

EXHIBIT 19

CQ Congressional Transcripts

Feb. 9, 2023

Feb. 09, 2023 Revised Final

House Judiciary Select Subcommittee on the Weaponization of the Federal Government Holds Hearing on Federal Government Weaponization

LIST OF PANEL MEMBERS AND WITNESSES

JIM JORDAN:

Subcommittee will come to order. Without objection, the chair is authorized to declare a recess at any time. We welcome everyone to this first hearing of the Select Subcommittee. The chair now recognizes the gentleman from Florida, Mr. Gaetz, to lead us in the Pledge of Allegiance.

MATT GAETZ:

We pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all.

JIM JORDAN:

The chair now recognizes himself for an opening statement. November 18th, 2021, an FBI whistleblower discloses to Republicans on the House Judiciary that the FBI created a threat tag for parents voicing their concerns at school board meetings. April 26, 2022, another FBI whistleblower discloses that the FBI employees are being run out of the bureau for attending conservative political events.

May 11th, 2022, another FBI whistleblower discloses that dozens of parents with the threat tag designation to their name are investigated by the FBI. This also happens to be the same whistleblower who said the FBI leadership, not the rank-and-file members, the FBI leadership is rotted at its core. His clearance has been revoked, and he's been suspended.

June 7th, 2022, another FBI whistleblower is retaliated against after giving feedback on an anonymous survey. July 27th, 2022, another FBI whistleblower discloses that agents are pressured to reclassify cases as domestic violent extremism cases to hit self-created performance metrics. September 14th, 2022, an FBI whistleblower discloses that the FBI views the Betsy Ross flag as a terrorist symbol.

September 19th, 2022, another FBI whistleblower discloses that the Washington field office is deliberately manipulating January 6th case files to make it appear that domestic violence extremism is on the rise. He's been suspended. November 8th -- excuse me, November 4th, 2022, another FBI whistleblower discloses the FBI accepts private user information from Facebook without the user's consent, and information is from only the conservative side of the political spectrum.

This is only a sampling. In my time in Congress, I have never seen anything like this, dozens and dozens of whistleblowers, FBI agents, coming to us talking about what's going on the political nature at the Justice Department, not Jim Jordan saying this, not Republicans, not conservatives, good, brave FBI agents who are willing to come forward and give us the truth.

And this is just the FBI. Americans have concerns about the double standard at the Department of Justice. Americans have concerns

about the Disinformation Governance Board that the Department of Homeland Security tried to form. Americans have concerns about the ATF and what they're doing to the Second Amendment.

And, of course, they have concerns about the IRS and the thousands of new agents who are coming to that organization. And finally, there are concerns about what we've learned in the Twitter files, where big government and Big Tech colluded to shape and mold the narrative and to suppress information, and censor Americans.

Over the course of our work in this committee, we expect to hear from government officials and experts like we have here today. We expect to hear from Americans who've been targeted by their government. We expect to hear from people in the media, and we expect to hear from the FBI agents who have come forward as whistleblowers.

We think many of them will sit for transcribed interviews as one did on Tuesday, and we believe several of them will come and testify in open hearings. And finally, we expect to bring forward legislation that will help protect the American people. We hope our Democratic colleagues will work with us. The day the resolution creating this [inaudible] committee was debated and passed, though, Mr. Jeffries, Mr. Nadler said Democrats would quote, "fight us tooth and nail."

We hope that attitude changes. We want to work with them.

Protecting the First Amendment shouldn't be partisan. Protecting the Constitution shouldn't be partisan. And protecting the fundamental principle of equal treatment under the law should not be partisan.

With that, I yield to the ranking member for her opening statement.

STACEY PLASKETT:

Thank you, Chairman Jordan. Nobody disputes the important role of congressional oversight. I know firsthand how important it is to ask questions and demand answers of the federal government. In the ordinary course of business, that work informs the legislative process; in extraordinary times when misconduct in the executive branch threatens to undermine our democratic institutions congressional oversight can serve to protect the integrity of our republic.

