



FOR IMMEDIATE RELEASE
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CONTACT:
Sue Walitsky (Cardin) 202-224-4524
Cassie Harvey (Mikulski) 202-228-1122
Zach Lowe (Feingold) 202-224-8657

SENATORS CALL FOR ANSWERS, URGE SENIOR LAW ENFORCEMENT AND INTEL OFFICIALS TO PURGE PEACEFUL PROTESTERS FROM TERRORIST LISTS

Cardin, Mikulski, Feingold say federal anti-terrorism guidelines have been ignored

Washington, DC – U.S. Senators **Benjamin L. Cardin** and **Barbara A. Mikulski** (Both D-MD), and **Senator Russ Feingold** (D-WI), in response to news reports that dozens of nonviolent activists were added to state and federal terrorist databases by the Maryland State Police, today sent a letter to senior federal law enforcement, homeland security and intelligence officials to find out why this occurred and what steps are being taken to ensure that it never happens again. Senators Cardin and Feingold are members of the Senate Judiciary Committee. Senators Mikulski and Feingold are members of the Senate Select Committee on Intelligence.

The letter, which is included below, was sent to Attorney General Michael Mukasey, Department of Homeland Security Secretary Michael Chertoff, FBI Director Robert Mueller, Director of the National Security Agency Lt. General Keith Alexander, and Director of the U.S. National Counterterrorism Center Michael Leiter.

“Anti-war protesters, environmental protesters, and anyone exercising their First Amendment right to nonviolent protests should not be unlawfully spied upon nor should they be grouped together with criminals and terrorists,” **said Senator Cardin**. “The actions uncovered over the last month are unacceptable and need to be addressed before they happen again.”

"Americans exercising their First Amendment right to nonviolent protest should not end up on a federal terrorism watch list," **said Senator Mikulski**. "I am committed to finding out why these events happened and will work to make sure it never happens again."

“The federal government must explain how and why information about law-abiding Americans who were simply expressing their First Amendment rights reportedly ended up in federal databases,” **Senator Feingold said**. “Participation in non-violent protests is as basic a right as Americans have. The idea that these people could end up in federal terrorism databases as a result threatens the liberty of all Americans.”

The full text of the letter follows; a PDF version is attached.

November 17, 2008

Dear Attorney General Mukasey, Secretary Chertoff, Director Mueller, Director Alexander, and Director Leiter:

We write with concern about a story in the October 8, 2008, edition of the *Washington Post* entitled “Md. Police Put Activists’ Names On Terror Lists.” The story states: “The Maryland State Police classified 53 nonviolent activists as terrorists and entered their names and personal information into state and federal databases that track terrorism suspects, the state police chief acknowledged yesterday.” (emphasis supplied). The article states state officials then shared this information with the Washington-Baltimore High Intensity Drug Trafficking Area (HIDTA) and the National Security Agency. According to the *Post*, in the HIDTA database, one activist was listed under the “Primary Crime” category of “Terrorism – Anti-War Protestors” and the “Second Crime” of “Terrorism – Anti-Government.” Another story in the October 24, 2008 edition of the *Maryland Gazette*, entitled “Environmentalists Claim Police Spying,” states that “three current or former employees of one of the state’s largest environmental groups discovered that their names were in a police database used to track suspected terrorists.”

While appropriate information sharing between federal counter-terrorism agencies and state and local law enforcement is critical to our national security, we trust you agree that Americans should not end up in federal terrorism databases as a result of participating in nonviolent anti-war, anti-death penalty, or pro-environment demonstrations. Such activities by the government could have a serious chilling effect on the First Amendment rights of groups and individuals to “peaceably assemble, and to petition the government for a redress of grievances.” Former Maryland Attorney General Stephen H. Sachs conducted a special review of these programs and issued a September 29, 2008 report which concluded that: “The subjects of the Maryland State Police’s investigation are, in a particularly meaningful respect, the opposite of terrorists: they are individuals committed to changing the policies or conduct of the government through strictly non-violent means.”

Federal anti-terrorism guidelines (28 C.F.R. Part 23) expressly prohibit the collection or maintenance of “criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group...or other organization unless such information directly relates to criminal conduct or activity, and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.” We are also concerned that these types of programs represent a misuse of scarce federal homeland security dollars and resources.

We would appreciate your expeditious response to the following questions:

- What information was shared with the Intelligence Community by the Maryland State Police involving the surveillance of anti-war and anti-death penalty activists, and with which entities was it shared?
- What steps have your agencies or departments taken to ascertain the extent to which such information is in federal terrorism databases?
- Does any of this information continue to reside in federal terrorism databases? How many of the 53 activists noted above are in your agency’s relevant databases? How many times have those records been queried by your agency or another agency? What are your

plans to purge this information? Will these activists have the ability to review or copy this information before it is purged?

- Have any of these individuals been placed on a federal terrorism-related watch list as a result of the information shared by the Maryland State Police? If so, when will the federal government reconsider that decision?
- Did any official at your agency inform the Maryland State Police that this information was being improperly entered into your agency's relevant databases? If so, what steps were taken to correct this situation at the state or federal level?
- What steps are you taking to ensure that Americans do not end up in federal terrorism databases as a result of engaging in nonviolent First Amendment-protected activities?

Thank you for your consideration. We look forward to your responses, and urge you to reply as soon as your individual agency has compiled the requested information. Please respond to the greatest extent possible in unclassified form.

Sincerely,

Benjamin L. Cardin
United States Senator

Barbara A. Mikulski
United States Senator

Russell D. Feingold
United States Senator

CC: Director McConnell

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