

REPORT

The Impending Danger to the Nation's Civil Service

A REPORT BY DEMOCRACY FORWARD

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Because anti-democratic actors have already started laying the groundwork to erode the civil service in 2025, our efforts to protect the civil service and democracy itself must quickly catch up — and then overtake them.



Introduction

Our nation's career civil servants — federal employees who serve the public regardless of the political affiliation of the President or partisan divides in Congress — are foundational to American democracy. These employees help keep our food, medicine, transportation, and water safe; secure our public safety and our national security; deliver our mail; support our education and health care systems; ensure our financial system operates and that small businesses and business owners have access to credit; and work in our court houses, our airports, our national parks, and so much more.

Civil servants are nonpartisan experts who are responsible not just to the President but have responsibilities to the Constitution; the law; the American people; and the other elected branch of government, Congress. For the past 150 years, Congress has established, protected, and fortified a stable, professional, nonpartisan civil service.

Anti-democratic, far-right organizations and activists have voiced increasingly alarming threats against the civil service — ultimately threatening democracy itself. Statements about our civil servants, such as “we’re going to have all these deep state people, we’re going to start slitting throats on day one,” have become routine.

Methodical and wide-ranging planning to dismantle the civil service is well underway on the far right. Axios reporting found that Project 2025 — a coalition led by former Trump administration officials, the Heritage Foundation, and joined by more than 80 organizations — is already vetting ideologically-aligned workers to replace career civil servants that would be purged by a future, anti-democratic administration. And Project 2025 as well as other aligned organizations led by former Trump administration associates are lending their significant capacity to dismantling the federal civil service and planning for a future anti-democratic administration.

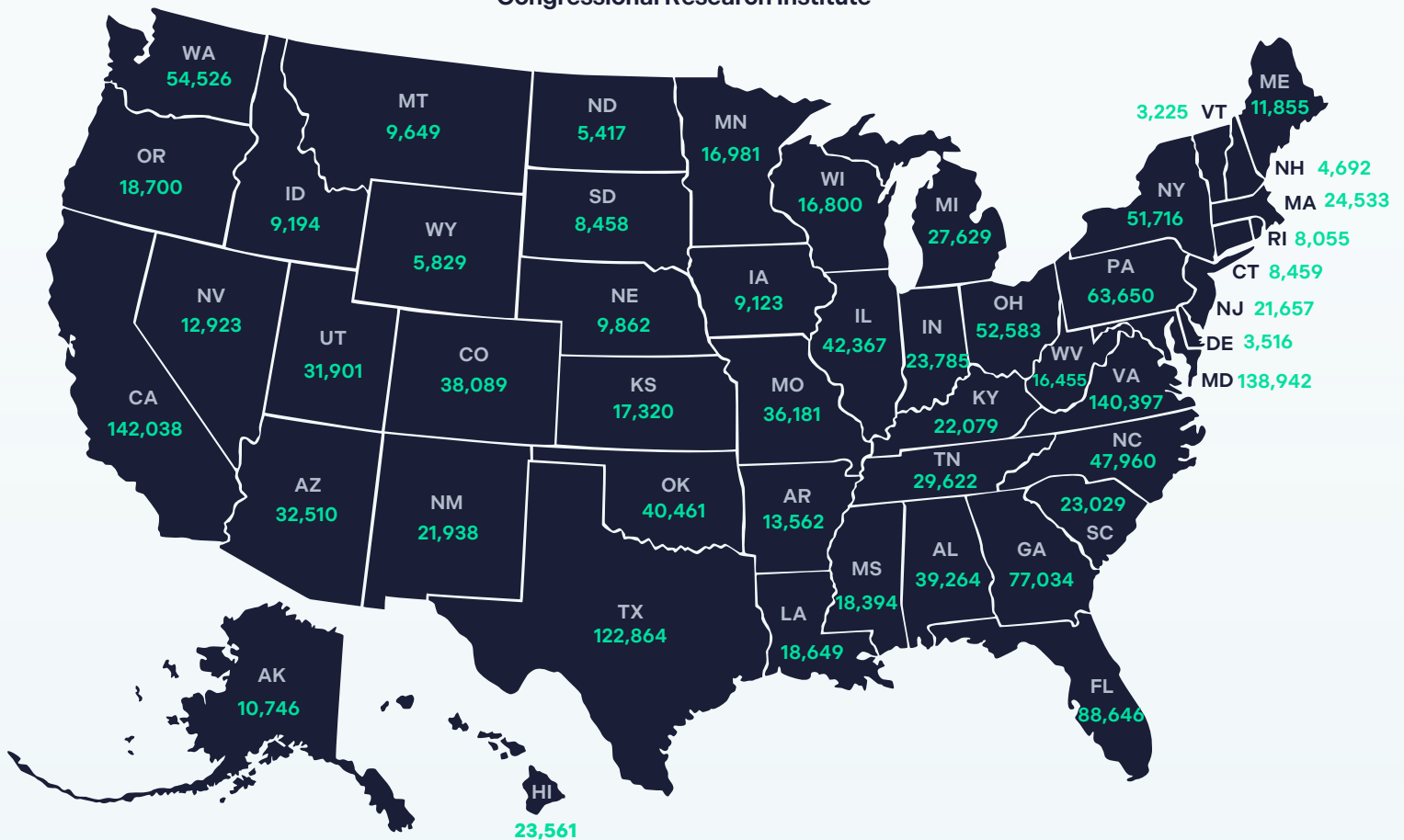
The pro-democracy community has started to respond. In November of 2023, 26 organizations joined with Democracy Forward to submit comments in support of the Office of Personnel Management's (OPM) proposed rule: Upholding Civil Service Protections and Merit System Principles. The proposed rule is intended to counter a return of the so-called “Schedule F” efforts, which was a proposal at the end of the Trump administration to reclassify large numbers of civil servants into positions from which they could be readily terminated. The far right is already planning to re-issue Schedule F should it gain control of the federal executive branch. **It is crucial now to put in place safeguards against future attacks on the civil service.** While preparing for Schedule F is necessary, it is not sufficient to respond to the wide-ranging threats from anti-democratic actors. Their systematic planning must be met with a comparable response. Other serious threats remain.

