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on Civil and Human Rights

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January 19, 2021

Dear Members of Congress:

On behalf of The Leadership Conference on Civil and Human Rights (The Leadership Conference), a coalition charged by its diverse membership of more than 220 national organizations to promote and protect civil and human rights in the United States, and the undersigned **151** organizations, we write to express our deep concern regarding proposed expansion of terrorism-related legal authority. We must meet the challenge of addressing white nationalist and far-right militia violence without causing further harm to communities already disproportionately impacted by the criminal-legal system. The Justice Department (DOJ), including the Federal Bureau of Investigation (FBI), has over 50 terrorism-related statutes it can use to investigate and prosecute criminal conduct, including white supremacist violence, as well as dozens of other federal statutes relating to hate crimes, organized crime, and violent crimes. The failure to confront and hold accountable white nationalist violence is not a question of not having appropriate tools to employ, but a failure to use those on hand. To date, DOJ has simply decided as a matter of policy and practice not to prioritize white nationalist crimes.¹ Congress should use its oversight and appropriations authorities to ensure that law enforcement appropriately focuses investigative and prosecutorial resources on white nationalist crimes.

We urge you to oppose any new domestic terrorism charge, the creation of a list of designated domestic terrorist organizations, or other expansion of existing terrorism-related authorities. We are concerned that a new federal domestic terrorism statute or list would adversely impact civil rights and — as our nation's long and disturbing history of targeting Black Activists, Muslims, Arabs, and movements for social and racial justice has shown — this new authority could be used to expand racial profiling or be wielded to surveil and investigate communities of color and political opponents in the name of national security. As Acting U.S. Attorney Michael Sherwin for the District of Columbia stated on January 12, 2021 regarding the January 6 insurrection attack on the Capitol, federal prosecutors have many existing laws at their disposal to hold violent white supremacists accountable.²

The magnitude of last week's attack demands that Congress focus on ensuring that our government addresses white nationalist violence as effectively as possible. Members of Congress should not reinforce counterterrorism policies, programs, and frameworks that are rooted in bias, discrimination, and denial or diminution of fundamental rights like due

¹ Michael German and Sara Robinson, *Wrong Priorities on Fighting Terrorism*, The Brennan Center (Oct 31, 2018), <https://www.brennancenter.org/our-work/research-reports/wrong-priorities-fighting-terrorism>

² Department of Justice, *Acting U.S. Attorney Michael Sherwin for The District of Columbia and FBI Washington Field Office ADIC Steven D'Antuono Provide Update on Criminal Charges Related to Events at the Capitol on January 6* (Jan 12, 2021) <https://www.justice.gov/opa/video/acting-us-attorney-michael-sherwin-district-columbia-and-fbi-washington-field-office-adic>

process. Rather, as highlighted below, Congress should focus on its oversight and appropriations authority to ensure that the federal government redirect resources towards the ever-growing white nationalist violence plaguing our country, and hold law enforcement accountable in doing so.

Law Enforcement Has the Tools to Hold White Nationalist Insurrectionists Accountable

White supremacist violence goes back to our nation's founding, and has never been appropriately addressed—and it manifested last week in an unprecedented way. On January 6, 2021, thousands of pro-Trump supporters, many of them radical, right-wing, white supremacists, unlawfully and violently broke into the nation's Capitol. The rioters, some with “Camp Auschwitz” shirts, others carrying confederate flags, and some who hung a noose on the Capitol grounds, were intent on blocking the ratification of President-elect Biden's electoral win. Some carried weapons and zip ties, reportedly to kidnap or kill members of Congress and the Vice President. Because of the violent mayhem that ensued, at least five people lost their lives and countless others were wounded. As this historic event on the nation's legislative branch by violent white nationalist insurrectionists is being investigated thoroughly, we know that our federal law enforcement officials have more than enough tools at their disposal to address the attack on the Capitol.

