

25 March 2022

Ms. Michelle Bachelet
High Commissioner for Human Rights
United Nations
Geneva

Via email: ohchr-registry@un.org

Re: Input for the High Commissioner's report pursuant to Human Rights Council resolution 47/21

Dear High Commissioner Bachelet,

On behalf of the Southern Poverty Law Center, one the largest US civil and human rights organizations, I write in response to your recent call for input regarding the protection of persons of African descent against excessive use of force and other human rights violations by law enforcement officers. SPLC was founded in 1971. Since that time, SPLC's mission has been to stamp out racism, hate and extremism. Our Hate Watch and Intelligence Project divisions conduct the most comprehensive and up-to-date [tracking and monitoring](#) of active hate and extremist groups in the US. It is in the context of our extensive work on hate and extremism that we offer the following input on the troubling prevalence of members of white supremacist and other extremist organizations in, and in close association with, US law enforcement entities. Links to more detailed information are also provided.

In 2021, SPLC identified 1221 active hate and anti-government extremist groups across the United States. Infiltration of law enforcement agencies, as well as the military, by members of such groups is a substantial and growing problem, and one that has received insufficient attention from the government. As SPLC's Michael Hayden [told Al Jazeera](#) earlier this year:

“The infiltration of the military and police [by the far-right] is a pretty big deal. Look at the number of military people [arrested] on January 6. Military and police have been very far behind on how far this radicalisation has gone.”

This problem is not a new one. The US Federal Bureau of Investigation explained to its House of Representatives Oversight Committee in 2006 that [white supremacist infiltration of law enforcement](#) was a significant threat. That threat has only grown in the ensuing years.

Extremist Presence in State and Local Law Enforcement.

[Testimony](#) before a House Oversight Committee in July 2020 detailed numerous instances of white supremacist affiliation and overt conduct in police departments around the country. A recent [investigative report](#) revealed that members of the [Oathkeepers](#), a far-right paramilitary organization, are active duty police officers in many major metropolitan police departments. As SPLC has reported, Oathkeepers also engage in vigilantism, forming patrols and security squads around demonstrations and outbreaks of racial unrest. Some far-right organizations, including the [Constitutional Sheriffs and Peace Officers Association](#) and the [Protect America Now](#) organization, are pro-militia, anti-government membership organizations created expressly for law enforcement officers. As detailed in the SPLC Action Fund's [May 2021 statement](#) to the House Homeland Security Subcommittee on Civil Rights and Civil Liberties, members of these groups sometime take the law into their own hands, either through improper policing or by refusing to enforce laws they deem unconstitutional. Some have formed “citizen posses” or have threatened to deputize local gun owners.

The crisis of disparate police violence against Black and Brown people in the US is well-known to the High Commissioner. That violence is accelerated and made more lethal by the militarization of US police forces. Since its 1996 adoption, a US federal program has transferred [more than \\$7 billion in surplus military equipment](#) to law enforcement agencies across the nation. This military equipment, including grenades, bayonets, fortified vehicles and weaponized drones, has been used to devastating effect against protestors on many occasions.

As [SPLC has explained](#), the militarization of US police forces also provides further incitement to extremists. A common thread among many extremist movements is the belief that “a civil war or race war is imminent – even necessary – to achieve their political vision” and because they fear the government plans to take away their guns and impose a tyrannical government. “With militarized troops violently suppressing protests across the country, extremists now have abundant evidence of state-sponsored violence to prop up their conspiracy theories.” Extremists celebrate the violent use of force against demonstrators and hope the violence will escalate.

The unaddressed presence of white extremists in law enforcement ranks inevitably contributes to violence against people of color. A law enforcement culture that allows people who belong to extremist organizations to hold positions as police officers and officials leads not only to the over-policing of Black and Brown people and of anti-racist organizations such as Black Lives Matter, but also to departments turning a blind eye to the activities of white extremist groups. For example, as SPLC notes in our recently released [Year In Hate & Extremism](#) report (at page 9), the [Proud Boys](#) extremist group “spent the Trump years hosting rallies around the country that often descended into violent riots. With a handful of exceptions, they faced little interference from law enforcement, giving the impression that they had the tacit approval of police.”

