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**Re: Cease and Desist Listing SFLA on a START PIRUS Terror Watchlist**

Ms. Winslett, Mr. Rosello, Ms. LaGivne, Mr. Bradburd, and Dr. Scherer,

We write to you on behalf of Students for Life of America (“SFLA”) to demand that it be immediately removed from the “Profiles of Individual Radicalization in the United States” (“PIRUS”) dataset.<sup>1</sup> Inclusion of SFLA on this terrorist and extremist list has conveyed to the world that SFLA should be treated as a dangerous threat. This unduly stigmatizes SFLA, which is not a terrorist or extremist group. Remove SFLA from this list immediately.

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<sup>1</sup> See enclosed screenshot of SFLA’s inclusion in the PIRUS data sheet, (available at <https://www.start.umd.edu/data-tools/profiles-individual-radicalization-united-states-pirus>).



SFLA is a national pro-life group that aims to recruit, train, and mobilize the Pro-Life Generation to abolish abortion through peaceful, lawful means. SFLA has grown to become one of the leading pro-life advocacy organizations in the world, driving the narrative for the entire movement and leading by example. Our reach and successes are recognized movement-wide. The organization is well-respected for its education on protecting the preborn and their mothers.

Yet, it was included in a list of radicals on a government-sanctioned terror watch list. *See screenshot enclosed.*

Recently, the National Consortium for the Study of Terrorism and Responses to Terrorism (“START”) has included SFLA in a “radicalization” or terror watch list PIRUS, portraying this peaceful organization as a radical and potential terrorist group. We demand that SFLA be removed from this list immediately.

According to its website, START is a university-based research and education center comprised of an international network of scholars “committed to the scientific study of the causes and human consequences of terrorism in the United States and around the world.” It is a Department of Homeland Security Emeritus Center of Excellence led by the University of Maryland. As such, the program is an arm of the government and subject to laws and regulations that limits its power against individuals and organizations. According to the START website, the PIRUS list is: “PIRUS is a *deidentified* cross-sectional, quantitative dataset of individuals in the United States who *radicalized to the point of* violent or non-violent *ideologically motivated criminal activity*, or ideologically motivated association with a foreign or domestic extremist organization . . . ” (emphasis added).

Various other individuals and organizations have pointed out that SFLA should not be included in the PIRUS list. Two former employees of the Department of Justice and Homeland Security stated that PIRUS lists SFLA among white supremacists, jihadist groups, and other threats, appearing as a “Terrorist\_Group” label in the raw dataset. National security expert Elizabeth Neumann stated that such labeling was inappropriate.<sup>2</sup> She has worked on President George W. Bush’s Homeland Security Council, the Office of the Director of National Intelligence, and in the Department of Homeland Security in counterterrorism and threat prevention. Additionally, Deputy Assistant Attorney General John Yoo also explained that researchers can “create and apply any definition of ‘terrorist’ that they like,” but that it would make sense to use the definition publicized by the FBI.<sup>3</sup> “It seems obvious that writing messages in chalk on the

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<sup>2</sup> Hudson Crozier, Former terrorism officials question ‘radicalization’ study that lists peaceful pro-lifers, The College Fix, April 1, 2024 (available at <https://www.thecollegefix.com/former-terrorism-officials-question-radicalization-study-that-lists-peaceful-pro-lifers/>).

<sup>3</sup> *Id.*



sidewalk does not come close to fitting this definition.”<sup>4</sup> Both College Fix and WND News Center have reported on this weaponized inclusion of non-terror groups in the various terrorist watch lists created by START.<sup>5</sup>

The ideologues in charge of this database chose non-violent pro-lifers and counted them as extremists but ignored violent pro-abortion advocates. Jane’s Revenge, for example, has claimed responsibility for at least eighteen (18) attacks on pro-life pregnancy centers.<sup>6</sup> Even Supreme Court Justices have been under threat of danger for writing opinions that are not pro-abortion.<sup>7</sup> This is not a new problem. In 2021, a pro-life leader was “bombarded with threats” after their address was leaked.<sup>8</sup> The PIRUS data set includes many “anti-abortion” organizations or individuals, but does not once condemn, list, or “watch” anti-life or pro-abortion extremism. There are clear examples of pro-abortion advocates threatening and committing violence against those who disagree, yet START did not include pro-abortion groups in the PIRUS watch list. See enclosed screenshot. The inclusion of SFLA in this list is clearly ideologically motivated, and nothing more.