As a first step, within this report, Democracy Forward has cataloged additional threats to the civil service. While some changes require legislation, this report focuses on steps that can be accomplished solely with the power of the federal executive branch. Threats are divided into three categories:

- ▶ **Purging the Civil Service: Firing Non-Ideologically-Aligned Employees or Engaging in Mass Layoffs to Reduce the Size of the Government**
- ▶ **Hiring: Filling the Ranks of the Civil Service With Ideologically-Aligned Employees**
- ▶ **Obstructing and Harassing: Attacking the Civil Service to Diminish Its Ability to Serve People**

Civil Servants Are in Every State

Federal Civilian Employment, by State or Territory, 2023
Congressional Research Institute



Attacks on the civil service not only harm workers, but also people throughout the nation.

According to the [Congressional Research Service](#), as of 2023, the United States federal government employs **more than 2 million civilians** who live and work in every state and U.S. territory.

Section I

Purging the Civil Service: Firing Non-Ideologically-Aligned Employees or Engaging in Mass Layoffs to Reduce the Size of the Government

Extreme special interest groups, such as Project 2025, are promoting a purge of career civil servants within federal agencies. This purging would have the objective of firing (or making it easier to fire) staff for improper or partisan reasons so that they might be replaced by more compliant, partisan loyalists and/or engaging in mass layoffs to reduce the size – and therefore efficacy of the civil service as a force for democracy – as anti-democracy actors seek to take control.

During his years in office, then-President Trump used many of the tactics listed below, like the relocation of federal government offices from Washington, D.C. However, public reporting suggests that a future anti-democratic administration would likely go much further. Anti-democratic politicians, organizations, and activists have suggested the following tactics to emaciate the civil service:

- Relocating Federal Agencies
- Shortening the Disciplinary Process
- Attacking Public Sector Unions
- Utilizing Buyout Programs
- Terminating Employees for Past Work
- Impounding Appropriated Funds
- Utilizing the National Security Act of 1947

THREAT:

Move parts of federal agencies to new locations outside of Washington, D.C. to cut the federal workforce and/or replace civil servants.