In December 2021, SPLC's Hatewatch [reported](#) on its analysis of Washington DC police department documents that revealed the department had closely surveilled Black-led and anti-racist groups for many years, while virtually ignoring a growing threat from far-right

extremists. In some instances, the department even used claims made in right-wing media outlets as the basis for opening investigations into anti-racist groups. Consistent with this pattern was the relatively muted police response to the far-right attack on the US capitol, compared with the outsized and at times violent law enforcement response to anti-racism protests in Washington, DC during the preceding year, as illustrated in a 2021 [CNN report](#).

State and local law enforcement agencies are well aware of extremists within their ranks, but few have undertaken to address it. In 2019, an investigative report identified law enforcement officers in agencies across the country who belonged to closed Facebook groups of a racist, Islamophobic, misogynistic, or anti-government militia nature. [“More than 50 departments promised investigations,”](#) but few concrete steps were taken. According to the [Anti-Defamation League](#), one-third of police officers it identified as being associated with an extremist group were involved in white supremacist groups. ADL further reported that 40% of the officers it identified were allowed to remain on active duty with their departments, and several of those who were dismissed for extremist links were hired by another police department. Even in states where legislators have been inclined to propose laws to give police departments more authority to remove extremists, [police officer organizations have pushed back hard](#).

State and local police departments also continue to demonstrate substantial resistance to the most modest federal government oversight. Across the nation, many law enforcement agencies resist federal efforts to even collect complete and accurate data on violent hate crimes and on the use of force by officers. The Federal Bureau of Investigation has published annual reports documenting hate crimes reported by the 18,000 police agencies across the US since 1991. The reports provide data on hate crimes based on race/ethnicity, religion, sexual orientation, disability, gender, and gender identity, aggregated by states, cities, counties, and colleges and universities. Unfortunately, reporting is voluntary, and many law enforcement agencies do not provide the needed information.

For the third year in a row, the number of agencies participating declined in 2020. In 2020, the FBI [reported](#) 8,263 hate crimes, a 13% increase over 2019 and [the highest since 2001](#). As in each of the past 30 years, race-based crimes were most numerous – 63% of all reported hate crimes, the highest since 1996 and a 32% increase over 2019. And, like every year since 1991, the majority of the race-based crimes (55%) were directed at Black people, a 49% increase over 2019. Crimes directed against Asian American/Pacific Islander communities increased 56% over 2019.

A more recently established [database on police use of force incidents](#) also suffers from a severe lack of voluntary participation. The low participation rate is now causing the FBI to [consider abandoning the program](#). The same environment that makes members of white supremacist, neo-Nazi, and other extremist organizations welcome as members of law enforcement agencies is also one that engenders official resistance to US efforts to combat police violence against people of African descent.

Even when not contributing to violence inflicted on people and communities of color directly by police personnel, the presence of extremists in the ranks is a substantial obstacle to their safety. As Mary McCord, a senior fellow at the Atlantic Council, [has observed](#), “it seems indisputable that expressing white supremacist, racist, or anti-government views is utterly incompatible with building the trust that is necessary for community members to have confidence that they can safely report threats, harassment, and information about domestic extremists to law enforcement.”

Extremist Presence in Immigration Enforcement.

Groups like [American Border Patrol](#) engage in vigilantism by patrolling areas near the Southern US border and using high-tech surveillance equipment to locate and take photos or videos of migrants in the area, sometimes [working in tandem](#) with federal border patrol agents. In July 2021, SPLC notified the US Department of Homeland Security that SPLC had identified members of [right-wing militia groups](#) attempting to intercept migrants at the Southern US border. They included participants in the 6 January attack on the US Capitol, QAnon followers, and members of Veterans on Patrol, an antigovernment militia group made up of military veterans. Recordings revealed that Customs and Border Patrol officers either acquiesced in or actively welcomed these vigilante activities. In October, the SPLC Action Fund submitted [a detailed statement](#) to the US House of Representatives’ Veterans Affairs Committee for its hearing on violent extremist groups in the military and their recruitment of veterans. It followed years of urging by SPLC for action to be taken on the influence of white supremacist, neo-Nazi, and other extremist groups.

