



March 27, 2009

David D. Gersten
Director for Civil Rights and Civil Liberties Programs
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC 20528

Dear Mr. Gersten:

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RICHARD ZACKS
TREASURER

The American Civil Liberties Union (ACLU) requests an Office of Civil Rights and Civil Liberties investigation into a potential abuse of authority by Department of Homeland Security officials who improperly collected and disseminated information regarding political demonstrations and inappropriately labeled peaceful advocacy groups and other activists as “extremists.”

In March 2006 the Intelligence Branch of the Threat Management Division of the Federal Protective Service issued a “Protective Intelligence Bulletin” that listed the names of several advocacy groups and contained a “civil activists and extremists action calendar” that details dozens of demonstrations planned around the country, mostly peace rallies. According to the document, FPS gleans this information from the Internet. However, it is not clear where DHS officials find the authority to monitor the Internet to document and report the activities of “civil activists,” since there is no indication anywhere in the document to suggest illegal activity might occur at any of these demonstrations. Federal regulations require reasonable suspicion of criminal activity before criminal intelligence information may be placed into, or disseminated from a criminal intelligence system.¹ Collecting and disseminating information regarding the peaceful political activities of U.S. persons is anathema to democratic values and a violation of constitutional rights. This type of government monitoring chills free speech and association and wastes security resources.

It is also unclear why FPS has an Intelligence Branch, when FPS is not an intelligence component of DHS. While FPS has an important mission of protecting certain federal properties, a review of this document reveals that many of the cited demonstrations do not implicate buildings or properties under FPS protection. We would like to know the extent of DHS monitoring of peaceful political protests, what information is collected, how long and in what form it is retained and to whom it is disseminated. We would also like your office to review the intelligence authorities of FPS to determine if this activity was within the statutory authority of FPS. If you determine FPS does have an appropriate intelligence role, we would like you to explain why FPS is not considered an intelligence component of DHS, and whether these activities are overseen by the Undersecretary of Intelligence and Analysis?

Some of the items in the bulletin list the source of the information as the U.S. Park Police and the U.S. Secret Service. As the U.S. Secret Service is a DHS component, we would like your office to review whether it is appropriate for it to gather and disseminate this information as well. Since the U.S. Park Police is not a DHS component, we would like you to review whether DHS should receive information regarding the political activities of Americans collected by another agency.

Thank you for your attention to this matter. We look forward to hearing from you. Please contact Michael German at (202)544-1681 if you require additional information.

Sincerely,



Michael W. Macleod-Ball
Chief Legislative and Policy Counsel



Michael German
Policy Counsel

¹ 28 C.F.R. Part 23.