For example, I'm proud of the role I played as an impeachment manager in the second impeachment of President Donald Trump in the aftermath of the attack on the Capitol. That bipartisan work was both a measure of accountability and a sign to the American people that Congress had no intention of being bullied into giving up on a peaceful transfer of power.

But there is a difference, my colleagues, between legitimate oversight and weaponization of Congress and our processes, particularly our committee work as a political tool. I'm deeply concerned about the use of this select subcommittee as a place to settle scores, showcase conspiracy theories and advance an extreme agenda that risk undermining Americans' faith in our democracy.

Some of today's witnesses would have us believe that the Department of Justice and the Federal Bureau of Investigation are part of a deep state cabal; one even wrote a book describing the FBI itself as a threat to democracy. The Department of Justice and the FBI do not always get it right. History is full of examples of these agencies getting it very, very wrong.

We have colleagues in this Congress who have been subject to politically motivated, hateful, racist investigations by our government; that does not logically follow that every investigation or

criminal inquiry by the FBI or the Department of Justice is political or ideologically based. But in our current climate, with domestic terrorism on the rise and hate speech normalized by national politicians, the Department of Justice and the FBI are doing their best to protect us from sliding into chaos.

This past Monday, the FBI captured two individuals, one a neo-Nazi leader and founder of an Atomwaffen group, who were plotting a racially motivated attack on Baltimore's power grid. They said their goal was to, quote, "completely destroy this whole city," end quote. Last week, the FBI infiltrated and disrupted a major cybercriminal group extorting schools, hospitals, and critical infrastructure around the world.

And last summer, the FBI engaged in a mass violent crime enforcement effort that took nearly 6,000 violent criminals off of our American streets. Let's not forget the tremendous work of the FBI and the Department of Justice after the attacks on our homeland on September 11th, 2001. Some of my Republican colleagues love to talk about the threat of violent crime, but they appear oblivious to the fact that their dangerous rhetoric and baseless accusations against the Justice Department and FBI itself at times pose a direct threat to those organizations' ability to do the work that they're doing to protect our communities.

Recent threat bulletins have highlighted a shocking increase in threats of violence against law enforcement agencies and a significant uptick after the FBI executed a search warrant at President Trump's property at Mar-a-Lago. The Federal Law Enforcement Officers Association has vehemently denounced what he described as, quote, "politically motivated threats that are unprecedented in recent history and absolutely unacceptable," end quote.

Unfortunately, examples of these threats are not hard to find. Last year someone threatened to plant a dirty bomb outside the FBI headquarters, another attempted to storm the Cincinnati FBI field office while wearing body armor and carrying an AR-type rifle. A third was arrested after he made a credible threat stating, quote, every single piece of expletive who works for the FBI in any capacity, from the director on down to the janitor who cleans their expletive toilets, deserve to die. You've declared war on us, and now it's open season on you," end quote. These allegations are deeply troubling, and I hope that the chairman and members of this subcommittee will be mindful of the risks that go hand in hand with heated rhetoric. A rush to accusations and subpoenas without a factual basis and without any effort to engage with agencies through the accommodation process flies in the face of due process and demeans congressional oversight process.

It makes a mockery of our institution. As a former prosecutor, I'm even more troubled by the suggestion that this subcommittee may attempt to investigate ongoing criminal investigations. As the head of the Reagan Justice Department's Office of Legal Counsel wrote years ago, granting Congress access to information about active criminal investigations will, in effect, make Congress a partner in the investigation creating a quote substantial danger that congressional pressures will influence in the course of the investigation and potentially quote hamper prosecutorial decision-making in future cases.

This would not only damage law enforcement efforts; it would shake the public's confidence in the criminal justice system. I hope not, but I suspect much of the investigations the majority, my Republican

colleagues, want to look into and potentially muck up involve criminal investigations into former President Donald Trump.

