

September 13, 2022

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice 950
Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

**RE: DOJ Must Enhance Efforts to Address the National Security Threat
Posed By Law Enforcement Officials With Ties to Anti-Governmental
and White Nationalist Groups**

Dear Attorney General Garland:

The NAACP Legal Defense and Educational Fund, Inc. (LDF) has continuously urged the Department of Justice (the Department) and this administration to address the urgent threat posed by law enforcement and military officials with ties to anti-governmental and white nationalist groups. The involvement of law enforcement and military—from line officers and cadets to leaders—in anti-governmental or white nationalist groups is a serious threat to our national security, the physical safety of our communities, and the overall health of our democracy.¹ This is a particular risk for Black communities that experience disproportionate harms at the hands of police, are subject to higher rates of discrimination in the military,² and are also targeted by white supremacist violence. Indeed, it is a threat that LDF has fought for decades. For example, in 1990, we successfully sued the Los Angeles County Sheriff's Department, whose deputies had terrorized Black and Latino residents of Lynwood, California,³ for their unlawful violence and abuse. Some of the deputies belonged to a neo-Nazi, white supremacist gang called the Vikings.⁴

The fact that a significant number of law enforcement and military personnel are also members of anti-governmental and/or white supremacist groups is supported by substantial evidence. Recently, 373 individuals with ties to the extremist, anti-government Oath Keepers group have been identified as members of law enforcement.⁵ One hundred and seventeen individuals tied to this group served in the U.S. military.⁶ To date, over 80 individuals with ties to the military⁷ and nearly 30 individuals with ties to law enforcement are known to have participated in the January 6, 2021 insurrection at the U.S. Capitol,⁸ 19 of whom have been charged.⁹ Multiple reports have also uncovered law enforcement personnel sympathizing with white nationalist groups.¹⁰ Additionally, law enforcement trainers have been found to have ties to extremist groups like the Oath Keepers.¹¹

Knowledge of this domestic threat is not new.¹² Federal officials have acknowledged the phenomenon of white supremacists recruiting law enforcement, including members of the Federal Bureau of Investigation (FBI), for well over a decade.¹³ In 2006, the FBI released a bulletin detailing the significant national threat posed by the presence of white supremacists within law enforcement.¹⁴ While this report marked the FBI's first official acknowledgement of this threat, a number of significant incidents preceded the report's release.¹⁵ In 1991, a U.S. District Court found that deputies in the Los Angeles Sheriff's Department were members of a neo-Nazi, white supremacist group and employed "terrorist-type tactics" to specifically target Black and Latino residents whom they had sworn to protect.¹⁶ In 1993, the Chicago Police Department fired Jon

Burge after discovering that he had tortured over 100 Black male suspects in his decades of service as a detective.¹⁷ Detectives reported in sworn statements that they had heard rumors that Burge was a member of the Ku Klux Klan.¹⁸ In 1999, the Mayor of Cleveland found that a group of Cleveland police officers had scrawled racist graffiti in the locker rooms of the city police department, including Nazi symbolism (swastikas) and 311, which references the Ku Klux Klan.¹⁹

We recognize that the Department and other federal officials have prioritized the growing threat of white supremacist and anti-governmental groups, and have taken certain measures to combat this threat.²⁰ We appreciate, for example, the FBI's development of its Domestic Terrorism-Hate Crimes Fusion Cell to apply the expertise and resources of the Counterterrorism and Criminal Investigative Divisions to these overlapping threats.²¹ The work of this unit has been critical in responding to white supremacist violence, such as the horrific May 14, 2022, attack on Buffalo's Black residents.

