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on Civil and Human Rights

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John C. Yang  
Asian Americans Advancing Justice |  
AAJC

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.<sup>1</sup> 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.<sup>2</sup>

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

<sup>1</sup> 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>

<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

Yet, despite overwhelming evidence making clear the source of the threat<sup>6</sup>, 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.<sup>7</sup> US counter-terrorism policy has

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<sup>3</sup> 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>

<sup>4</sup> 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>

<sup>5</sup> 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 \(civilrightsdocs.info\)](#)

<sup>6</sup> 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 \(civilrightsdocs.info\)](#)

<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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](mailto:monroe@civilrights.org) and Iman Boukadoum at [boukadoum@civilrights.org](mailto:boukadoum@civilrights.org) to further discuss this matter or if there are questions or concerns.

Sincerely,

The Leadership Conference on Civil and Human Rights

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

<sup>9</sup> 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>

<sup>10</sup> 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