### **Subject to the Constitution and Related Case Law**

Inclusion of SFLA on the PIRUS list portrays the organization as dangerous and linked to terror, which is impermissible. As a public university, the University of Maryland must adhere to the strictures of the Constitution.<sup>9</sup> Further, as a program with federal funding, START must also adhere to Constitutional strictures.<sup>10</sup> This includes respect for the free speech and free association

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<sup>4</sup> *Id.*

<sup>5</sup> Lt. Col. James Zumwalt, Time to stop START: The latest weaponization of government, WND, March 29, 2024 (available at <https://www.wnd.com/2024/03/time-stop-start-latest-weaponization-government/>).

<sup>6</sup> Lindsay Kornick, Sen. Hirono blasted for 'call to arms' response to abortion bill: 'Sounds like she's calling for violence', Fox News, September 14, 2022 (available at <https://www.foxnews.com/media/sen-hirono-blasted-call-arms-response-abortion-bill-sounds-calling-violence>); Caroline Wharton, BREAKING NEWS: Jane’s Revenge Threatens to “Shoot Up” Location of SFLAction Workshop in Nebraska, SFLA Blog, December 3, 2022 available at (<https://studentsforlife.org/2022/12/03/breaking-news-janes-revenge-threatens-to-shoot-up-location-of-sflaction-workshop-in-nebraska/>).

<sup>7</sup> Betsy Woodruff Swan and Josh Gerstein, Supreme Court security in spotlight after Kavanaugh threat, Politico, June 8, 2022 (available at <https://www.politico.com/news/2022/06/08/man-gun-arrested-kavanaugh-00038137#:~:text=The%20attempted%20murder%20charges%20against,Wade%20abortion%20case>).

<sup>8</sup> Caroline Downey, Pro-Life Group Leader Bombarded with Threats after Home Address Publicized in Planned Parenthood Lawsuit, National Review, September 14, 2021 (available at <https://www.nationalreview.com/news/planned-parenthood-doxxes-texas-pro-life-group-leader/>).

<sup>9</sup> The First Amendment applies to the non-legislative branches of government—to every “government agency—local, state, or federal.” *Herbert v. Lando*, 441 U.S. 153, 168 n.16 (1979).

<sup>10</sup> The Supreme Court has even stated that “a private entity can qualify as a state actor in a few limited circumstances,” such as “[1] when the private entity performs a traditional, exclusive public function; [2] when the government compels the private entity to take a particular action; or [3] when the government acts jointly with the private entity. *Manhattan Cmty. Access Corp. v. Halleck*, No. 17-702, slip op. at 6 (U.S. June 17, 2019) (internal citations omitted) (citing *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 352–54 (1974), *Blum v. Yaretsky*, 457 U.S. 991, 1004–05 (1982), and *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 941–42 (1982), respectively).



rights of both SFLA as an organization and its employees and affiliated student members. The University of Maryland and START program have infringed on SFLA's rights to freedom of speech and freedom of association by portraying SFLA as a danger and therefore affecting the ability of SFLA to share its message and associate with like-minded individuals.

“[F]reedom of speech, . . . is [] protected . . . unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest.”<sup>11</sup> Of course, “[i]t is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.”<sup>12</sup> Arms of the government are not permitted to silence or threaten those who disagree with its viewpoint.

Governmental actors face liability—including the risk of personal liability—if they retaliate against individuals exercising their First Amendment rights to assemble, speak and/or protest. *See, e.g., Nieves v. Bartlett*, — U.S. —, 139 S. Ct. 1715, 1720, (2019) (First Amendment retaliation claim against two police officers who arrested petitioner for disorderly conduct and resisting arrest); *Hartman v. Moore*, 547 U.S. 250, 254, 256 (2006) (Bivens action against postal inspectors for inducing a prosecution in retaliation for speech); *cf. Shrum v. City of Coweta*, 449 F.3d 1132, 1140 (10th Cir. 2006) (McConnell, J.) (holding “the First Amendment applies to exercises of executive authority no less than it does to the passage of legislation,” a principle that the Supreme Court has “assumed on countless occasions”). Indeed, “[t]he pervasive restraint on freedom of discussion by the practice of the authorities under [a] statute is not any less effective than a statute expressly permitting such selective enforcement.”<sup>13</sup> Furthermore, “[p]rosecutorial decisions, like other government actions, cannot turn on the exercise of free speech rights.”<sup>14</sup>

START is tracking groups and individuals based on viewpoint. This is impermissible and causing harm. SFLA is a group of peaceful individuals who value both mother and child—born and preborn. They are not terrorists. According to the FBI, “domestic terrorism” is “[v]iolent, criminal acts committed by individuals and/or groups to further ideological goals stemming from domestic influences, such as those of a political, religious, social, racial, or environmental nature.”<sup>15</sup> There is no evidence that SFLA has committed, or even been associated with, any such

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<sup>11</sup> *Terminiello v. City of Chicago*, 337 U.S. 1, 4, 69 S. Ct. 894, 896, 93 L. Ed. 1131 (1949).

