

## Administration Actions Targeting Domestic Terrorism and Their Implications for Nonprofits

The current administration has taken steps to target groups, including nonprofit organizations, that it claims are behind recent high-profile acts of political violence, including the September 10, 2025 assassination of conservative activist Charlie Kirk. On September 15, Vice President Vance spoke about “dismantling” the “incredibly destructive movement of left-wing extremism that has grown up over the last few years” and added that the administration would “go after the NGO network that foments, facilitates, and engages in violence.” In the days that have followed, the administration took several steps to turn these remarks into action in ways that may pose legal risks for nonprofit organizations and their funders.

### Executive Order, “Designating Antifa as a Domestic Terrorist Organization”

On September 22, President Trump signed an executive order entitled “[Designating Antifa as a Domestic Terrorist Organization](#).” The Executive Order describes “Antifa” as “a militarist, anarchist enterprise that explicitly calls for the overthrow of the United States Government, law enforcement authorities, and our system of law.” It also states that “Antifa” “uses illegal means to organize and execute a campaign of violence and terrorism nationwide,” such as through armed standoffs with law enforcement, organized riots, assaults on Immigration and Customs Enforcement (ICE) and other law enforcement officers, and doxing of and other threats against political figures and activists.

The Executive Order designates “Antifa” as a “domestic terrorist organization” based on its “pattern of political violence.” Accordingly, it directs all executive departments and agencies “to investigate, disrupt, and dismantle any and all illegal operations . . . conducted by Antifa or any person claiming to act on behalf of Antifa, or for which Antifa or any person claiming to act on behalf of Antifa provided material support, including necessary investigatory and prosecutorial actions against those who fund such operations.”

The [White House Fact Sheet](#) accompanying the Executive Order and the related White House article, “[President Trump Isn’t Backing Down from Crushing Radical Left Violence](#)” provide further context about “Antifa” and examples of activities that it alleges are attributable to “Antifa.” The article catalogues recent violent acts committed against law enforcement and conservative politicians and activists.

We note, as [many media organizations](#) have observed, there is no specific “Antifa” organization in the United States. Rather, the word refers to a broad ideology and derives from “anti-fascist” movements in Europe in the 1930s. The word has often been used by President Trump and others in his administration to characterize a variety of violent and non-violent opposition to his administration’s activities.

### National Security Presidential Memorandum, “Countering Domestic Terrorism and Organized Political Violence”

On September 25, President Trump issued a National Security Presidential Memorandum entitled “[Countering Domestic Terrorism and Organized Political Violence](#)” (“NSPM-7”) along with a related [White House Fact Sheet](#). NSPM-7 both articulates a new ideological focus for domestic counterterrorism initiatives as well as a broad national strategy for combatting domestic terrorism and political violence (as described, but not precisely defined, in NSPM-7) in ways that may pose particular risks to tax-exempt entities and their funders.

Key takeaways from NSPM-7, particularly for Section 501(c)(3) charities and Section 501(c)(4) social welfare organizations, include the following:

### 1. Potentially Broad Interpretation of Domestic Terrorism and Related Criminal Offenses

NSPM-7 highlights an alleged recent increase in political violence, including assassinations and attacks on high-profile conservative figures and law enforcement, and frames such events as part of “sophisticated, organized campaigns” designed to “silence opposing speech, limit political activity, change or direct policy outcomes, and prevent the functioning of a democratic society.”

Echoing the same ideas seen in the September 22 Executive Order on Antifa described above, NSPM-7 characterizes this “pattern of violent and terroristic activities” as united under the umbrella of “anti-fascism,” which it defines as “anti-Americanism, anti-capitalism, and anti-Christianity; support for the overthrow of the United States Government; extremism on migration, race, and gender; and hostility towards those who hold traditional American views on family, religion, and morality.”

NSPM-7 suggests that the administration may seek to characterize groups that hold such views as “Antifa” or as otherwise falling within the definition of domestic terrorism under the PATRIOT Act and then seek to identify possible federal crimes they may have committed, as discussed below.

### 2. Scrutiny of Potential Domestic Terrorism Financing, including through Nonprofits

NSPM-7 directs the Treasury Department and Internal Revenue Service (IRS) to take certain actions to target funding mechanisms, non-governmental organization (NGO) involvement, and financial crimes that are related to domestic terrorism.

- *IRS enforcement and referral of tax-exempt entities:* The IRS is directed to take action to ensure that no tax-exempt entities are “directly or indirectly financing political violence or domestic terrorism.” The IRS is also directed to refer such tax-exempt organizations, and the employees and officers of such organizations, to the Department of Justice (DOJ) for investigation and possible prosecution.
- *Treasury investigation of illicit funding streams:* Treasury, in coordination with the DOJ, is directed to make all resources available to identify and disrupt financial networks funding domestic terrorism. Treasury is directed to deploy investigative tools and provide guidance for financial institutions to file Suspicious Activity Reports (SARs) to trace illicit funding streams. Financial institutions are already required to file SARs with the Financial Crimes Enforcement Network (FinCEN) when they detect financial activity that may indicate terrorist financing or other financial crimes.

### 3. Expanded Law Enforcement Investigation Strategies

NSPM-7 establishes a new coordinated law enforcement approach under the existing National Joint Terrorism Task Force (JTTF) framework that will be focused on investigating, prosecuting and disrupting domestic terrorism and political violence. Led by the Federal Bureau of Investigation (FBI) under the purview of the DOJ, [JTTFs](#) are interagency partnerships that coordinate federal, state, and local law enforcement and intelligence agency efforts to counter terrorism. There are dozens of JTTFs around the country, including one in each of the FBI’s 55 field offices.