However, we remain concerned that the currently used blanket designation of "racially motivated violent extremists" obscures the specific threat of "white supremacist" violence by merging white supremacists with other categories of potential offenders that do not pose similar threats. For example, in 2018, the Anti-Defamation League's Center on Extremism found that white supremacist extremists were responsible for 39 of the total 50 extremist-related killings they identified in 2018, which accounted for 78% of domestic extremist-related killings (with anti-government extremists accounting for another 8, or 16%).²² Designating a single category to encompass all racially motivated or otherwise extremist incidents of violence dangerously distorts the singular threat and unique features of white supremacist violence and undermines efforts to prevent it. At the same time, the FBI's creation of a new domestic terrorism category called the "Black Identity Extremism movement," in 2017, for individuals outraged by police brutality against Black people, is deeply troubling and rooted in a dangerous history of government targeting of Black protesters and movements.²³ Individuals motivated or angered by the reality of police brutality against Black people should not be deemed "extremist" and should not be viewed as similar to the substantial threat posed by white supremacists. Indeed, unless the federal government specifically and continuously identifies white supremacists as the most dangerous domestic threat facing our country, the false comparisons and equivalencies that reinforce and perpetuate inaccurate stereotypes associating Blackness with violence will continue, as they did in the aftermath of the January 6 insurrection.²⁴

Additionally, many of the approaches taken by the Department to address the threat of anti-governmental groups and white supremacist violence rely on law enforcement officers, who may themselves be members of the very anti-governmental and white supremacist groups that they should be investigating. The Department must do more to address the threat posed by such law enforcement officers by devising a broad, agency-wide strategy that encompasses the powers and levers of each of the Department's components to influence state and local law enforcement agencies. For example, to benefit from federal grants or other collaborations with the federal government, the Department should require that state and local law enforcement agencies first demonstrate that they are taking affirmative steps to identify and remove officers that associate with white supremacist or anti-governmental groups. The Department should further require that any complaints about officers' participation in such groups—and, particularly, allegations involving racial bias—are investigated independently and thoroughly, resulting in appropriate discipline, including permanent removal, if substantiated. Additionally, all law enforcement agencies should be required to publish racially disaggregated data regarding their enforcement activities and commit to strategies to decrease any identified racial disparities.

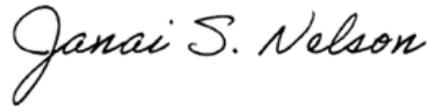
Certain provisions of the President's May 25, 2022, Executive Order 14074 also offer opportunities to address the threat of law enforcement officers that participate in anti-governmental and white supremacist groups. For example, Section 3 of the Order, "Strengthening Officer Recruitment, Hiring, Promotion, and Retention Practices," requires an interagency working group to develop best practices and procedures to "help avoid the hiring and retention of law enforcement officers who promote unlawful violence, white supremacy, or other bias against persons based on race, ethnicity, national origin, religion, sex (including sexual orientation and gender identity), or disability" and that these best practices and procedures should be utilized by any local or state law enforcement officers that participate in federal task forces. The Department must ensure participation in federal task forces is reserved for the most fair-minded officers by, for example, banning officers with multiple allegations of race discrimination within certain time periods. Requiring such complaints to be "sustained" when evaluating qualifications for federal task force participation ignores the failing accountability systems of many law enforcement agencies, as identified by the Department's own pattern-or-practice investigations.²⁵

Furthermore, Section 19 of Executive Order 14074, "Establishing Accreditation Standards," also offers an opportunity for the Attorney General to require that accrediting bodies have strong mandates to identify officers with extremist views or associations with anti-government and white supremacist groups as part of the accreditation process. Moreover, these accrediting bodies must demand that law enforcement agencies have internal practices that identify and eliminate individual and systemic racial bias within agencies, such as identifying and eliminating racial disparities in enforcement practices, thoroughly investigating allegations of racial bias, and implementing appropriate discipline that meets the gravity of the offense.