<sup>12</sup> *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995).

<sup>13</sup> *Frederick Douglass Found., Inc. v. D.C.*, 82 F.4th 1122, 1140 (D.C. Cir. 2023) (citing *Cox v. Louisiana*, 379 U.S. 536, 557, 85 S.Ct. 453, 13 L.Ed.2d 471 (1965)).

<sup>14</sup> *Frederick Douglass Found., Inc. v. D.C.*, 82 F.4th 1122, 1141 (D.C. Cir. 2023) (citing *Wayte v. U.S.*, 470 U.S. 598, 608 (1985)).

<sup>15</sup> Definition of “terrorism,” Federal Bureau of Investigation, <https://www.fbi.gov/investigate/terrorism>



violence. On the contrary, inclusion in the PIRUS list exposes SFLA to such violence from those who may be ideologically opposed.

START is using its authority, vested by the Department of Homeland Security, to intimidate opposition to its leftist agenda, impermissibly silencing people and SFLA who are entitled to freedom of speech.

After an inquiry into why SFLA may have been included in the PIRUS list, all we could conclude is that a chalking event in D.C. was sufficient for START to include SFLA as a potential extremist terrorist organization. In 2020, a few individuals affiliated with SFLA wrote on the sidewalk in chalk the message “Black Pre-Born Lives Matter” in response to the painted “Black Lives Matter” message on a road in the city. It is our understanding that this is the event that caused inclusion in the PIRUS list. If this is the basis of the inclusion, this action is completely without merit.

Sidewalk chalking is not a violent criminal act; much less a national security threat. Free speech is specifically protected by the First Amendment.<sup>16</sup> Although two students were arrested and charged with public defacement for peacefully sidewalk chalking on a public sidewalk, their criminal charges were dropped entirely and, more importantly, associated organizations sued the District of Columbia for various constitutional violations. Indeed, the U.S. Court of Appeals for the D.C. Circuit ruled *in this very case*:

The First Amendment prohibits the government from favoring some speakers over others. Access to public fora must be open to everyone and to every message on the same terms. The District may act to prevent the defacement of public property, but it cannot open up its streets and sidewalks to some viewpoints and not others. During the summer of 2020, the District arrested individuals chalking “Black Pre-Born Lives Matter” on the sidewalk, while making no arrests against the many individuals marking “Black Lives Matter” on sidewalks, streets, and other property.<sup>17</sup>

The criminal charges brought against these individuals for peacefully sidewalk chalking a pro-life message has caused the District of Columbia to face liability for the illegal arrest and prosecution. Thus, START’s PIRUS dataset is corrupt with faulty data at best, but more likely has been intentionally weaponized against pro-life organizations by radical academic ideologues in charge of the program.

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<sup>16</sup> U.S. Const. amend. I

<sup>17</sup> *Frederick Douglass Found., Inc. v. D.C.*, 82 F.4th 1122, 1150–51 (D.C. Cir. 2023).



The PIRUS dataset specifically includes information about “anti-abortion extremists” but does not include information about pro-choice radicals.<sup>18</sup> The temerity to pick and choose sides within a major political and policy issue, is an anathema to the First Amendment and, frankly, to academic integrity and honesty. The researchers and professors should be deeply ashamed of themselves.

### **Causing Continuous Harm**

As clearly stated in the law, “reputational harm caused by the government can constitute the deprivation of a cognizable liberty interest.”<sup>19</sup> Here, multiple harms have resulted, including to SFLA’s finances, reputation, and ability to conduct its business freely without fear of threats or violence.

Unlike in cases relating to a limited terrorist watch list in the context of air travel<sup>20</sup>, the PIRUS list is public and accessible to anyone with an internet connection. This is a severe overreach, where a governmental entity selects individuals and organizations for a list based on viewpoint, with no legitimate reason to label them as dangerous.