I want to be crystal clear, my Democratic colleagues and I will resist any attempt by this subcommittee to derail ongoing legitimate investigations into President Trump, any other President, and others within his orbit. During the course of this subcommittee's work, I suspect we will hear both members and witnesses describe the events of January 6, 2021, in ways that simply do not mesh with reality.

When this happens, I would encourage everyone watching today to review the impeachment record and report of the January 6th select committee, which lays out the true facts in shocking detail. I recently sent a letter to the chairman noting that despite our policy and political differences, I am hopeful that there may be matters of investigation within the stated mandate of the subcommittee under which we may collaborate.

I meant this, I mean this, and I still hope that we can find common ground and explore it in a bipartisan manner that respects the due process, rights, and interests of all involved. The chair and his colleagues continually use the moniker of protecting free speech. That sounds good. Good. I hope they all recognize that there is speech that is not constitutionally protected, racist hate incitement to violence.

And I also hope and if the protection of true speech -- of free speech extends to all Americans. We'll see. I hope that we can use this subcommittee to conduct legitimate oversight to help advance policies to address the real challenges that Americans face every day rather than undermine every agent, officer, and prosecutor on the job.

Government abuses of power do not solely rest with the executive branch. It can, and we've seen it come from the legislative branch as

well. On our present course however, this exercise seems little more than a political stunt designed to inject extremist politics into the legislative oversight function and the justice system.

The American people deserve better than that. Thank you, Mr. Chair, and I yield back.

JIM JORDAN:

Thank the ranking member. Without objection, all other opening statements will be included in the record. We will now introduce our first panel of witnesses. Senator Chuck Grassley has represented Iowa in the United States Senate since 1981. He is currently the ranking member of the Senate Committee on Budget.

He is former chairman and ranking member of the Committee on the Judiciary and the Committee on Finance. Welcome. Senator Grassley. Senator Ron Johnson has represented the state of Wisconsin in the United States Senate since 2011. He has served as the chairman of the Senate Homeland Security and Government Affairs Committee.

We welcome you. Senator Johnson. Representative Jamie Raskin. Congressman Raskin has represented Maryland's 8th Congressional District since 2017. He currently serves as the ranking member on the Committee of Oversight and Accountability. And we have with us Ms. -- former member Tulsi Gabbard, who represented Hawaii's 2nd Congressional District for eight years in the House of Representatives for nearly 20 years.

She has served our country in the Hawaii Army National Guard and the US Army Reserves, including deployments in Iraq and Kuwait. We thank all of you for your service. Our longstanding committee practice is to not ask questions of our colleagues and former colleagues that

appear before us; in light of that practice, our first panel will have 10 minutes to deliver their testimony.

Again, we thank you for being here, and Senator from Iowa is recognized for 10 minutes.

CHUCK GRASSLEY:

Thank you, Chairman Jordan and Ranking Member Plaskett, for this opportunity to appear. I thank you for inviting me to come here, and what I'm about to tell you sounds like it's out of some fiction spy thriller, but it actually happened, and it happened in our own government. Congressional oversight as a constitutional demand.

We dedicate our careers to it; I have, at least. And during the course of my service, I've ran countless investigations. In the past few years I've never seen so much effort from the FBI, the partisan media, and some of my Democratic colleagues to interfere with and undermine very legitimate congressional inquiries.

It's because of a triad of disinformation and outright falsehoods. As one example, look at Crossfire Hurricane; bit by bit, piece by piece it's been deconstructed and shown to be politically motivated investigation which it was. We all know now that it was the Democratic National Committee, along with the Clinton campaign, who colluded with the Russians.

They used a former Russian spy, Fusion GPS, and law firm to create a fake dossier and then tried to cover it up. Now the most recent example of this triad at work are efforts against my and Senator Johnson's ongoing Biden family investigation. That investigation started on August 14th, 2019, when I was chairman of the Senate

Finance Committee with a letter that I wrote to the Treasury Department.