According to the federal government's own research and reports, white nationalist violence has been on the rise for years with the F.B.I reporting that more murders motivated by hate were recorded in 2019 than any year before.³ This 2019 data included the El Paso massacre, when a white supremacist targeted the Latino community and shot and killed 23 people after publishing a manifesto in which he embraced white nationalist and anti-immigrant hatred.⁴ The Department of Homeland Security (DHS) and the FBI have repeatedly testified before Congress, stating that the greatest threat to US national security emanates from white supremacist violence.⁵

Yet, despite overwhelming evidence making clear the source of the threat⁶, the federal response has failed to prioritize an effective policy to combat white nationalist violence. Instead, the federal government has disproportionately targeted and surveilled Black and Brown people, including increasingly targeting Arabs and Muslims since 9/11, treating them as threats to US national and homeland security. This has led to the over-policing of these communities, including intrusions into community centers, mosques, and almost every aspect of their lives.⁷ US counter-terrorism policy has

³ FBI National Press Office, *FBI Releases 2019 NIBRS Crime Data* (Dec 9 2020), [FBI Releases 2019 NIBRS Crime Data — FBI](#); see also Tim Arango, *Hate Crimes in U.S. Rose to Highest Level in More Than a Decade in 2019* (Nov. 16, 2020), <https://www.nytimes.com/2020/11/16/us/hate-crime-rate.html>

⁴ Peter Baker and Michael D. Shear, *El Paso Shooting Suspect's Manifesto Echoes Trump's Language* (Aug. 4, 2019), <https://www.nytimes.com/2019/08/04/us/politics/trump-mass-shootings.html>

⁵ The Leadership Conference on Civil and Human Rights, *Letter from Civil Rights Organizations Calling for Investigation and Hearings Into DHS Coverup of White Supremacist Intelligence* (Sep 24, 2020), [House Homeland on White Supremacist Cover Up 092420.pdf \(civilrightsdocs.info\)](#)

⁶ The Leadership Conference on Civil and Human Rights, *Letter from Civil Rights Organizations Calling for Investigation and Hearings Into DHS Coverup of White Supremacist Intelligence* (Sep 24, 2020), [House Homeland on White Supremacist Cover Up 092420.pdf \(civilrightsdocs.info\)](#)

⁷ Michael German and Emmanuel Mauleón, *Fighting Far-Right Violence and Hate Crimes* (July 1st, 2019), Page 7, [Report Far Right Violence.pdf \(brennancenter.org\)](#)

devastated communities of color and religious minorities, and by failing to rein in white nationalist violence in a serious way, those same communities suffer twice over: first by being over-criminalized and securitized and second, by having the state not respond to white nationalists who target them.

What Should Congress Do?

Congress should not enact any laws creating a new crime of domestic terrorism, including the Confronting the Threats of Domestic Terrorism Act (H.R. 4192 in the 116th Congress) or any other new charges or sentencing enhancements expected to be introduced in the 117th Congress “to penalize acts of domestic terrorism.” These bills and others with similar provisions are the wrong approach because, as we have seen, they will continue to be used as vehicles to target marginalized communities as they have done since their inception.⁸ The federal government has no shortage of counterterrorism powers, and these powers have been and will be again used to unjustly target Black and Brown communities, including Muslim, Arab, Middle Eastern, and South Asian communities, as well as those engaged in First Amendment-protected activities.⁹ The creation of a new federal domestic terrorism crime ignores this reality and would not address the scourge of white nationalism in this country.

Instead, Congress should use its oversight and appropriations powers to demand that federal agencies make public how they have and are now using resources to fight white supremacist violence. Moreover, Congress should support other efforts to address the white supremacy at the core of these violent attacks. At the outset, Congress should identify ways to address the white supremacist infiltration of law enforcement that was documented by the FBI. This a clear and present danger, which was highlighted at an Oversight Committee hearing last year, puts lives at risk and undermines the criminal legal system.¹⁰ Hate crimes data should be mandated and made publicly available so federal leaders, as well as those at the state and local level, can address the threat in a manner best suited to their community. Finally, the Leadership Conference encourages Congress to hold hearings featuring communities that are experiencing white nationalist violence in an effort to encourage accountability and transparency. This would allow Congress to provide communities impacted by white supremacist violence support to develop and lead their own programs to meet the needs that they identify.

Please contact Becky Monroe at monroe@civilrights.org and Iman Boukadoum at boukadoum@civilrights.org to further discuss this matter or if there are questions or concerns.

Sincerely,

The Leadership Conference on Civil and Human Rights

⁸ Brennan Center, *Countering Violent Extremism in the Trump Era* (Jun. 2018), <https://www.brennancenter.org/analysis/countering-violent-extremism-trump-era>

⁹ Patrick G. Eddington, *MLK and the FBI: 50 years on, secrets and surveillance still* (Apr. 2019), <https://thehill.com/opinion/civil-rights/436437-mlk-and-the-fbi-50-years-on-secrets-and-surveillance-still>

¹⁰ Press Release Rep Jamie Raskin, *Experts Warn Oversight Subcommittee that White Supremacist Infiltration of Law Enforcement Poses a Threat to Cops, Communities* (Sep. 29, 2020) <https://raskin.house.gov/media/press-releases/experts-warn-oversight-subcommittee-white-supremacist-infiltration-law>

