

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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May 11, 2022

The Honorable Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Attorney General Garland:

In sworn testimony before this Committee, you denied that the Department of Justice or its components were using counterterrorism statutes and resources to target parents at school board meetings.¹ We now have evidence that contrary to your testimony, the Federal Bureau of Investigation has labeled at least dozens of investigations into parents with a threat tag created by the FBI's Counterterrorism Division to assess and track investigations related to school boards. These cases include investigations into parents upset about mask mandates and state elected officials who publicly voiced opposition to vaccine mandates. These investigations into concerned parents are the direct result of, and would not have occurred but for, your directive to federal law enforcement to target these categories of people.

On October 4, 2021, in response to a request from the National School Boards Association that the federal government use counterterrorism tools, including the Patriot Act, to target parents at school board meetings, you issued a memorandum directing the FBI to address these threats.² The press release accompanying your memorandum highlighted the FBI's National Threat Operations Center to serve as a snitch-line for tips about parents at school board meetings.³ By October 20, the FBI had operationalized your directive. In an FBI-wide email, the FBI's Counterterrorism Division and Criminal Division announced the creation of a new threat tag—EDUOFFICIALS—and directed all FBI personnel to apply it to school board-related threats.⁴

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).

² 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).

³ Press Release, U.S. Dep't of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

⁴ Email from Carlton Peeples, Deputy Assistant Director, Criminal Investigative Div., Fed. Bureau of Investigation, to FBI_SACS (Oct. 20, 2021).

We have learned from brave whistleblowers that the FBI has opened investigations with the EDUOFFICIALS threat tag in almost every region of the country and relating to all types of educational settings. The information we have received shows how, as a direct result of your directive, federal law enforcement is using counterterrorism resources to investigate protected First Amendment activity. For example:

- In one investigation begun following your directive, the FBI's ██████ Field Office interviewed a mom for allegedly telling a local school board "we are coming for you." The complaint, which came into the FBI through the National Threat Operations Center snitch-line, alleged that the mom was a threat because she belonged to a "right wing mom's group" known as "Moms for Liberty" and because she "is a gun owner." When an FBI agent interviewed the mom, she told the agent that she was upset about the school board's mask mandates and that her statement was a warning that her organization would seek to replace the school board with new members through the electoral process.
- The FBI's ██████ Field Office opened an investigation, subsequent to your directive, into a dad opposed to mask mandates. The complaint came in through the National Threat Operations Center snitch-line and alleged that the dad "fit the profile of an insurrectionist" because he "rails against the government," "believes all conspiracy theories," and "has a lot of guns and threatens to use them." When an FBI agent interviewed the complainant, the complainant admitted they had "no specific information or observations of . . . any crimes or threats," but they contacted the FBI after learning the Justice Department had a website "to submit tips to the FBI in regards to any concerning behavior directed toward school boards."
- In another case initiated after your directive, the FBI's ██████ Field Office opened an investigation into Republican state elected officials over allegations from a state Democratic party official that the Republicans "incited violence" by expressing public displeasure with school districts' vaccine mandates. This complaint also came into the FBI through the National Threat Operations Center snitch-line.

This whistleblower information is startling. You have subjected these moms and dads to the opening of an FBI investigation about them, the establishment of an FBI case file that includes their political views, and the application of a "threat tag" to their names as a direct result of their exercise of their fundamental constitutional right to speak and advocate for their children. This information is evidence of how the Biden Administration is using federal law enforcement, including counterterrorism resources, to investigate concerned parents for protected First Amendment activity. Although FBI agents ultimately—and rightly—determined that these cases did not implicate federal criminal statutes, the agents still exerted their limited time and resources investigating these complaints. This valuable law-enforcement time and resources could have been expended on real and pressing threats.

These investigations into concerned parents were the direct result of your October 4 directive to the FBI. Each of the cases was initiated following your directive. Each of the complaints came into the FBI through the same snitch-line—the National Threat Operations Center—highlighted in the press release accompanying your October 4 memorandum. One complainant even told an FBI agent that they reported the tip to the FBI because of the snitch-line, despite having “no specific information” about any actual threat. These facts lead us to conclude that these investigations into concerned parents, and likely many more like them, would not have occurred but for your directive.

Parents have an undisputed right to direct the upbringing and education of their children,⁵ which includes voicing their strong opposition to controversial curricula at local schools. This whistleblower information raises serious concerns that your October 4 memorandum will chill protected First Amendment activity as parents will rightfully fear that their passionate advocacy for their children could result in a visit from federal law enforcement. You have refused to rescind your October 4 memorandum and its anti-parent directives. In light of this new whistleblower information, we again call on you to rescind your October 4 memorandum.

Committee Republicans have been investigating the Biden Administration’s misuse of law-enforcement resources to target concerned parents since last fall.⁶ You have failed to substantively respond to our requests for documents and your sworn testimony to the Committee is now contradicted by whistleblower information. Please be assured that Committee Republicans will not let this matter drop. Accordingly, we request the following information:


1. Produce all documents and materials identified in our letters to Departmental components dated November 1, 2021, November 2, 2021, November 3, 2021, and November 18, 2021, immediately; and
2. Take all reasonable steps immediately to preserve all records responsive to our letters to Department components.

In addition, 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.



Jim Jordan
Ranking Member

Sincerely,



Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights and Civil Liberties

⁵ *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (citing *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)).

⁶ Letter from House Judiciary Committee Republicans to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Nov. 3, 2021).