The Trump administration moved the National Institute of Food and Agriculture and the Economic Research Service out of Washington, D.C. in 2019. In response, more than half of the agencies' employees left the agencies rather than move to their new locations in the Midwest. The Trump administration also moved the headquarters for the Bureau of Land Management to Colorado. In response to this move, 77 percent of those employees slated for relocation separated from their positions. The Biden administration subsequently reversed this relocation, but plans are already being made to double down on the Trump-era tactic in a future administration.

Democracy Forward recently submitted a petition for rulemaking to OPM to amend civil service regulations to ensure government agencies that are considering relocating follow best practices for effective agency reform and strategic human capital management.

"As many as 100,000 government positions could be moved out... of Washington to places filled with patriots who love America."

— Donald Trump

THREAT:

Make it easier to terminate employees by shortening the disciplinary process and limiting appeals.

In 2018, then-President Trump signed Executive Order (EO) 13839, directing agencies to shorten the disciplinary process for underperforming employees and attempting to limit the kinds of personnel actions that could be appealed, among other requirements and recommendations. This order was revoked by President Biden. Project 2025 recommends reinstating this order. Relatedly, there is a concern that those bodies that review adverse actions taken against civil servants – including the Merit Systems Protection Board (MSPB), Office of Special Counsel, Fair Labor Relations Authority

(FLRA), and Equal Employment Opportunity Commission (EEOC)¹ – could be compromised by an anti-democratic administration. Similarly, there is a concern that the continued viability of administrative law judges could be under threat depending on the outcome of SEC v. Jarkesy, which is before the U.S. Supreme Court this term. The consequences of these actions on the appeals process could be particularly problematic, making it easier to terminate federal employees.

¹ Project 2025 states: "With the proper limitation of labor union actions, the FLRA should have limited reason for appeals. The EEOC's federal employee section should be transferred to the MSPB, and many of the OCS's [sic] investigatory functions should be returned to the OPM. The MSPB could then become the main reviewer of adverse actions, greatly simplifying the burdensome appeal process." (Mandate for Leadership). However, it is unclear if many of these actions could be taken without congressional action.

THREAT:

Undermine public sector unions and their ability to protect workers from meritless dismissals, through the courts and executive orders.

Some anti-democratic activists are strategizing around challenging the constitutionality of the 1978 Civil Service Reform Act, which provides federal employees with robust civil service protections, including “the right of Federal employees to organize, bargain collectively, and participate through labor organizations in decisions which affect them...”

Phillip Howard, author of a new book arguing against public sector unions' power, is one such figure. He is particularly focused on challenging the provisions of the 1978 law that codify the “bargaining rights of federal public employee unions.” As a recent piece by Donald Kettl in *Government Executive* put it: “Given the current makeup of the judiciary², it won't be hard to find a federal district court friendly to this argument. And once the door to the constitutionality of this bedrock legislation is cracked open, it's hard to predict how far the argument will go.”

Additionally, when he was in office, then-President Trump issued three executive orders to undermine the power of federal employee unions. EO 13839 (also discussed on page 6 of this report) sought to limit labor grievances on removals from service; EO 13836 directed agencies to renegotiate all union collective bargaining agreements with federal unions; and EO 13837 prevented employees who are union representatives from using official time preparing or pursuing grievances. A district court initially blocked important parts of these executive orders. However, the DC Circuit overturned this decision in 2019, ruling that unions must first bring their claims to the Federal Labor Relations Authority.³ Project 2025 recommends reinstating each of these executive orders, which were revoked by President Biden.

