July 26, 2022 Judith L. Lichtman

> Jake Sullivan National Security Advisor 1600 Pennsylvania Ave NW Washington, D.C. 20500

Dear Mr. Sullivan:



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The deadly shooting in Buffalo, New York, on May 14 was a tragic reminder of the history and continued impact of white supremacist violence on communities of color. The undersigned organizations thank the administration for naming the poison of white supremacy and welcome your commitment to addressing deadly white supremacist violence, which is often aimed at racial, religious, ethnic, immigrant, and LGBTQ communities. We request a meeting with you to discuss the contents of this letter and look forward to working with you to ensure all communities are safe from violence.

The White House's first-ever National Strategy for Countering Domestic Terrorism (DT Strategy) issued last year is a sign of the administration's commitment to this goal. It includes welcome elements, such as elevating the importance of collecting data about the threat of domestic terrorism and the need to protect civil rights and civil liberties in combating this threat.

But the DT Strategy also relies on failed approaches to counterterrorism. Solutions to address violent white supremacy must not rely on broken models that have, over the years, done harm to the very communities that are often the target of white supremacist violence. These include:

- continuing the use of surveillance and information sharing programs, such as fusion centers, despite numerous documented abuses and a lack of evidence that they yield meaningful benefits;
- repackaging the core Countering Violent Extremism prevention model under the label of the Center for Prevention Programs and Partnerships;
- utilizing a watchlisting system that has ballooned to more than 1 million names, operating in secrecy without even basic due process protections, while overwhelmingly targeting Muslims and Arabs, immigrants, and communities of color; and
- expanding dragnet social media surveillance, which threatens free expression and has not been shown effective.

Moreover, we are concerned that rather than focus on enforcing hate crimes laws — which were enacted starting in the 1870s to respond to anti-Black white supremacist violence that was terrorizing communities across the South — the administration is doubling down on a



counterterrorism model by taking steps such as creating a "Domestic Terrorism Unit" within the National Security Division of the Department of Justice and using Department of Homeland Security grants to develop threat assessments. These efforts to respond to hate violence (incidents that may meet the statutory definitions of both federal hate crimes and domestic terrorism) have the potential to harm the very communities most vulnerable to it. Historically, law enforcement agencies have used overbroad counterterrorism authorities to target racial and religious minorities as well as protestors.

At the same time, the DT Strategy fails to address the overbroad authorities and policies of the post-9/11 period. The 2008 Attorney General's Guidelines for Domestic FBI Operations still permit the FBI to use highly intrusive investigative techniques without suspicion of wrongdoing, and the 2014 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity still includes significant rights-violating loopholes (in national security and border settings, for instance) and lacks an enforcement mechanism, offering little protection against the abuses that suspicionless scrutiny invites. These fundamental shortcomings have long enabled law enforcement agencies to view communities of color through a "security threat" lens and wrongly target Black, Brown, Muslim, Arab, and — increasingly — Asian communities for suspicion, surveillance, and harassment. Any effort by the administration to address domestic terrorism must also reform the rules that allow law enforcement agencies to target these communities, especially given the well-documented problem of explicit racism within law enforcement itself.

We cannot promote fairness, accountability, and transparency in government programs and policies while continuing to rely on the systems that have long eroded those values. We believe it is possible to confront the reality of white supremacist violence while also protecting the civil rights and civil liberties of all.

We acknowledge that the administration has taken some steps to recognize our concerns, such as the recent Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety, which calls for an assessment of the implementation and effects of the Justice Department's 2014 profiling guidance and requires best practices for ensuring violent white supremacists are not hired by law enforcement agencies.

But more needs to be done — and urgently. We request a meeting with you to discuss the concerns outlined above and look forward to working with you to ensure all communities are safe from violence.

You may contact Faiza Patel with the Brennan Center for Justice at patelf@brennan.law.nyu.edu or Nadia Aziz with The Leadership Conference on Civil and Human Rights at aziz@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights American Civil Liberties Union Arab American Institute Bend the Arc: Jewish Action Brennan Center for Justice July 26, 2022 Page 3 of 3



Muslim Advocates NAACP Legal Defense and Education Fund, Inc. (LDF) The Sikh Coalition

CC: Elizabeth Sherwood-Randall, Homeland Security Advisor
Joshua Geltzer, Deputy Homeland Security Advisor
Susan Rice, Domestic Policy Counsel Director
Merrick Garland, Attorney General, U.S. Department of Justice
Lisa Monaco, Deputy Attorney General, U.S. Department of Justice
Vanita Gupta, Associate Attorney General, U.S. Department of Justice
Kristen Clarke, Assistant Attorney General, U.S. Department of Justice
Matthew Olsen, Assistant Attorney General, U.S. Department of Justice
Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security
Avril Haines, Director of National Intelligence
Members of the Senate and House Judiciary Committees
Members of the Senate and House Homeland Security Committees
Members of the Senate and House Intelligence Committees