My letter was about a questionable financial transaction subject to the Committee on Foreign Investment that related to a matter involving the Biden family. As our investigation continued and advanced Democratic leadership and partisan media began their attack on our investigation. This is where that spy thriller starts to heat up. On July 13, 2020, then majority -- Minority Leader Schumer, Senator Warner, then-Speaker Pelosi, and then-Chairman Schiff sent a letter with a classified attachment to the FBI. That letter expressed a purported belief that Congress was the subject of a foreign disinformation campaign.

The letter was targeted at the Johnson-Grassley investigation. However, the classified attachment included unclassified element that attempted and failed to tie our work to a Russian agent named Andrii Derkach. Unsurprisingly, those unclassified elements were leaked to the press to support a false campaign accusing Senator Johnson and me of relying on material from a Russian agent and thus advancing Russian disinformation.

Of course, it was pure nonsense that the irresponsible media portrayed this all as the truth. Guess what then? Chairman Schiff claimed without any evidence whatsoever that our oversight work was rooted in Russian disinformation. Of course, you know he conveniently left out that our oversight work was actually rooted in official US government and Obama administration records.

Then guess what? Senator Blumenthal also wrote an op-ed in The Washington Post accusing our investigation of, quote, "perpetuating Russian disinformation in the US Senate," end of quote. And then

guess what? Minority Leader Schumer and then-Ranking Member Widen tried to offer a resolution in the Senate disparaging our Biden investigation.

They, in a sense, were basically calling us Russian stooges. Pretty simple. That violated Senate rules, and their efforts and, of course, were appropriately shut down. On July the 16th, 2020, mere days after the July 13th letter then-Ranking Member -- members Widen and Peters wrote a letter to me and Senator Johnson asking for a briefing from the FBI's Foreign Influence Task Force.

Our staff and the ranking member staff had already -- now remember we had already received a briefing March of 2020 that put the issue to rest. So why another briefing? The point being there was no real purpose for another briefing, let alone a member-level briefing, other than to further undermine our investigation.

Some of our Democratic colleagues weren't interested in anything but using the briefing to try and destroy our investigation. But at these -- at these Democrats' insistence, the FBI caved. In August 2020, Senator Johnson and I had that infamous briefing from the FBI that was needless. And then, as we had feared, the contents of that briefing were later leaked to The Washington Post, even though the FBI had promised us confidentiality.

That leak outrageously and inaccurately connected that FBI briefing to our investigation in another effort to falsely label our good government oversight work as Russian disinformation. Now the Wall Street Journal editorial board was on top of it because that board did the right thing and wrote a piece about the briefing titled, quote, "The FBI's Dubious Briefing. Did the Bureau Set up Two GOP Senators at the Behest of Democrats," end of quote. So simply put, the briefing

was unnecessary and completely irrelevant to the substance of our investigation. It was only done because the Democrats wanted to do so they could try and smear us. And the FBI wrongly -- the FBI wrongly did their bidding.

To this very day, Director Wray refuses to provide Senator Johnson and me, as constitutional officers, records relating to that briefing, including the alleged intelligence basis for it. Director Wray has consistently failed to perform duties required of his position. Now another example of this Democratic disinformation campaign involved a George Kent, former State Department Deputy Assistant General.

Senator Johnson and I ran a transcribed interview with George Kent. Before the interview, Democrats acquired material from that Russian agent, the same one that I mentioned earlier. At the interview Democrats, not Republicans, Democrats asked Mr. Kent about the same material. Mr. Kent said it was disinformation.

Now think about that. After all the spears the Democrats were throwing at the two of us, in the end, it was the Democrats who introduced Russian disinformation from a Russian agent into the investigative record as an exhibit, a foreign agent whom our own Intelligence Committee warned was actively seeking to influence US politics.

Not me or Senator Johnson, not our staff; it was the Democrats who inserted disinformation from the Russians into our official record. The partisan media and Democrat leadership ought to be ashamed of themselves for fake information if they spread -- that they spread about our investigation. So in the end, they all failed to stop Senator

Johnson and me. On August 23rd, 2020, Senator Johnson and I released our first Biden investigation report.