² The “current makeup of the judiciary” is a direct reference to the current U.S. Supreme Court's recent trend of undermining animus to public employee unions, expressed most clearly in *Janus v. AFSCME*, 138 S. Ct. 2448 (2018), where the Court held that public sector unions cannot charge fees to nonmembers for union representation. It has been well-documented that the Janus case was the product of a concerted effort to undermine public workers' protections by groups associated with the far right legal movement, many of which are now involved in Project 2025 or other planning efforts.

³ The Federal Labor Relations Authority is unlikely to be a sufficient mechanism to address these attacks on the unions because it does not have the capacity to act quickly enough in response and its authority could very well be compromised by a future, anti-democratic administration.

THREAT:

Utilize buyout programs to encourage civil servants to take early retirement, shrinking the civil service and its ability to work for the people.

Previous administrations have employed buyouts and future anti-democratic administrations could try and weaponize them to reduce the numbers of civil servants in the federal workforce. Buyouts under the Voluntary Separation Incentive Payment Authority allow agencies to downsize and/or restructure their workforce. Agency use of this authority must be approved by OPM. Project 2025 argues against buyouts under certain circumstances because they are often not cost effective, particularly if a new employee is hired to replace the bought-out one.⁴

Nevertheless, following the hiring freeze in the Trump administration, OMB instructed agencies to examine the use of buyout programs, “encouraging early retirements in order to shift costs from current budgets in agencies to the retirement system and minimize the number of personnel fired. The Environmental Protection Agency immediately implemented such a program....” Between fiscal years 2003 and 2005, 51 agencies used buyouts to separate 22,600 people from federal service.

THREAT:

Fire any federal employee who has worked on policies the new administration opposes.

Donald Trump has stated that if he were president again he would remove any federal employee who has “engaged in domestic censorship” and lists the following agencies as examples of where such employees work: the Department of Homeland Security (DHS), the Department of Health and Human Services (HHS), the Federal Bureau of Investigation (FBI), and the Department of Justice (DOJ). And there are indications that this kind of purging could extend beyond just this issue area.⁵ Targeted officials could include those who had enforced any disfavored policy in a previous administration, including COVID-19 precautions, election security, or certain criminal matters.

“I will begin the process of identifying and firing every federal bureaucrat who has engaged in domestic censorship—directly or indirectly—whether they are the Department of Homeland Security, the Department of Health and Human Services, the FBI, the DOJ, no matter who they are.”

— Donald Trump

⁴ Project 2025 discusses buyouts in the context of the intelligence community. “The IC [intelligence community] should evaluate areas of bloat and underperforming cadre and work with OPM on authority for voluntary separation buyouts.” (Mandate for Leadership)

⁵ For example, in the section on the Department of the Treasury, Project 2025 states: “Treat the participation in any critical race theory or DEI [diversity, equity, inclusion] initiative, without objecting on constitutional or moral grounds, as per se grounds for termination of employment.” (Mandate for Leadership)

THREAT:**Impound funds as a means to reduce the size of government.**

The Impoundment Control Act (ICA) of 1974, enacted in the wake of abuse by the Nixon administration, prevents the executive branch from withholding funds without Congressional approval. The Government Accountability Office (GAO) issued a report that concluded that the Trump administration violated the ICA in 2019 when OMB withheld funds that had been appropriated to provide security assistance to Ukraine. After leaving office, Donald Trump has stated he would seek to restore his “impoundment authority” if he became president again, including by challenging the ICA in court. He has also promised that in a future term he would “use the president’s long-recognized impoundment power to squeeze the bloated federal bureaucracy for massive savings.”

Notably, the American Mind, a publication of the Claremont Institute (a far-right think tank associated with indicted attorney John Eastman), has written a paper about expanding the use of impoundment. The paper threatens two varieties of this mechanism: “constitutional impoundment,” which could mean impounding funds in areas tied to the president’s role as commander in chief of the armed forces and his authority to conduct foreign relations; and “soft impoundment,” which could mean implicitly cutting off funding for certain activities or programs throughout the federal government by grinding the decision-making process in government to a halt. Both mechanisms could be used to reduce the size of the federal workforce.

