <li>• The actor intends to cause public inconvenience;</li> <li>• The actor intends to cause public panic or fear;</li> <li>• <b>The actor intends an interruption or impairment of governmental services; or</b></li> <li>• The actor creates an unreasonable and substantial risk of causing a result described above and is aware of that risk.</li> </ul>
<p><b>Threats to Injure</b> §943.32(4)</p>	<p>The statute makes it a felony for a person either verbally or in any written or printed communication to maliciously threaten to commit or commit any injury to the person, property, calling or profession of the person where, if the person is a public official in an attempt to influence the official action of any public official. All the people the subject of this notice are public officials as defined in Wis.</p>

	Stat. §939.22(30).
<b>Bomb Scare</b> §947.015	“Bomb Scares,” makes it a crime to convey a threat to destroy property with an explosive.
<b>Stalking</b> §940.32	<p>Stalking, §940.32(2), has three elements:</p> <p>(a) The actor intentionally engages in a course of conduct, defined below, directed at a specific person*, that would cause a reasonable person under the same circumstance as that specific person, to fear bodily injury or death to themselves or a member of their family or household, or to suffer serious emotional distress, that is, (940.32(1)(d)) feel terrified, intimidated, threatened, harassed or tormented, and</p> <p>(b) The actor knows or should know that at least one of the acts that constitute the course of conduct, which requires two or more acts, will cause the specific person to suffer serious emotional distress or fear bodily injury or death to themselves or a member of their family or household, and *in other words, a business, an organization, agency, or office cannot be stalked</p> <p>(c) The actor’s act, NOT the course of conduct necessarily but the actor’s act, (or acts) causes the specific person to suffer serious emotional distress or to fear bodily injury or death to themselves or a member of their family or household.</p> <p>The Stalking statute is a threats statute even though, “. . . §940.32, Stats., does not require that the defendant threaten the victim,” State v. Sveum, 220 Wis. 2d 396, 412 (1998), so long as the defendant’s acts, whether or not included in the course of conduct, cause the victim to fear bodily injury or death to themselves or a member of their family or household, or to feel terrified, intimidated, threatened, harassed or tormented.</p> <p>§ 940.32(1)(a): Course of Conduct means 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including (and therefore not limited to):</p>

1. Maintaining a visual or physical proximity to the victim;
2. Approaching or confronting the victim;
3. Appearing at the victim's workplace or contacting the victim's employer or coworkers;
4. Appearing at the victim's home or contacting the victim's neighbors;
5. Entering property owned, leased or occupied by the victim;
6. Contacting the victim by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the victim's telephone or electronic device or any other person's telephone or electronic device to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues;
  - 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim;
7. Sending to the victim any physical or electronic material or contacting the victim by any means including any message, comment, or other content posted on any Internet site or web application;
  - 7m. Sending to a member of the victim's family or household, or any current or former employer of the victim, or any current or former coworker of the victim, or any friend of the victim any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application for the purpose of obtaining information about, disseminating information about, or communicating with the victim;
8. Placing an object on or delivering an object to property owned, leased or occupied by the victim;
9. Delivering an object to a member of the victim's family, or household, or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased or occupied by such a person with the intent that the object be delivered to the victim;
10. Causing a person to engage in any of the acts described in subds. 1. to 9. (i.e., the mail carrier, for instance)

Any two or more, or two or more of any, of the potential courses of conduct listed above, if they have the effect on

	the victim of causing fear of injury or death or causing severe emotional distress, and the defendant knows or should know that would happen from at least one of the behaviors, and a reasonable person under the circumstances would be similarly affected, then that is stalking.
<b>Battery: Special Circumstances</b> 940.20(5)(b)	Whoever intentionally causes bodily harm to a technical college district or school district officer or employee acting in that capacity, and the person knows or has reason to know that the victim is a technical college district or school district officer or employee, without the consent of the person so injured, is guilty of a Class I felony.

### Contacts

If you have questions about whether a situation brought to your department's attention may involve a possible criminal offense, in addition to your local district attorney's office, you should feel free to contact any of the following entities as applicable:

FBI: (414) 276-4684

U.S. Attorney's Office for the Eastern District of Wisconsin: (414) 297-1700

U.S. Attorney's Office for the Western District of Wisconsin: (608) 264-5158