- *Investigation of funders and their staff:* JTTFs are directed to investigate not only federal crimes related to the direct recruitment and radicalization of domestic terrorists, but also the institutions, including NGOs, alleged to be responsible for sponsoring or otherwise aiding and abetting the principal actors engaging in potential violence and domestic terrorism.
- *Investigation of NGOs with foreign ties:* JTTFs are also directed to investigate NGOs and American citizens residing abroad or with close ties to foreign governments, agents, citizens, foundations, or influence networks for possible violations of the Foreign Agents Registration Act (FARA) or money laundering laws on the grounds that they are engaging in activities that support or encourage domestic terrorism. FARA requires individuals or entities who are

acting as agents of foreign governments or entities to make periodic public disclosure of such relationships.

- *Interrogation of individuals about their organizers/funders:* All federal law enforcement agencies are directed to, “within all lawful authorities,” question and interrogate individuals engaged in “political violence or lawlessness” about the entity or individual that is “organizing such actions and any related financial sponsorship” of such actions. NSPM-7 directs that such interrogation should occur prior to adjudication or initiation of a plea agreement with such individuals.

#### 4. Prosecution of Federal Crimes related to Domestic Terrorism

While the PATRIOT Act defines “domestic terrorism,” there are [currently no federal criminal provisions](#) that enable the federal government to formally charge an individual with the crime of “domestic terrorism.” In other words, there is no specific federal crime of “domestic terrorism” that can be prosecuted by the federal government. Perhaps owing to this, NSPM-7 provides guidance on the types of existing federal crimes that the administration may seek to prosecute as or in connection with domestic terrorism as described in the Memorandum.

- *Guidance on Domestic Terrorism-Related Charges:* Law enforcement agencies are directed to prioritize investigation of certain types of crimes associated with domestic terrorism, including assaulting law enforcement, conspiracy, money laundering, funding or facilitating terrorism, arson, RICO, and major fraud. Similarly, the DOJ is directed to issue guidance ensuring that domestic terrorism prosecution priorities include politically motivated acts such as “organized doxing, swatting, rioting, looting, trespass, assault, destruction of property, threats of violence, and civil disorder.”
- *Additional Domestic Terrorism Designations:* The DOJ is authorized to recommend any group or entity whose members are engaged in activities meeting the statutory definition of domestic terrorism for potential designation by the President as a “domestic terrorist organization.” NSPM-7 invokes the statutory definition of “domestic terrorism” under the PATRIOT Act (18 U.S.C. § 2331(5)), which provides that domestic terrorism includes activities that:
  - a. involve acts dangerous to human life that violate U.S. or state criminal laws;
  - b. appear intended to intimidate or coerce a civilian population, influence government policy by intimidation or coercion, or affect government conduct by mass destruction, assassination, or kidnapping; and
  - c. occur primarily within the territorial jurisdiction of the United States.
- *Domestic Terrorism as a National Priority Area:* The DOJ and Department of Homeland Security are directed to designate domestic terrorism as a “national priority area” and to allocate targeted grant funding and resources for law enforcement partners to combat domestic terrorism.

#### **Department of Justice directive relating to Open Society Foundations**

On September 25, *The New York Times* [reported](#) that a senior DOJ official had sent a directive to more than a half dozen U.S. attorney's offices, including those in California, New York, Washington, D.C., Chicago, Detroit, and Maryland, to draft investigative plans targeting the Open Society Foundations (OSF), a network of philanthropic organizations founded by liberal financier George Soros. The directive reportedly listed a range of potential federal charges against the organization, including racketeering, wire fraud, arson, and material support for terrorism. The directive also reportedly referenced as evidence a [report](#) by the Capital Research Center, a conservative think tank

that monitors philanthropic spending in politics, alleging that OSF “has poured over \$80 million into groups tied to terrorism or extremist violence.”

OSF has strongly [rejected](#) these charges and its leadership has stated that it intends to fight back against any government actions aimed at curtailing OSF’s charitable activities.

### **Key Takeaways**

The administration’s newly stated approach to combatting domestic terrorism and political violence, as recent missives have broadly described them, appears to signal that the administration is casting a wide net that could capture certain tax-exempt organizations and their funders, especially those on the ideological left who oppose the administration’s policies.

While we expect that much of what is in these new statements from the administration will be subject to challenges in court, including on First Amendment grounds, the expansive descriptions of domestic terrorism in the Executive Order and NSPM-7 appear intended to give the IRS and other government agencies broad latitude to take enforcement action against certain nonprofit organizations. Such actions may not only jeopardize Section 501(c) tax-exempt status, but they also raise the specter of civil and criminal liability under FARA and other federal statutes for such organizations and individuals associated with them.

These recent administration actions bear some similarity to earlier [legislative proposals](#) to expand Section 501(p) of the Internal Revenue Code to allow the IRS to suspend the tax-exemption of terrorist supporting organizations.

Most nonprofits already have significant safeguards to protect against the use of funding for unlawful or violent activities. In light of this heightened risk environment, nonprofits should continue to monitor, evaluate, and closely follow diligence and compliance procedures in grantmaking, contracting, and other transactions, as well as continue ongoing enterprise risk assessment and mitigation exercises (all of which naturally will vary by organization). This work is critical to help guard against scrutiny, investigation and potential liability stemming from allegations that nonprofits are involved in supporting domestic terrorism and political violence.

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