THREAT:**Utilize the National Security Act of 1947 to purge the Central Intelligence Agency.**

Plans to fire civil servants within the national security and intelligence apparatus have also been discussed. One mechanism that a future anti-democratic administration could use to effectuate this is Section 102(c) of the National Security Act of 1947 (NSA).⁶ The statute states: “Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.”

Notably, in 1977, according to NPR, CIA Director Stansfield M. Turner “announced the elimination of 820 positions among the CIA’s clandestine operations staff, 649 jobs would be axed through attrition, 154 by involuntary retirement and 17 were simply fired.” In Webster v. Doe – a subsequent and unrelated case – the U.S. Supreme Court determined that under Section 102(c), the CIA Director has broad discretion, which cannot be challenged under the Administrative Procedure Act, but that challenges based on the U.S. Constitution were potentially reviewable by courts.

⁶ Project 2025 states: “The DNI [Director of National Intelligence] and CIA [Central Intelligence Agency] Director should use their authority under the National Security Act of 1947 to ... remove IC employees who have abused their positions of trust.” (Mandate for Leadership)

Section II

Hiring: Filling the Ranks of the Civil Service With Ideologically-Aligned Employees

Civil servants are not simply political foot soldiers for a president's policy goals. They have responsibilities to the Constitution, to Congress, to the law, and to the American people. By hiring employees who are solely focused on effectuating the president's agenda, an anti-democratic administration could make it easier for the administration to use the power of government for illegal or unconstitutional ends and to carry out anti-democratic or regressive policies.

Furthermore, career civil servants committed to the public interest are essential to a federal government that works efficiently and serves the people. Replacing them with partisan loyalists would risk making government agencies ineffective. We have identified the following tactics an anti-democratic administration could employ to accomplish these objectives and fill the ranks of the civil service with ideologically-aligned employees.

- Implementing IQ Tests
- Using Ideologically-Based Civil Service Exams
- Ending Contracts with Hiring Platforms
- Instituting Hiring Freezes

THREAT:

Change hiring requirements for federal civil servants to include an IQ exam that civil rights groups found discriminatory.

During the Carter administration, civil rights groups contended that the general intelligence exam (the Professional and Administration Career Exam, or PACE) used to hire for certain agency positions was discriminatory. After a class action lawsuit alleging employment discrimination led to a consent decree, Carter administration officials abolished the use of the exam for hiring. The decree also required OPM to develop a new assessment tool to be available to agencies to fill positions covered by the decree. According to OPM: “The injunction against using the former PACE exam remains, but the other aspects of the decree terminated

in 2007.” Project 2025 has proposed a general intelligence exam like PACE for civil service hiring. Recognizing that the doctrine of disparate impact (the legal principle that certain programs, while neutral on their face, may disproportionately negatively affect people with a protected characteristic in a way that constitutes unlawful discrimination) could be a barrier to this, Project 2025 states that the doctrine “could be ended legislatively or at least narrowed through the regulatory process by a future Administration.”

THREAT:

Institute ideologically-based civil service test that values far-right principles or otherwise discriminates against applicants based on their supposed political/ideological leanings and/or demographic characteristics.

At least one far-right figure planning for an anti-democratic administration has proposed using civil service exams to screen for candidates with particular political ideologies. Project 2025 is already pre-screening loyalists to be ready to fill posts across the government in a new administration.

One questionnaire for those who would like to be considered for positions during a future administration includes questions like naming a public policy figure you greatly admire and whether or not the applicant believes the U.S. has the right to select immigrants based on their country of origin.

Axios has obtained copies of a similar questionnaire that the Trump administration used in its final days and that could be used by a future anti-democratic administration.

THREAT:

End contracts with hiring platform contractors that discuss “critical race theory,” expediting the process of hiring ideologically-aligned civil servants.

Pearson – the world’s largest educational publisher – purchased Personnel Decisions Research Institutes (PDRI) in 2022, a business that produces “workforce assessment services” for federal agencies. Through a partnership with OPM, Pearson runs the USAHire platform, which services over 40 agencies and is used to assess over 500,000 applicants annually.

