



## **Briefing Guide: *Color of Change v. FBI & DHS***

*Color of Change (COC), the Center for Constitutional Rights (CCR), and the Kramer Law Clinic are currently litigating under the Freedom of Information Act (FOIA) to uncover how the FBI and Department of Homeland Security (DHS) are monitoring and surveilling public protests regarding police violence, racial justice, and the Movement for Black Lives. Between May and December of 2017, DHS and the FBI turned over hundreds of pages of emails, reports, policies, and surveillance documents to us.*

*While many of these documents were fully or partially redacted, it is clear from their substance that the FBI and DHS (including their sub-agencies) are surveilling the Movement for Black Lives, and Black activists and organizers, reinforcing a law enforcement narrative that broadly criminalizes Black protestors. This briefing guide highlights several key documents that have been turned over to our organizations so far.*

### **Email: The “Race Paper”**

The DHS Office of Intelligence and Analysis (“I&A”) produced several emails sent in early 2017 between their personnel concerning a document they referred to as “the Race Paper.” Each email attached a separate version of the document, and some emails contain some feedback from DHS personnel on the structure of the document, call for in-person meetings to discuss the paper, and expressly mention “drivers” and “indicators.”

All versions of the “race paper” itself were produced to us, but in completely redacted form – nothing, not even the official title of the document, is visible. DHS claims the document is exempt from release to the public under certain statutes. Considering the documents are all fully black out, we are thus left to speculate, as to why DHS would prepare a document it refers to only as the Race Paper and then closely guard its contents, even to the point of concealing its actual title and a basic description.

#### **LINKS:**

- [Redacted version of the “Race Paper” \(Bates IA 508-516\)](#)
- [Race Paper Email \(Bates IA 259-70\)](#)

### **Email: “Black Supremacist Extremists”**

One document contains an email chain regarding the killings of five police officers in Dallas, Texas, by Micah Xavier Johnson. One of the emails shows DHS circulating information regarding the killings from an FBI and Dallas police department press conference. While the email clearly states that Johnson was acting alone, under the heading “CONTEXT”, the email notes that

"there are a number of black supremacist extremist groups in the Dallas area" and that "there is a threat of **black supremacist extremists** attempting to violently co-opt the upcoming [Democratic National Convention / Republican National Convention]." As a result, the email notes that DHS I&A would be in contact with the FBI's domestic terrorism unit and DHS fusion center.

In a separate DHS document, titled "The NAACP 107<sup>th</sup> National Convention Threat Assessment," the term "black supremacist extremist" also is defined in a footnote.

**LINKS:**

- [Email chain](#)
- [NAACP "Threat Assessment"](#)

**Report: "Lawfully Organized White Supremacist Events"**

The 16-page report "Recent Violent Clashes Suggested Heightened Threat Environment at Lawfully Organized White Supremacist Events," identifies potential "threats" to white supremacist rallies and "lawfully protesting white supremacists." Set against other DHS and FBI documents produced to us, as well as the FBI "Black Identity Extremist" report leaked to Foreign Policy in August 2017, this document suggests an obvious and troubling double-standard: *all* Black activists and organizers protesting state-sanctioned violence are labeled as threatening, and thus, necessary to surveil, while white supremacist groups, despite their long history of racialized violence, are defined very carefully, focusing law enforcement's attention on how to anticipate the backlash their actions produce. to focus in how authorities view and engage with them. —

**LINKS:**

- ["Recent Violent Clashes Suggested Heightened Threat Environment at Lawfully Organized White Supremacist Events."](#)

**Emails: FBI Justifies Surveillance of Black Activists with "Caveat" Language**

Several emails show a 2016 discussion among agents at the San Francisco FBI field office regarding placing "caveat" legal language in the signature block of their emails to "cover" for ongoing surveillance of Black activists. The FBI seems to be using stock legal language to explain surveillance of protected First Amendment activity because of assumptions that Black-led organizing may "invite a violent reaction" or be "used as a means to target law enforcement." The emails, which expressly mention disclosure through FOIA, suggest that the caveat language is being offered to neutralize anticipated public scrutiny and criticism of FBI surveillance.

**LINKS:**

- [FBI Email discussion Part 1](#)
- [FBI Email discussion Part 2](#)

## **Emails: Racist, anti-Muslim and conspiratorial “news” items shared among agencies**

Emails from DHS show staff sharing far right-wing tabloid conspiracy articles to agency email lists. One email shares an article regarding “co-option” of anti-police brutality protests by ISIS and “jihadists.” Another email chain between “Regional Directors” contains the subject heading “Muslims co-opt Ferguson demonstrations” with a link to a Fox News article. In addition, a “SitRep” report from 2014 shows the effect of right-wing conspiratorial news on agency policy/action, noting “Per open source media reporting, ISIS supporters are urging Ferguson protestors to embrace radical Islam and engage in further violence. They are also reportedly telling any ISIS supporters in the DS to travel to Ferguson. FBI SL is aware of the above threat, and has no further information at this time.”

### **LINKS:**

- [Islamophobic op-ed forwarded by DHS](#)
- [Email chain subject heading “Muslims co-opt Ferguson demonstrations”](#)
- [FBI SitRep Report](#)

## **Email: “Day of Rage” fake news**

An email shared among [DHS or FBI] warns of a US Army North “threat advisory” regarding the “Day of Rage” protest. While acknowledging that the “Day of Rage” is a hoax, the agency nevertheless makes harmful and racialized assumptions about activists, noting that “Being anywhere near these protests greatly increases the chance that you could become a victim of violence...When the mob mentality takes over, normally decent people can commit heinous acts.”

### **LINK:**

- [“Day of Rage” Threat Advisory](#)

## **Emails: Social Media Surveillance**

Numerous documents confirm not only previous and continued surveillance of Black activists’ social media accounts but also how social media is viewed as a primary target for law enforcement investigation. Just one example of these types of communications is an FBI email from 2015 with the subject heading “[Redacted] Baltimore – Social Media,” where an agent discusses “photos circulating around Instagram,” “hashtags naming the numerous individuals who have been killed,” and that agents are watching for “discussion of [redacted] Cleveland or Ohio in their social media feeds.” Additional documents demonstrate the continuous level of social media surveillance by government agencies. One document produced by the FBI from the South Carolina Information and Intelligence Center was distributed “for public and officer safety awareness” and provides a list of upcoming events, several of which are even labeled “Not protest related.” The email includes social media surveillance of church groups or activities that have permits, such as a “Women’s Empowerment” event where it is noted the “permit holder uses some of the rhetoric seen by other Black Lives Matter groups but there is no indication that this gathering is meant to be a part of the other marches taking place on the same day.”

Another document from DHS suggests the use of a daily list “to advise on protests in the United States

**LINKS:**

- [FBI “Baltimore Social Media” Email](#)
- [List of events in South Carolina](#)
- [Daily social media event surveillance](#)

**Email: Individual Surveillance of Activists by Federal in Cooperation with Local Law Enforcement**

This document contains detailed surveillance of an activist who flew from New York for a Ferguson protest. The assessment details how much money activists and Stand Up For Ferguson raised for a bail fund, and speculation that the activist has been previously arrested at a protest. It appears that the FBI has a more robust file on this activist as information is redacted for the fields for Social Security Number, an FBI tracking number, and the activist’s home address. Two attachments are referenced but are not included - one is an additional notes doc on the activist and the other is their criminal record. The document also lists this activist as a “suspect,” incriminating them for planning to take part in a protected free speech activity. The document also shows that the FBI coordinated with local law enforcement to identify this activist and their activities.

**LINK:**

- [FBI Surveillance Documents](#)