

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

DAVID M. WEINBERG, STAFF DIRECTOR
PAMELA THIESSEN, MINORITY STAFF DIRECTOR
LAURA W. KILBRIDE, CHIEF CLERK

October 12, 2021

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear Director Wray:

I am writing to request information regarding the Federal Bureau of Investigation's (FBI's) actions, consistent with existing guidelines and authorities, to investigate and prevent domestic terrorism and domestic extremist threats online and through social media platforms.

In recent years, domestic extremist groups' use of social media platforms, including Facebook, YouTube, Twitter, TikTok and others, for communication, organizing, and planning has expanded. Over time, this has included dissemination of digital manifestos, manuscripts, or magazines, participation in online forums, and posting or streaming videos of violent acts.¹ Online platforms continue to be used to fundraise, recruit, organize, train, and plan for acts of domestic terrorism.² For example, social media was used by domestic extremists in the 2016 Pizzagate Conspiracy, the 2017 Unite the Right rally in Charlottesville, VA, the 2018 Tree of Life Synagogue shooting, the 2020 attempted kidnapping of Michigan Governor Gretchen Whitmer, and the 2021 bomb threat at the U.S. Capitol.³

¹ Robert O'Harrow Jr., Andrew Ba Tran, and Derek Hawkins, *The rise of domestic extremism in America*, Washington Post (Apr. 12, 2021) (<https://www.washingtonpost.com/investigations/interactive/2021/domestic-terrorism-data/>); Ben Collins, *Instagram account connected to Gilroy shooter pushed staple of white supremacist internet forums*, NBC News (July 29, 2019) (<https://www.nbcnews.com/tech/tech-news/instagram-account-connected-gilroy-shooter-pushed-staple-white-supremacist-internet-n1035926>); *Racist, Violent, Unpunished: A White Hate Group's Campaign of Menace*, ProPublica (Oct. 19, 2019) (<https://www.propublica.org/article/white-hate-group-campaign-of-menace-rise-above-movement>).

² Olivia Little, *Far-right militias are using TikTok to organize and recruit new followers*, Media Matters for America (Jan. 12, 2021) (<https://www.mediamatters.org/january-6-insurrection/far-right-militias-are-using-tiktok-organize-and-recruit-new-followers>).

³ Amanda Robb, *Anatomy of a Fake News Scandal*, Rolling Stone (Nov. 16, 2017) (<https://www.rollingstone.com/feature/anatomy-of-a-fake-news-scandal-125877/>); *Racist, Violent, Unpunished: A White Hate Group's Campaign of Menace*, ProPublica (Oct. 19, 2019) (<https://www.propublica.org/article/white-hate-group-campaign-of-menace-rise-above-movement>); *Deadly Shooting at Pittsburgh Synagogue*, Anti-Defamation League (Oct. 27, 2021) (<https://www.adl.org/blog/deadly-shooting-at-pittsburgh-synagogue>); Lois Beckett, *Michigan terror plot: why rightwing extremists are thriving on Facebook*, Guardian (Oct. 10, 2020) (<https://www.theguardian.com/technology/2020/oct/09/facebook-rightwing-extremists-michigan-plot-militia-boogaloo>); Emily Birnbaum, *Library of Congress bomb suspect livestreamed on Facebook for hours before being blocked*, Politico (Aug. 19, 2021) (<https://www.politico.com/news/2021/08/19/capitol-bomb-threat-facebook-livestream-506268>).

Domestic extremists also used social media platforms, such as Facebook, Twitter, YouTube, and TikTok, to recruit, organize, and communicate actions in the lead up to the January 6th attack on the U.S. Capitol.⁴ According to recent reports, a former Facebook employee filed a whistleblower complaint with the Securities and Exchange Commission and disclosed internal Facebook documents that indicate that Facebook’s algorithms contributed to misinformation and the January 6th attack on the Capitol, stating, “Facebook knew its algorithms and platforms promoted this type of harmful content, and it failed to deploy internally recommended or lasting countermeasures.”⁵ The former Facebook employee recently testified to Congress that choices by Facebook relating to its algorithms and content policies resulted in repeated “conflicts between [Facebook’s] own profits and our safety” and that “Facebook consistently resolved those conflicts in favor of its own profits” concluding that “[t]he result has been a system that amplifies division, extremism, and polarization...”⁶