The Heritage Foundation has targeted Pearson because it “said it will include the ideology of critical race theory in everything it produces.” Heritage has already called for a congressional investigation into these workforce assessments. There is concern that in an administration that is hostile to racial equity measures, OPM could seek to discontinue use of hiring platforms that take into account race, gender, or sexual orientation.

THREAT:

Institute a hiring freeze at agencies across the federal government, shrinking the size and efficacy of the civil service.

In the early days of the Trump administration, hiring freezes were instituted to cut the workforce at various agencies. By 2020, there had been a 15% decline in personnel at the Department of Education and a 12% reduction of workers at the State Department. The State Department did not lift its hiring freeze until 2018. According to a report in the Wall Street Journal, the hiring freeze “threaten[ed] to compromise the safety of correctional officers, delay payments to veterans and prevent disabled and retired Americans from getting their Social Security checks on time, union officials and government workers say.” We should be prepared for similar widespread freezes across the federal government if an administration hostile to the civil service comes into office, although some right-wing actors may be arguing for a more narrow hiring freeze.

Project 2025 states: “What is needed at the beginning is a freeze on all top career-position hiring to prevent ‘burrowing-in’ by outgoing political appointees.” Regardless of the size of the freeze, any unnecessary hiring freeze — particularly when undertaken for ideological or anti-democratic ends — harms the civil service. A 1982 GAO report concluded that hiring freezes by the Carter and Reagan administrations had been ineffective at managing federal employees.

Section III

Obstructing and Harassing: Attacking the Civil Service to Diminish Its Ability to Serve People

If extremists seeking to undermine the civil service are unable to do so through firings and selective hiring, they may instead (or in addition) turn to ways to obstruct and harass civil servants. This would prevent our public servants from completing their work and serving the public. We have identified the following threats.

- Silencing Whistleblowers
- Transferring Powers Away From the Civil Service
- Transferring, Disciplining, or Otherwise Taking Disfavored Action
- Removing Security Clearances

THREAT:**Silence whistleblowers.**

Tactics extremists could use to threaten or silence whistleblowers include 1) instituting non-disclosure agreements across agencies; 2) administering polygraphs to federal employees not typically subject to them; and 3) otherwise retaliating against whistleblowers. These tactics all work toward the same end: to scare civil servants into submission. Civil servants have statutory protections when they speak out against illegal or illicit acts. By increasing the stakes for would-be whistleblowers, anti-democratic administrations can make the civil service less effective for the people as forces for democracy. Donald Trump has stated that he will "crackdown on government leakers." The Trump administration (and Donald Trump's initial campaign) employed or threatened to employ many of the above tactics. The Trump administration forced many White House employees to sign NDAs; threatened to administer polygraphs to White House officials

and others across the administration; and retaliated against whistleblowers by running intimidation campaigns against them or demoting them. We can expect that a future, anti-democratic administration would employ similar tactics, but on a much broader scale.

Notably, many of these tactics should be found to be unlawful. For example, some legal experts have noted that the NDAs utilized by the Trump administration were likely unconstitutional. In addition, there are a variety of whistleblower protections provided for in federal law, including the Whistleblower Protection Act of 1989 and Intelligence Community Whistleblower Protection Act of 1998. Moreover, in earlier administrations efforts to institute polygraphs to tens of thousands of government employees were abandoned due to legal concerns.⁷

THREAT:**Transfer traditional authorities held by civil servants to political appointees.**

Anti-democratic figures and organizations claim that civil servants have too much authority in the federal government, and that a future administration should look for ways to transfer that authority to political appointees. The American Mind, for example, a publication of the Claremont Institute, discusses how all authority that had been delegated by agency heads to subordinate officials should be withdrawn, "except those covering the most routine matters, so the bureaucracy will be unable to make new financial obligations or policies without the agency head's personal review and approval." Project 2025 argues that "[p]olitical executives should take an active role in supervising

performance appraisals of career staff, not unduly delegate this responsibility to senior career managers, and be willing to reward and support good performers."