For too long, DOJ has not adequately addressed the national security threat posed by law enforcement officers that support, and participate in, anti-governmental and white nationalist groups. Law enforcement agencies' tolerance of individual and structural racial bias creates an environment for white supremacist extremism to grow within law enforcement's ranks. To truly address the rising threat of this extremism, the Department must lead, and local and state agencies must push, to eliminate all forms of racial bias that persist across law enforcement. The Department must address this threat as a national security issue, recognize its roots in the tolerance of racially biased law enforcement practices, and develop an agency-wide plan to address both the root cause and threat of white extremism. To this end, DOJ must coordinate an interagency effort with the Department of Homeland Security, while ensuring that civil rights concerns within the expertise of the Department of Justice remain central.

Finally, while we acknowledge that the Department needs adequate funding to address these issues, the urgency of this crisis demands that these issues be prioritized within the existing funding of the Department, as more support is sought. We will continue to also highlight these critical matters with other federal officials. We appreciate your attention to this important and urgent matter and would welcome an opportunity to discuss this matter with you. Should you have any questions in the meantime, please do not hesitate to reach out to Puneet Cheema, LDF's Manager of the Justice in Public Safety Project at pcheema@naacpldf.org, Jin Hee Lee, Director of Strategic Initiatives at jlee@naacpldf.org, or Lisa Cylar Barrett, Director of Policy and Director of the Washington DC Office at lcylarbarrett@naacpldf.org.

Sincerely,



Janai Nelson
President and Director-Counsel
NAACP Legal Defense and Educational Fund, Inc.

Cc: The Honorable Secretary of Homeland Security, Alejandro Mayorkas
The Honorable Associate Attorney General, Vanita Gupta

¹ The Constitutional Sheriffs and Peace Officers Association and Protect America Now are anti-government organizations which include a number of Sheriffs that are agency-heads. See Constitutional Sheriffs, Southern Poverty Law Center, (2021), <https://www.splcenter.org/fighting-hate/extremist-files/ideology/constitutional-sheriffs>; Antigovernment Movement, Southern Poverty Law Center, (2021), <https://www.splcenter.org/fighting-hate/extremist-files/ideology/antigovernment>. Additionally, ADL has identified individuals they believe are currently holding “senior leadership positions within their respective agencies, including at least ten chiefs of police and eleven sheriffs.” Anti-Defamation League, *The Oath Keepers Data Leak: Unmasking Extremism in Public Life* (Sept. 6, 2022), <https://www.adl.org/resources/report/oath-keepers-data-leak-unmasking-extremism-public-life>.

² Steven S. Coughlin, Racism and Discrimination in the Military and the Health of US Service Members, 186 *Military Medicine* 5-6, 147 (May-June 2021), <https://academic.oup.com/milmed/article/186/5-6/147/6132056> (A “2017 workplace and Equal Opportunity Survey of Active Duty Members showed that 31.2% of Black/African American service members reported suffering racial discrimination, harassment, or both in the past 12 months, compared with 23.3% of Asian American troops and 21% of Hispanic troops”).

³ See *Thomas v. Cnty. of Los Angeles*, 978 F.2d 504 (9th Cir. 1992), *amended* (Feb. 12, 1993) (preliminary injunction granted by the District Court overturned by Ninth Circuit, and case settled following a jury-verdict in favor of Plaintiffs); Settlement Agreement and Mutual Release of All Claims, *Thomas v. Cnty. of Los Angeles*, 2:90-cv-05217-TJH (Jan. 31, 1996) (No. 1910), <https://clearinghouse.net/case/1019/>.

⁴ See *Thomas v. Cnty. of Los Angeles*, 978 F.2d 504, 511 (9th Cir. 1992), *amended* (Feb. 12, 1993)

⁵ Anti-Defamation League, *The Oath Keepers Data Leak: Unmasking Extremism in Public Life* (Sept. 6, 2022), <https://www.adl.org/resources/report/oath-keepers-data-leak-unmasking-extremism-public-life>. (“As of August 8, 2022, [ADL’s Center on Extremism] has identified 373 individuals in the Oath Keepers database who we believe are currently serving in law enforcement agencies across the country. This number is far higher than any previously identified number of extremists within law enforcement; for comparison, a COE report released in 2021 identified 76 cases – 73 of which were unique – in which extremists were found to be serving in law enforcement.”)

