

ONE HUNDRED SEVENTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON THE JUDICIARY  
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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.<sup>1</sup> 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.<sup>2</sup> 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."<sup>3</sup> 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."<sup>4</sup>

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 Act<sup>5</sup>—in a task force you

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<sup>1</sup> *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"].

<sup>2</sup> *Id.*

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

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

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

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created to “address the rising criminal conduct directed toward school personnel.”<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup> 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.”<sup>10</sup> 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.”<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup> As the whistleblower’s disclosure shows, the FBI’s Counterterrorism Division quickly effectuated your directive.<sup>14</sup> 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.”<sup>15</sup> (emphasis in original). You,

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

<sup>7</sup> AG Garland testimony, *supra* note 1.

<sup>8</sup> Email from Carlton Peebles to FBI\_SACS (Oct. 20, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

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

<sup>13</sup> 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).

<sup>14</sup> Email from Carlton Peebles to FBI\_SACS (Oct. 20, 2021).

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