These sorts of authority transfers were already taking place toward the end of the Trump administration. For example, as The Intercept reported, Trump-appointed Office of Management and Budget Director Russ Vought removed career staffs' authority to make apportionment decisions and transferred that power to political appointees. Project 2025 and Claremont's recommendations could lead to acceleration of such moves in a changed federal environment.

⁷ Secretary of State Schultz had threatened to resign if President Reagan instituted the polygraphs.

THREAT:

Transferring, disciplining, or otherwise taking disfavored action against civil servants for their political or ideological leanings.

This tactic was well-documented in the George W. Bush administration. During that administration, a report by the DOJ Office of the Inspector General (OIG) exposed how a political appointee in the agency's Civil Rights Division "considered political and ideological affiliations in transferring three career attorneys out of the Appellate Section between June 2005 and December 2005." There was also evidence that the same

official directed section chiefs "not to assign important cases to attorneys he identified as liberal, and one section chief said he instructed her to nominate the conservative attorneys he had hired for awards." Project 2025 has suggested a return of these tactics in certain circumstances.⁸ Notably, according to the OIG report, some of these tactics violated both DOJ policy and federal law.

THREAT:

Remove civil servants' security clearances, hamstringing the civil service's ability to serve the people.

The Trump administration politicized the security clearance process. When in office, then-President Trump ordered officials to give his son in law, Jared Kushner, a security clearance⁹ and threatened to remove the security clearances of former officials who criticized him. This piece outlines the different ways a security clearance can be revoked.

Security clearances are typically revoked according to a process administered under EO 12968. Although this process provides some due process rights for those whose clearances are revoked, it also allows a revocation without rights to administrative appeal under a national security exception.

The U.S. Supreme Court ruled in Dep't of Navy v. Egan that the Merit Systems Protection Board did not have jurisdiction to "review the substance of an underlying security clearance determination." However, the Court ruled in Webster v. Doe, a case involving the termination of a CIA employee, that a court's "review of respondent's constitutional claims is not precluded by § 102(c) of the NSA."¹⁰ Extremists may violate federal workers' constitutional and federal rights through their tactics to politicize this process.

⁸ For example, in the context of the National Security Council, Project 2025 discusses the potential for politically vetting a "minimum number of career detailees." (Mandate for Leadership)

⁹ As the Jared Kushner example demonstrates, the politicization of the security clearance process could also be an issue when granting clearances, potentially to those who could be security threats. Relatedly, Project 2025 states that the "DNI [Director of National Intelligence] and CIA [Central Intelligence Agency] Director should use their authority under the National Security Act of 1947 to expedite the clearance of personnel to meet mission needs..." (Mandate for Leadership)

¹⁰ In a related context, Judge Katsas of the DC Circuit Court of Appeals wrote in a concurrence in Palmieri v. United States in 2018: "The question whether a plaintiff can seek to undo the denial or revocation of a security clearance, based on non-frivolous constitutional challenges to investigatory or even adjudicatory processes is weighty and difficult...", and will likely need to be decided by the courts.

Conclusion

This report has illustrated some, but not all, of the attacks being planned by extremists against career civil servants. Threats to the civil service harm not only employees whose livelihoods are on the line, but also the American public. We all benefit from a civil service that serves the interests of the people, as opposed to a partisan or political agenda. As anti-democratic forces seek to undermine career civil servants in years to come, it will be more important than ever for those fighting to preserve American democracy to begin the work of protecting the civil service's ability to act as a democratic check.

Identifying threats is the first step toward effectively countering them. Addressing these threats will require a thoughtful and coordinated response by the many institutions, policymakers, and communities dedicated to advancing democracy and the ability of the government to be responsive to the needs of people and communities. Some of these proposals can be forestalled by proactive actions. Others can be challenged in court if they come to fruition.

It is imperative that we protect the independence of the civil service and its ability to serve our Constitution, our nation, and the American people.

Join us at democracyforward.org/civilservice