⁶ *Id.*

⁷ Eleanor Watson & Robert Legare, *Over 80 of those charged in the January 6 investigation have ties to the military*, CBS News (Dec. 15, 2021, 6:32 PM), <https://www.cbsnews.com/news/capitol-riot-january-6-military-ties/>. (“More than 80 of the defendants charged in relation to the January 6 attack on the U.S. Capitol have ties to the U.S. military – most of those with a military background were veterans... In all, at least 36 have served in the Marine Corps, 28 in the Army, three in the Navy, and five in the Air Force.”)

⁸ Eric Westervelt, *Off-Duty Police Officers Investigated, Charged With Participating In Capitol Riot*. NPR (January 15, 2021:07 PM ET), <https://www.npr.org/2021/01/15/956896923/police-officers-across-nation-face-federal-charges-for-involvement-in-capitol-ri> (“Nearly 30 sworn police officers from a dozen departments attended the pro-Trump rally at the U.S. Capitol last week, and several stormed the building with rioters and are facing federal criminal charges as well as possible expulsion or other discipline.”)

⁹ Bart Jansen, 'Elephant in the room': Police grapple with charges against officers in Jan. 6 Capitol attack, USA Today (May 3, 2022), <https://www.usatoday.com/story/news/politics/2022/05/03/police-charged-jan-6-assault-obstructing-congress/7355516001/?gnt-cfr=1> ("At least 19 current or former officers were charged in Jan. 6, sometimes with assaulting officers, according to a USA TODAY analysis of court records.")

¹⁰ Kevin Rector, *Bias, far-right sympathies among California law enforcement going unchecked, audit finds*, L.A. Times (Apr. 28, 2022, 5:00 AM PT), <https://www.latimes.com/california/story/2022-04-28/audit-of-california-law-enforcement-finds-extreme-bias-among-officers-goes-unchecked> ("A state audit of five law enforcement agencies in California found bias among officers toward people of color, immigrants, women and LGBTQ people, as well as a smattering of support for far-right extremist organizations such as the Proud Boys and Three Percenters."); Becky Bratu, *Two Alabama Officers Put on Leave for Alleged Ties to 'Hate Group'*, NBC News (June 17, 2015, 9:39 PM EDT), <https://www.nbcnews.com/news/crime-courts/two-alabama-officers-put-leave-alleged-ties-hate-group-n377421>. ("The City of Anniston, Alabama, placed two police officers on administrative leave Wednesday, following a watchdog group's article alleging the pair are members of an organization described as a hate group.... According to the watchdog, the League advocates for a Southern secession and a society dominated by "European Americans."); Michael German, *Hidden in Plain Sight: Racism, White Supremacy, and Far-Right Militancy in Law Enforcement*, Brennan Center for Justice (Aug. 27, 2020), <https://www.brennancenter.org/our-work/research-reports/hidden-plain-sight-racism-white-supremacy-and-far-right-militancy-law> (footnote 5 compiles incidents of law enforcement officers with connections to white supremacist groups or far-right militia activities).

¹¹ See Stephanie Mencimer, *He Was a Board Member of the Oath Keepers. Now He's Holding State-Approved Trainings for Law Enforcement in Texas.*, Mother Jones (Oct. 29, 2021), <https://www.motherjones.com/politics/2021/10/oath-keepers-texas-richard-mack-profile-sheriff/> ("...[T]his year, the Texas Commission on Law Enforcement (TCOLE) approved CSPOA to provide official trainings that officers need to maintain their proficiency certificates. So have 10 other states, according to Mack, including Virginia, Montana, and South Carolina.")

¹² Kevin Rector & Richard Winton, *Law enforcement confronts an old threat: far-right extremism in the ranks. 'Swift action must be taken.'* L.A. Times (Feb. 17, 2021, 5:00 AM PT), <https://www.latimes.com/california/story/2021-02-17/lapd-other-police-agencies-struggle-with-where-to-draw-the-line-with-political-extremism-in-their-ranks> (citing 2006 FBI report highlighting the threat of "white supremacist sentiment in police forces").

