

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-3951
judiciary.house.gov

November 16, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

Last month, during your testimony before the Judiciary Committee, you testified that the Department of Justice and Federal Bureau of Investigation were not using federal counterterrorism tools to target concerned parents at local school board meetings.¹ We are now in receipt of a protected disclosure from a Department whistleblower showing that the FBI's Counterterrorism Division is compiling and categorizing threat assessments related to parents, including a document directing FBI personnel to use a specific "threat tag" to track potential investigations. This new information calls into question the accuracy and completeness of your sworn testimony.

On October 21, 2021, you testified that the Department and its components were not using counterterrorism statutes and resources to target concerned parents at school board meetings.² Specifically, you testified that you could not "imagine any circumstance in which the Patriot Act would be used in the circumstances of parents complaining about their children, nor . . . a circumstance where they would be labeled as domestic terrorists."³ You also testified: "I do not think that parents getting angry at school boards for whatever reason constitute domestic terrorism. It's not even a close question."⁴

Later in the hearing, however, you were questioned about the Department's press release touting the inclusion of the National Security Division—the Departmental component responsible for enforcing federal terrorism laws, including the Patriot Act⁵—in a task force you

¹ *Oversight of the United States Department of Justice: Hearing Before the H. comm. on the Judiciary*, 117th Cong. (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice) [hereinafter "AG Garland testimony"].

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *National Security Division: About the Division*, U.S. Dep't of Justice (last updated Apr. 12, 2019), <https://www.justice.gov/nsd/about-division>.

created to “address the rising criminal conduct directed toward school personnel.”⁶ You appeared surprised to learn about the National Security Division’s involvement in the task force, but you avoided a direct answer to the question and offered no clarification or explanation for the National Security Division’s role in the task force.⁷

We have now received a disclosure from a Department whistleblower calling into question the accuracy and completeness of your testimony. The whistleblower provided an FBI email dated October 20—the day before your testimony—and sent “on behalf of” the FBI’s Assistant Director for the Counterterrorism Division and the Assistant Director for the Criminal Division.⁸ The email, which is enclosed, referenced your October 4 directive to the FBI to address school board threats and notified FBI personnel about a new “threat tag” created by the Counterterrorism and Criminal Divisions.⁹ The email directed FBI personnel to apply this new threat tag to all “investigations and assessments of threats specifically directed against school board administrators, board members, teachers, and staff.”¹⁰ The email articulated the purpose as “scop[ing] this threat on a national level and provid[ing] an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels.”¹¹

This disclosure provides specific evidence that federal law enforcement operationalized counterterrorism tools at the behest of a left-wing special interest group against concerned parents. We know from public reporting that the National School Boards Association coordinated with the White House prior to sending a letter dated September 29 to President Biden labeling parents as domestic terrorists and urging the Justice Department to use federal tools—including the Patriot Act—to target parents.¹² Just five days later, on October 4, you issued a memorandum directing the FBI and other Departmental components to address a purported “disturbing spike in harassment, intimidation, and threats of violence” at school board meetings.¹³ As the whistleblower’s disclosure shows, the FBI’s Counterterrorism Division quickly effectuated your directive.¹⁴ The FBI’s actions were an entirely foreseeable—and perhaps intended—result of your October 4 memorandum.

The NSBA Board of Directors later apologized for its letter to President Biden, writing: “On behalf of NSBA, we regret and apologize for the letter.”¹⁵ (emphasis in original). You,

⁶ Press Release, U.S. Dep’t of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

⁷ AG Garland testimony, *supra* note 1.

⁸ Email from Carlton Peeples to FBI_SACS (Oct. 20, 2021).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Callie Patteson, *WH ‘actively engaged’ with NSBA before ‘domestic terror’ letter: memo* N.Y. Post, Nov. 11, 2021.

¹³ Memorandum from Atty Gen. Merrick Garland, U.S. Dep’t of Justice, Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).

¹⁴ Email from Carlton Peeples to FBI_SACS (Oct. 20, 2021).

¹⁵ Memorandum from NSBA Board of Directors, Message to NSBA Members (Oct. 22, 2021).

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however, have stubbornly refused to rescind your directive, even though you testified that the NSBA letter was the basis for your October 4 memorandum.¹⁶ Your directive to the FBI therefore remains in effect.

This whistleblower disclosure calls into question the accuracy and completeness of your testimony before the Committee. At best, if we assume that you were ignorant of the FBI's actions in response to your October 4 memorandum at the time of your testimony, this new evidence suggests that your testimony to the Committee was incomplete and requires additional explanation. If, however, you were aware of the FBI's actions at the time of your testimony, this evidence shows that you willfully misled the Committee about the nature and extent of the Department's use of federal counterterrorism tools to target concerned parents at school board meetings.

To allow us to assess the accuracy and completeness of your sworn testimony, we invite you to amend your testimony as to whether the Department or any of its components has used or is using counterterrorism resources or tools for the purpose of investigating, tracking, or prosecuting threats relating to school board meetings. In addition, to independently verify the truthfulness of your testimony and to investigate this matter further, we reiterate our outstanding document requests to the various Departmental components and ask that you produce this material immediately. Finally, we remind you that whistleblower disclosures to Congress are protected by law and that we will not tolerate any effort to retaliate against whistleblowers for their disclosures.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan
Ranking Member

cc: The Honorable Jerrold L. Nadler
Chairman

Enclosure

¹⁶ AG Garland testimony, *supra* note 1.

From: Peeples, Carlton L. (INSD) (FBI) <[REDACTED]>
Sent: Wednesday, October 20, 2021 10:02 AM
To: FBI_SACS <[REDACTED]>
Cc: Greenberg, Jay (CID) (FBI) <[REDACTED]>; Shivers, Calvin A. (CID) (FBI) <[REDACTED]>;
Cohen, Brian M. (CID) (FBI) <[REDACTED]>; Langan, Timothy R. Jr. (CTD) (FBI) <[REDACTED]>;
Vorndran, Kevin (CTD) (FBI) <[REDACTED]>
Subject: Guidance: Threat to violence against School Administrators --- UNCLASSIFIED

Classification: UNCLASSIFIED

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All,

On October 04, 2021, the Attorney General forwarded a memorandum addressing a spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff. The memorandum directed each United States Attorney, in coordination with the FBI, to convene meetings with federal, state, local, Tribal, and territorial leaders in each federal judicial district within 30 days of the issuance of the memorandum.

We share an obligation to ensure all individuals are able to do their jobs without threats of violence or fear for their safety. This can only be accomplished with effective coordination internally between relevant Divisions and through effective coordination and engagement with our law enforcement partners and United States Attorney Offices.

As a result, the Counterterrorism and Criminal Divisions created a threat tag, EDUOFFICIALS, to track instances of related threats. We ask that your offices apply the threat tag to investigations and assessments of threats specifically directed against school board administrators, board members, teachers, and staff. The purpose of the threat tag is to help scope this threat on a national level and provide an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels. When evaluating potential threats, we ask that you attempt to identify the following:

- a) Is there a federal nexus?
- b) Are there potential federal violations that can be investigated and charged?
- c) What's the motivation behind the criminal activity?

We appreciate your attention to this matter and welcome any engagement to identify trends, strategies, and best practices to accomplish discouraging, identifying, and prosecuting those who use violence, threats of violence, and other forms of intimidation and harassment pertaining to this threat.

On behalf of,

AD Timothy R. Langan Jr.
Counterterrorism Division

AD Calvin A. Shivers
Criminal Division

Respectfully,
Carlton Peeples
A/Deputy Assistant Director
Criminal Investigative Division
[REDACTED]

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