In November 2021, the [Phoenix New Times](#) reported on continued extremist activity at the US border with Mexico, quoting a statement by SPLC’s Freddy Cruz that extremist group members were “detaining [migrants] and handing them over to Border Patrol agents.” Cruz told the New Times that while humanitarian aid workers were being prosecuted for providing water and shelter to migrants, the Border Patrol was “not doing anything to deter a lot of these right-wing extremists from engaging with migrants, trying to act as border patrol agents.”

Extremist Presence in the Military.

In March and October 2021, SPLC submitted Congressional [testimony](#), and the SPLC Action Fund made a [statement for the record](#) to Congress, providing detailed analysis of the impact of white supremacy and other forms of extremism in the US military. The continuing infiltration of the US military by white supremacists and other extremists is highly relevant in the context of law enforcement-related violence because state governments can, and sometimes do, call for National Guard assistance with law enforcement activities, particularly in the context of events like anti-racism demonstrations. Thousands of National Guard members were [deployed to Washington DC](#) and [across the country](#) for Black Lives Matter protests in June 2020. The ordered [“crackdown” on protestors](#) was so excessive that it resulted

in an internal investigation. Similar deployments to anti-racist demonstrations happened [across the country](#) in anticipation of the verdict in the trial of Derek Chauvin, George Floyd's killer.

Following the arrests of several military veterans and at least one active duty service member for their roles in the 6 January violence at the US Capitol, the Secretary of Defense ordered a one day "stand down" across military branches to address extremism within their ranks, and the Pentagon [undertook a review of the issue](#). The Pentagon later published [new regulations](#) intended to help prevent extremist activities by active duty military personnel. The new rules don't prohibit membership in white supremacist or other extremist organizations, just "[active participation](#)" in their activities. The rules fail to address racially disparate treatment of service members in the military justice system and contain no explicit definitions or prohibitions of hate crimes, hindering investigations into such crimes.

Recent US Federal Government Efforts.

In recent months, the Biden administration has announced a number of actions directed at addressing hate and extremism:

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- In April 2021, Department of Homeland Security Secretary Alejandro Mayorkas [ordered an internal review](#) to identify white supremacy and extremism within DHS. There do not appear to be any publicly available findings or conclusions regarding that review at this time.
- In June 2021, the Biden administration published its [National Strategy for Countering Domestic Terrorism](#). The document focuses on racial and ethnic hatred as substantial underlying causes of domestic extremism and broadly outlines approaches to addressing the threat of domestic terrorism but gives insufficient attention to the significant threat posed by infiltration of law enforcement agencies. One of its stated goals is to improve vetting and screening processes to better scrutinize backgrounds for potential ties to or tendencies toward domestic terrorism.
- Congress is currently considering [H.R. 350](#), the Domestic Terrorism Prevention Act. If adopted, the bill would require that anti-terrorism training and resources provided to federal, state, local, and tribal law enforcement agencies include assistance to such agencies in identifying, investigating and deterring white supremacist and neo-Nazi infiltration of law enforcement and corrections agencies. It would also establish an

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interagency task force to analyze and combat such infiltration in federal law enforcement and military agencies, and to produce an annual report providing an assessment of the threat posed by such infiltration. However, it would not require non-federal agencies to do likewise, despite their substantial federal funding.

I hope the foregoing information will be helpful to you as you prepare your report. Please do not hesitate to contact me if you have any questions or if there is any further information I can provide.

With best regards,

A handwritten signature in black ink, appearing to read "Lisa Borden". The signature is fluid and cursive, with the first name "Lisa" and the last name "Borden" clearly distinguishable.

LISA W. BORDEN

Senior Policy Counsel, International Advocacy