Inclusion of SFLA in the PIRUS list has caused harm and continues to cause harm. It stigmatizes SFLA. We demand that you remove SFLA from the list to avoid causing further actional harm against the entity. SFLA has already extended resources to combat the label of “terror” group through personnel time, as well as legal analysis. Donors and potential donors will be deterred from charitable contributions to an organization known to be on a terrorist watch list. Universities will charge additional security fees for SFLA personnel to speak on campuses. Universities may decline to allow local Students for Life groups on campuses for fear that they are affiliated with terrorists. Students may not join the group for similar reasons. Furthermore, there is a real fear that individuals seeking to take justice into their own hands would act violently toward SFLA, its employees, its affiliated student groups, or other pro-life individuals and organizations due to the link to terrorism through inclusion in PIRUS. There is no evidence that SFLA or its employees or affiliates are involved in “terrorism.”

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<sup>18</sup> Definition of “Single-Issue” Ideology, START FAQ (available at <https://www.start.umd.edu/pirus-frequently-asked-questions>).

<sup>19</sup> *Fikre v. Fed. Bureau of Investigation*, 35 F.4th 762, 776 (9th Cir. 2022), *cert. granted*, 144 S. Ct. 479, 216 L. Ed. 2d 1312 (2023), *and aff’d*, No. 22-1178, 2024 WL 1160994 (U.S. Mar. 19, 2024)(*quoting Hart v. Parks*, 450 F.3d 1059, 1069-70, 1069 (9th Cir. 2006)).

<sup>20</sup> *See Elhady v. Kable*, 993 F.3d 208 (4th Cir. 2021); *Kovac v. Wray*, 660 F. Supp. 3d 555 (N.D. Tex. 2023); *Fed. Bureau of Investigation v. Fikre*, No. 22-1178, 2024 WL 1160994 (U.S. Mar. 19, 2024)



We reiterate our demand that SFLA be removed from the PIRUS list and any other terror watch list under your control. Please contact our office within seven (7) days to communicate your intentions regarding these demands. If you choose not to comply, we will consider additional steps, up to and including legal action.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zachary Kester".

Zachary Kester, JD, LLM  
General Counsel

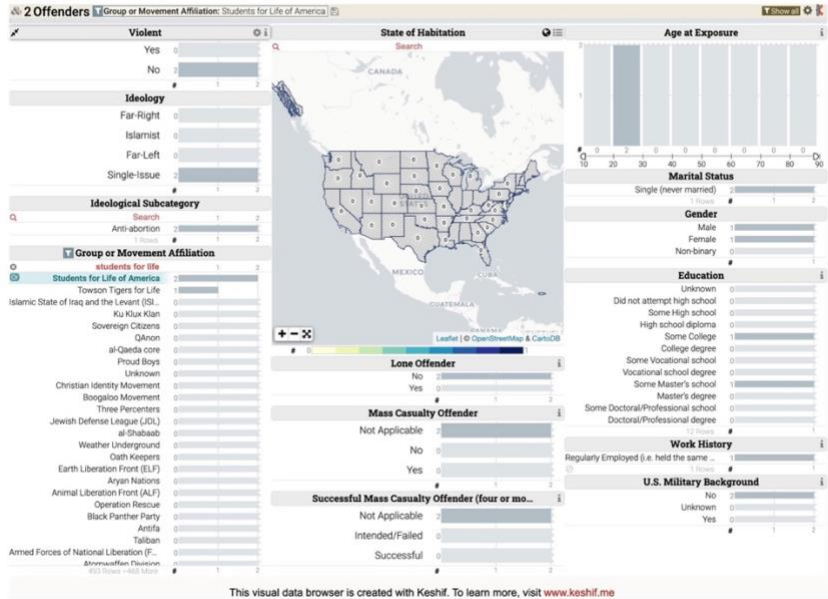
CC: Michael Jensen, START Research Director, majensen@umd.edu  
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Enclosures: Portion of PIRUS data set showing inclusion of SFLA  
PIRUS List showing inclusion of SFLA  
PIRUS List showing "anti-abortion groups" and no abortion advocates



Subject_ID	Loc_Plot_State1	Year_Exposure	Criminal_Severity	Criminal_Charges	Group_Name1
8494	District of Columbia	2020	3	1	Students for Life of America
9745	District of Columbia	2020	3	1	Students for Life of America

### Profiles of Individual Radicalization in the United States - PIRUS (Keshif)



### Profiles of Individual Radicalization in the United States - PIRUS (Keshif)