Despite the prolific and public planning of the events leading to the January 6th attack on the U.S. Capitol and FBI’s general awareness of the threat of domestic extremism on social media, the Committee on Homeland Security and Governmental Affairs and the Committee on Rules and Administration found that while “the FBI Norfolk Field Office circulated a Situational Informational Report” warning of a threat to the Capitol, FBI did not “[deem] online posts calling for violence at the Capitol as credible” and did not issue “formal intelligence bulletins about the potential for violence at the Capitol.”⁷

As both Ranking Member, and now Chairman of the Senate Committee on Homeland Security and Governmental Affairs, I have previously requested information from the FBI regarding its prioritization and allocation of resources to detect and prevent domestic terrorism, including its ability to track and provide data on these efforts.⁸ The FBI’s number one priority is “protecting the United States from terrorist attacks.”⁹ In its recent Strategic Intelligence Assessment, the FBI has stated that with respect to its counterterrorism mission, “FBI maintains about 200 [Joint Terrorism Task Forces] nationwide across all 56 FBI Field Offices,” which

⁴ Digital Citizens Alliance and Coalition for a Safer Web, *The Domestic Extremist Next Door* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

⁵ Ryan Mac and Cecilia Kang, *Whistle-Blower Says Facebook ‘Chooses Profits Over Safety’*, New York Times (Oct. 3, 2021) (<https://www.nytimes.com/2021/10/03/technology/whistle-blower-facebook-frances-haugen.html>).

⁶ Senate Committee on Commerce, Science, and Transportation, *Hearing on Protecting Kids Online: Testimony from a Facebook Whistleblower*, 117th Cong. (Oct. 5, 2021) (<https://www.commerce.senate.gov/services/files/FC8A558E-824E-4914-BEDB-3A7B1190BD49>), pg. 2.

⁷ Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6* (June, 8, 2021), pg. 5.

⁸ Senate Homeland Security and Governmental Affairs Committee Chairman Ron Johnson and Ranking Member Gary Peters Letter to Federal Bureau of Investigations Director Christopher Wray (May 8, 2019).

⁹ Federal Bureau of Investigation, *What We Investigate: Terrorism* (accessed Sep. 28, 2021) (<https://www.fbi.gov/investigate/terrorism>).

provide FBI the opportunity to share information and leverage “local expertise and experience.”¹⁰

You have previously testified that the threat of “domestic terrorism has been metastasizing across the country for a long time now and it’s not going away anytime soon.”¹¹ You recently testified before this Committee that “today terrorism moves at the speed of social media” and that FBI is “trying to improve our own communications with the social media companies.”¹² I appreciate the steps that FBI has taken thus far to address this evolving threat of domestic extremism and terrorism, such as increasing its domestic terrorism investigations personnel by 260 percent in the last year, and increasing coordination and training with important partners.¹³ Further, the current Administration has prioritized this issue by creating the *National Strategy for Countering Domestic Terrorism*, including addressing online extremism.¹⁴

While I support the FBI’s efforts, it is also critical that the federal government take precautions to ensure Americans’ civil rights and civil liberties are protected, consistent with the First and Fourth Amendment and other constitutional protections. FBI policy requires domestic terrorism investigations to be “subject to heightened internal legal review and supervisory approvals to ensure Constitutional rights, privacy, and civil liberties are protected at each juncture.”¹⁵ The *Attorney General’s Guidelines for Domestic FBI Operations* also limit what First Amendment-protected activity FBI can monitor or investigate, including publicly available information, such as information on social media.¹⁶ However, questions remain regarding both

¹⁰ Federal Bureau of Investigation and Department of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>), pg. 15.

¹¹ Senate Committee on Judiciary, *Hearing on FBI Oversight*, 117th Cong. (Mar. 2, 2021) (<https://plus.cq.com/doc/congressionaltranscripts-6144027?6>).

¹² Senate Committee on Homeland Security and Governmental Affairs, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (<https://plus.cq.com/doc/congressionaltranscripts-6345091?2>).

¹³ Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record for Director Christopher A. Wray, Federal Bureau of Investigation, *Hearing on Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11*, 117th Cong. (Sep. 21, 2021) (<https://www.hsgac.senate.gov/imo/media/doc/Testimony-Wray-2021-09-21-REVISED.pdf>); Attorney General Merrick B. Garland, *Domestic Terrorism Policy Address*, Remarks (June 15, 2021) (<https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-remarks-domestic-terrorism-policy-address>).