¹³ Alice Speri, *Unredacted FBI Document Sheds New Light on White Supremacist Infiltration of Law Enforcement*, Intercept (Sept. 29, 2020, 11:30 AM), <https://theintercept.com/2020/09/29/police-white-supremacist-infiltration-fbi/>. ("The unredacted version of the first document sheds further light on the FBI's concerns, as early as 2006, about "self-initiated efforts by individuals, particularly among those already within law enforcement ranks, to volunteer their professional resources to white supremacist causes with which they sympathize.")

¹⁴ Kenya Downs, *FBI warned of white supremacists in law enforcement 10 years ago. Has anything changed?*, PBS News Hour (Oct. 21, 2016, 4:10 PM EDT), <https://www.pbs.org/newshour/nation/fbi-white-supremacists-in-law-enforcement>. ("In the 2006 bulletin, the FBI detailed the threat of white nationalists and skinheads infiltrating police in order to disrupt investigations against fellow members and recruit other supremacists.")

¹⁵ See Samuel Vincent Jones, *Law Enforcement and White Power: An F.B.I. Report Unraveled*, 41 T. Marshall L. Rev. 103, 104 (2015), <https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1632&context=facpubs> (exploring the history and connection between white supremacist organizations and law enforcement departments in the United States).

¹⁶ See *Thomas v. Cnty. of Los Angeles*, 978 F.2d 504, 511 (9th Cir. 1992), amended (Feb. 12, 1993). Reports of Los Angeles County Sheriff deputies that belong to gangs and brutalize residents of color continue to proliferate today. See Jaclyn Diaz, *Alleged gangs in the LA Sheriff's Department to be investigated by oversight panel*, NPR (March 25 2022), <https://www.npr.org/2022/03/25/1088905429/lasd-gangs-investigation-los-angeles> (reporting that a civilian oversight board was charged to investigate allegations of gangs within the Los Angeles County Sheriff's Office); Cersie Castle, *A Tradition of Violence The History of Deputy Gangs in the Los Angeles County Sheriff's Department*, KNOCK LA (2021) <https://knock-la.com/tradition-of-violence-lasd-gang->

[history/](#) (reporting on and creating a searchable database of gang-affiliated Los Angeles County Sheriff's Department employees).

¹⁷ John Conroy, *The Police Torture Scandal: A Who's Who*, Chi. Reader (June 3, 2010),

<https://chicagoreader.com/news-politics/the-police-torture-scandal-a-whos-who/> (reporting on the criminal trial brought against former Chicago Police Commander Jon Burge).

¹⁸ "It was going around that he was in the Klan." Sworn statement of Doris Byrd at 27, *Patterson v. Burge*, 328 F.Supp.2d 878 (2004), <https://peopleslawoffice.com/wp-content/uploads/2013/02/Doris-M.-Byrd.statement.pdf>; "Uh, there was just one thing that - - I shoved it out of my mind and said this is not possible. But he supposedly, supposedly, was a member of the Klan in Indiana." Sworn statement of Walter Young at 31-32, *Patterson v. Burge*, 328 F.Supp.2d 878 (2004), <https://peopleslawoffice.com/wp-content/uploads/2013/02/11.2.04.Walter-Young-Statement.pdf>.

¹⁹ Jacqueline Marino, *White Racism: How a juicy scoop became a mayoral mess.*, Cleveland Scene (July 29, 1999, 4:00 AM), <https://www.clevelandscene.com/news/white-racism-1472521>; Karin Scholz and Ted Wendling, *Racist Grafitti in the Cleveland PD*, Plain Dealer Reporters (July 22, 1999), https://www.mdcbowen.org/p2/bh/racist_graffitti_in_the_cleveland.htm (symbolism found in officers' quarters included swastikas and references to 311, which is associated with the Ku Klux Klan).