Arab Resource and Organizing Center (AROC)
Access Now
Act To Change
Advancement Project, National Office
Alabama State Association of Cooperatives
Aleasa Word
America's Voice
American Civil Liberties Union
American Friends Service Committee
American-Arab Anti-Discrimination Committee (ADC)
Americans for Democratic Action (ADA)
Amnesty International USA
Andrew Goodman Foundation
ANYAHS Inc.
Appleseed Foundation
Arab American Institute
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice | AAJC
Augustus F. Hawkins Foundation
Autistic Self Advocacy Network
Bend the Arc Jewish Action
Black Alliance for Just Immigration
Borderlands for Equity
Brennan Center for Justice
Bridges Faith Initiative
Brooklyn Defender Services
Center for Constitutional Rights
Center for Democracy & Technology
Center for Disability Rights
Center for International Policy
Center for Law and Social Policy (CLASP)
Center for Popular Democracy/Action
Center for Security, Race and Rights
Center for Victims of Torture
Center on Conscience & War
Charity & Security Network
CLEAR project (Creating Law Enforcement Accountability & Responsibility)
CODEPINK
Color Of Change
Colorado Immigrant Rights Coalition
Common Cause

Council on American-Islamic Relations (CAIR)
Council on American-Islamic Relations, Washington Chapter
Defending Rights & Dissent
Defender Impact Initiative
Demand Progress
Demos
Detention Watch Network
Drug Policy Alliance
Durham Youth Climate Justice Initiative
Engage Action
End Citizens United / Let America Vote Action Fund
Equal Justice Society
Equality California
Federal Public and Community Defenders
Fight for the Future
Free Press Action
Freedom Network USA
Friends Committee on National Legislation
Government Accountability Project
Government Information Watch
Greenpeace US
Human Rights Campaign
Human Rights First
Human Rights Watch
Immigrant Defense Project
Immigrant Justice Network
In Our Own Voice: National Black Women's Reproductive Justice Agenda
InterAction
Interfaith Alliance
Japanese American Citizens League
Just Futures Law
Justice for Muslims Collective
Kansas Black Farmers Association/Nicodemus Educational Camps
KinderUSA
Labor Council for Latin American Advancement
Lawyers' Committee for Civil Rights Under Law
Legal Aid Society of Metropolitan Family Services
Louisiana Advocates for Immigrants in Detention
Matthew Shepard Foundation
Montgomery County (MD) Civil Rights Coalition
MPower Change
Muslim Advocates

Muslim Justice League
Muslim Public Affairs Council
NAACP
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. (LDF)
National Action Network
National Alliance for Partnerships in Equity (NAPE)
National Association of Social Workers (NASW)
National Council of Jewish Women
National Education Association
National Employment Law Project
National Equality Action Team (NEAT)
National Immigration Law Center
National Immigration Project of the National Lawyers Guild (NIPNLG)
National LGBTQ Task Force Action Fund
National Network for Immigrant & Refugee Rights
National Organization for Women
National Partnership for Women & Families
National Religious Campaign Against Torture
National Women's Law Center
NETWORK Lobby
New America's Open Technology Institute
North Carolina Association of Black Lawyers Land Loss Prevention Project
Open MIC (Open Media & Information Companies Initiative)
Open The Government
Oxfam America
Palestine Legal
Partnership for Civil Justice Fund
Peace Action
PEN America
People's Parity Project
Presbyterian Church (USA)
Progressive Turnout Project
Project Blueprint
Project On Government Oversight
Public Advocacy for Kids (PAK)
Public Citizen
Public Justice
Quixote Center
Radiant International
Restore The Fourth
Rethinking Foreign Policy
Rocky Mountain Immigrant Advocacy Network ("RMIAN")

Rural Coalition
S.T.O.P. - The Surveillance Technology Oversight Project
Sisters of Mercy of the Americas Justice Team
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
SPLC Action Fund
TASH: equity, opportunity and inclusion for people with disabilities
Texas Progressive Action Network
The Human Trafficking Legal Center
The Sentencing Project
The Sikh Coalition
Transformations CDC
True North Research
Tuskegee University
UnidosUS
Union for Reform Judaism
United Church of Christ, OC Inc.
UNITED SIKHS
US Human Rights Network
Veterans for American Ideals
Veterans For Peace
Voices for Progress
Win Without War
Wind of the Spirit Immigrant Resource Center
Workplace Fairness