¹⁴ White House, *National Security Council, National Strategy for Countering Domestic Terrorism* (June 2021) (<https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>), pgs. 21-23.

¹⁵ Federal Bureau of Investigation and Department of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>), pg. 17.

¹⁶ Department of Justice, *The Attorney General’s Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (<https://www.justice.gov/archive/opa/docs/guidelines.pdf>), pg. 20.

how these guidelines are applied and whether the FBI is adequately positioned to investigate domestic extremism as it rapidly evolves on social media.

In addition, I remain concerned about Congress's ability to receive statutorily required information regarding the allocation of resources and priorities at FBI as it combats the threat of domestic extremism. The fiscal year 2020 National Defense Authorization Act (NDAA) required the FBI to report data on domestic extremism, which is necessary to enable Congress to fully assess the efforts of FBI and other federal agencies to counter the threat of domestic extremism, and consider what additional support may be needed.¹⁷ But in its first joint Strategic Intelligence Assessment with the Department of Homeland Security, the FBI failed to provide detailed information on its staffing allocation for domestic terrorism, as well as most of the data required by statute.¹⁸ The FBI attempted to justify its lack of data due to paper-based management systems and the fact that the FBI does not currently track certain requested data.¹⁹ This lack of information and clarity on the data and allocation of resources raises questions as to whether the FBI has sufficiently resourced and is adequately postured to address the threat of domestic extremism. I expect a full accounting from FBI in regards to this question as required by law.

In light of recurring concerns regarding proliferation of domestic extremist content on social media and to better understand what the FBI is doing to address this threat, for the period dating from January 1, 2019 to present, I respectfully request that you provide the following documents and information:

1. FBI policies, procedures, guidance, and strategies for countering domestic terrorism and domestic extremist threats on social media and online platforms.
 - a. What is FBI's role in the Administration's *National Strategy for Countering Domestic Terrorism*, and how is FBI helping to achieve Strategic Goal 2.2, "Address online terrorist recruitment and mobilization to violence by domestic terrorists"?
2. Applicable statutory and FBI specific limitations for use of social media and online platforms to detect and prevent domestic terrorism and domestic extremist threats, including without limitation, guidance on applicable First and Fourth Amendment constitutional protections.

¹⁷ Public Law 116-92, enacted 20 December 2019.

¹⁸ Federal Bureau of Investigation and Department of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>), pg. 27.

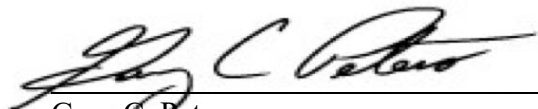
¹⁹ Federal Bureau of Investigation and Department of Homeland Security, *Strategic Intelligence Assessment and Data on Domestic Terrorism* (May 2021) (<https://www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-strategic-report.pdf/view>), pg. 20, 21.

3. The FBI's coordination with social media companies and online platforms regarding cooperation with efforts to detect and prevent domestic terrorism and domestic extremist threats on social media and online platforms.
4. Strategies and actions, planned or taken, by the FBI, including in coordination with other federal, state, local, and tribal governments and agencies to detect and prevent extremist violence online, including without limitation, in relation to the January 6, 2021 attack on the U.S. Capitol.
5. FBI investigations involving domestic terrorism and domestic extremist threats online and on social media platforms, including the number of investigations opened and closed, the outcomes of such investigations, and coordination with federal, state, and local law enforcement authorities.
6. The Offices within the FBI responsible for receiving notifications from social media companies and online platforms and the processes and policies for use of information received from the public or from social media companies and online platforms in investigations.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate and Section 12(e) of S. Res. 70 (117th Congress) to investigate the “efficiency, economy, and effectiveness of all agencies and departments of the Government” and “processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems... [and] legislative and other proposals to improve these methods, processes, and relationships.”²⁰

Please provide these documents and information as soon as possible, but no later than October 27, 2021. Thank you for your prompt attention and cooperation in this matter.

Sincerely,



Gary C. Peters
Chairman

²⁰ S. Rule XXV, S. Res. 70 (117th Congress).