

To: Members of Congress

From: Concerned Stakeholders in Civil Liberties, Privacy, and National Security

Date: January 1, 2025

Subject: Urgent Need for a Focused Congressional Investigation into Domestic Extremism and Surveillance Lists

Executive Summary

The unchecked use of domestic extremism and surveillance lists, both by government agencies and non-governmental organizations (NGOs), presents a serious threat to civil liberties, due process, and public trust in federal institutions. These lists lack transparency, accountability, and statutory oversight, often leading to violations of constitutional rights. The broad and undefined scope of these lists, combined with the influence of NGOs and the role of fusion centers, creates fertile ground for political weaponization.

To address these issues, we propose a focused, bipartisan Congressional investigation under a specialized subcommittee of (1) the Senate DHS and Government Affairs Committee and (2) the House Oversight and Accountability Committee. While the former House Judiciary Subcommittee on the Weaponization of Government was tasked with examining broad concerns about the misuse of federal power, this investigation must narrow its scope to address specific abuses in the creation and use of extremist lists. A focused two-year inquiry would provide actionable recommendations to restore transparency, accountability, and public trust.

Key Issues

1. Broad Nature of the Subcommittee on Weaponization

The Subcommittee on the Weaponization of Government has a critical mandate, but its broad scope risks diluting its effectiveness. Addressing systemic issues, like the misuse of extremist lists, requires a targeted approach. A dedicated investigation would:

Focus exclusively on the processes and policies behind the creation and maintenance of watchlists and surveillance programs.

Examine how these tools have been weaponized against individuals and groups across the political spectrum.

Provide specific recommendations to prevent future abuses, ensuring that national security efforts respect constitutional rights.

2. Lack of Congressional Authorization

Government Lists: Programs like the FBI's Domestic Terrorist Watchlist and the TSA's Quiet Skies operate without clear statutory authority.

NGO Influence: NGOs like the Southern Poverty Law Center (SPLC) contribute to these lists without accountability or transparency.

Impact: Individuals and groups are subjected to surveillance, restrictions, and reputational harm without due process.

3. Non-Partisan Targeting

Across the Spectrum: Individuals and groups from all political affiliations have been targeted, including:

Right-leaning participants in the Bundy Ranch standoff and January 6 protests.

Left-leaning activists, such as environmental protesters and anti-fascist organizers.

Non-Political Targets: Veterans, journalists, and even infants have been flagged, demonstrating the arbitrary nature of these designations.

Impact: The lack of ideological neutrality undermines public trust and highlights systemic failures.

4. Conflicts in Definitions

Legal vs. Operational Definitions: Federal law (18 U.S.C. § 2331(5)) defines domestic terrorism as acts intended to intimidate or coerce civilians or influence government policy, tied to criminal activity. However:

Operational terms like “Militia Violent Extremist (MVE)” and “Anti-Government/Anti-Authority Violent Extremist (AGAAVE)” are vague and overly broad.

Impact: Individuals and groups are labeled as threats without meeting the legal threshold for prosecution, eroding the rule of law and constitutional protections.

5. Role of Steering Committees

Influence and Secrecy: Steering committees within agencies like the TSA and DHS develop policies governing watchlists and partnerships with NGOs. However:

Membership and decision-making processes are opaque.

Committees often rely on NGO data, which may lack neutrality and verification.

Impact: The lack of transparency and accountability enables potential misuse and politicization of national security tools.

6. Role of Fusion Centers

Purpose of Fusion Centers: Created under the Department of Homeland Security (DHS) after 9/11, fusion centers facilitate intelligence sharing between federal, state, and local agencies, as well as private sector partners.

Concerns with Fusion Centers:

Dissemination of Secret Designations: Fusion centers relay federal watchlist data to local law enforcement, often without verifying the accuracy of designations.

Overreach and Misuse: State and local agencies have used fusion center data to monitor lawful protest activities, raising concerns about surveillance overreach.

Transparency Issues: There is little public oversight of how fusion centers operate, what data they collect, and how they use it.

Impact: Fusion centers amplify the effects of secret lists, potentially subjecting individuals to unwarranted scrutiny, harassment, or discrimination during routine interactions with law enforcement.

Proposed Investigation

Establishment of a Subcommittee A focused subcommittee under the House Oversight Committee would lead this investigation, with bipartisan members specializing in civil liberties, privacy, and national security.

Scope of the Investigation The subcommittee would:

1. Examine Federal Programs: Review watchlists like the No Fly List, Quiet Skies, and the FBI's Domestic Terrorist Watchlist.
2. Analyze NGO Influence: Investigate the role of NGOs in shaping federal designations and policies.
3. Evaluate Legal Frameworks: Address conflicts between operational definitions and statutory language.
4. Assess Civil Liberties Impact: Document harm caused by erroneous or politically motivated designations.
5. Scrutinize Steering Committees: Ensure transparency and accountability in decision-making processes.
6. Evaluate Fusion Centers: Investigate the role of fusion centers in disseminating federal designations and their impact on state and local law enforcement practices.

Recommendations for Reform

1. Transparency and Accountability

Publicly disclose criteria for inclusion on watchlists and provide clear mechanisms for appeal.

Require federal agencies to notify individuals of their designation and the reasons behind it.

2. Judicial Safeguards

Mandate judicial oversight for adding individuals to watchlists that trigger surveillance or enforcement actions.

Create a transparent appeals process for individuals and organizations.

3. Regulation of NGO Influence

Limit the role of NGOs in national security decisions to advisory capacities with independent verification of their data.

Prohibit reliance on private-sector lists without rigorous government oversight.

4. Alignment of Definitions

Standardize operational definitions of domestic threats to align with statutory language.

Ensure that designations meet legal thresholds for prosecution or enforcement.

5. Oversight of Steering Committees

Publish membership and decision-making processes of steering committees.

Require regular audits of policies and programs developed by these committees.

6. Fusion Center Accountability

Mandate regular audits of fusion center operations and data dissemination practices.

Establish clear guidelines for how fusion centers share and verify data with local law enforcement.

Conclusion

The misuse of domestic extremism and surveillance lists is a bipartisan issue that demands immediate and focused action. While the broader Subcommittee on the Weaponization of Government is essential, narrowing the scope to address these specific practices will yield actionable solutions to prevent future abuses.

A two-year investigation into the policies, processes, and consequences of extremist lists is necessary to restore public trust and ensure that national security efforts respect constitutional rights. By addressing these systemic issues, Congress can uphold the principles of transparency, accountability, and justice.

Next Steps: Congress should establish this focused subcommittee and allocate resources for the investigation. Only through robust oversight can we ensure that security measures do not infringe on the civil liberties of the American people.

Signed,

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