²⁰ United States Department of Homeland Security and United States Department of Justice, *White Supremacist Extremism Poses Persistent Threat of Lethal Violence* (May 2017), <https://www.documentcloud.org/documents/3924852-White-Supremacist-Extremism-JIB.html> (setting the federal government's priorities in tackling "White supremacist extremism" and the "persistent threat of lethal violence" posed by it); Federal Bureau of Investigation and United States Department of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021), <https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view> (recognizing that the "greatest terrorism threat to the Homeland we face today is posed by lone offenders, often radicalized online, who look to attach soft targets with easily accessible weapons").

²¹ Jill Sanborn, *Confronting the Rise in Anti-Semitic Domestic Terrorism*, Federal Bureau of Investigation (Feb. 26, 2020), <https://www.fbi.gov/news/testimony/confronting-the-rise-in-anti-semitic-domestic-terrorism> ("Through our Domestic Terrorism-Hate Crimes Fusion Cell, we at the FBI apply the expertise, dedication, and resources of both the Counterterrorism and Criminal Investigative Divisions to these overlapping threats, working to prevent the threats on the horizon and provide justice to the victims of hate crimes. Because individual incidents may be investigated as both domestic terrorism and as a hate crime, we bring the force of the FBI to bear against any event that may fall into these categories, investigating crimes through the lenses of both divisions unless or until one avenue is foreclosed or eliminated").

²² Mark Pitcavage, *Murder and Extremism in the United States in 2018*, Anti-Defamation League (Jan. 2019), <https://www.adl.org/murderandextremism> (According to ADL's Center on Extremis, "2018 saw the highest percentage (98%) of right-wing extremist-related killings since 2012, the last year when all documented killings were by right-wing extremists. Right-wing extremists also killed more people in 2018 than in any year since 1995."); *Confronting Violent White Supremacy (Part II): Adequacy of the Federal Response: Hearing Before the Subcomm. on C.R. & C.L. of the Comm. on Oversight & Reform*, 116th Cong. 3 (2019) (statement of Hon. Jamie Raskin, Chairman, Subcomm. on C.R. & C.L.).

²³ Michael German, *The FBI Targets a New Generation of Black Activists*, Brennan Center for Justice (June 26, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/fbi-targets-new-generation-black-activists> (arguing that resources would be better put to use by holding police officers accountable for acts of brutality).

²⁴ During a hearing regarding a defendant who participated in the January 6th insurrection, a federal judge compared the defendant to protestors following the death of George Floyd who advocated for police accountability. Josh Gerstein and Kyle Cheney, *Black Lives Matter comparison roils court in Jan. 6 cases*, Politico (Oct. 4, 2021), <https://www.politico.com/news/2021/10/04/black-lives-matter-comparison-roils-court-in-jan-6-cases-515086> ("... [Judge] McFadden scolded the [Jan 6.] defendant before him, Danielle Doyle, for 'acting like all those looters and rioters last year... The judge said Doyle's behavior was not excusable, called it a 'national embarrassment,' and again likened it to the police brutality protests following the death of George Floyd last year that made 'us all feel less safe, the AP reported.'").

²⁵ See United States Department of Justice Civil Rights Division, *Investigation of the Baltimore City Police Department* 139-49 (Aug. 10, 2016), <https://www.justice.gov/crt/file/883296/download> (finding that the Baltimore Police Department "relie[d] on deficient accountability systems that fail[ed] to curb

unconstitutional policing” and “its process for investigating and adjudicating complaints was ‘plagued by systemic failures, including discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations’”); United States Department of Justice Civil Rights Division, *Investigation of the Cleveland Division of Police* 34-42 (Dec. 4, 2014), <https://www.documentcloud.org/documents/1375135-cleveland-division-of-police-findings-letter.html> (finding that “deficiencies were apparent in both the quality of the investigations and the outcome of those investigations,” which prevented “the Division from holding officers accountable for serious misconduct.”)