Now I know there's been a lot of talk in this town about Treasury records, and you ought to pursue them. In that 2020 report, we made public the contents of many Treasury records, But we didn't stop there. We issued another report November 18th, 2020. Our report exposed extensive financial relationships between Hunter and James Biden and Chinese nationals connected to the Communist regime.

More precisely, Chinese nationals connected to the Chinese government, military, and intelligence services. With the new Congress, of course, Senator Johnson and I transitioned to be your ranking members. We hadn't forgot about what the triad of partisan media, FBI, Democrats, and leadership did to us. So we don't stop.

We did what any congressional investigator worth their salt would do. We gathered even more records to prove them all wrong. We acquired authentic bank records that substantiated findings of our previous two reports. They financially linked Hunter Biden and James Biden to entities and individuals connected with the communist Chinese regime.

We also acquired business records with Hunter and James Biden's signatures alongside those same Chinese nationals. How were they supposed to be paid? According to bank records, there were wires from companies linked to the communist regime. In three floor speeches, we made those bank records public and asked this question to our partisan detractors, the same ones that I mentioned throughout my remarks and maybe a lot of others, are these official bank records Russian disinformation?

We also shared hundreds of pages of bank records with US Attorney Weiss. He failed to respond. Now as our investigation continue whistleblowers approach my office with allegations that the FBI created an assessment in August 2020, the same month that the FBI briefed me and Senator Johnson. According to these whistleblowers, that assessment was used by FBI headquarters to improperly discredit negative Hunter Biden information, as you might expect, disinformation.

As a result, this scheme allegedly caused investigative activity to entirely cease. It's been further alleged to me that in September 2020, the same month Senator Johnson and I released our first report, those FBI headquarter personnel began placing their analysis of the credibility of reporting related to the Biden family in what I've been told is a restricted access sub-file.

Further allegations to my office involved FBI personnel at the Washington field office who improperly ordered information to be closed by the FBI related to Hunter Biden's potential criminal conduct in October 2020, just before the election, even though it was verified or it was verifiable. Other whistleblower disclosures to my office made clear that the FBI has within its possession very significant, impactful, and voluminous evidence with respect to potential criminal conduct by Hunter and James Biden.

These disclosures also allege that Joe Biden was aware of Hunter Biden's business arrangements and may have been involved in some of them. We still aren't sure what's been done with this information. The FBI's track record doesn't create much faith that the information is going to be followed up on. It's clear to me that the Justice Department and the FBI are suffering from a political infection that, if

it's not defeated, will cause the American people no longer to trust these storied institutions.

It will also threaten the American way of life. Unfortunately, what you've heard from me, this story of government abuse and political treachery is scarier than fiction. It really happened. But Mr. Chairman, your committee here so assembled has an opportunity to help us write the last chapter in this real-life drama.

You must relentless pursuit the facts and the evidence. Senator Johnson and I will do the same and willing to work with you. Thank you.

JIM JORDAN:

Thank you so much, Senator Grassley. Senator Johnson?

RON JOHNSON:

Chairman Jordan, Ranking Member Plaskett, members of the Select Committee, thank you for inviting me to testify about my personal knowledge of and experience with federal agencies being weaponized against US citizens. Senator Grassley has just described the most egregious examples undertaken by multiple actors and agencies to undermine and sabotage our joint investigations.

But to begin, let me be clear throughout my testimony, I am not talking about the men and women in government who conduct themselves with integrity and patriotism. But at the outset, it is important to recognize corrupt individuals within federal agencies that I am talking about are not acting alone. They operate as vital partners of the left-wing political movement that includes most members of the mainstream media, Big Tech, social media giants,

global institutions and foundations, Democrat Party operatives, and elected officials.

As the Twitter files reveal, these actors work in concert to defeat their political opponents and promote left-wing ideology, and government control over our lives. My eyes began open to this reality with the disclosure of how the Obama administration weaponized the IRS to harass Tea Party groups by denying them tax-exempt status.

My personal knowledge and experience with agency corruption began in 2015 when I became chairman of the Senate Committee on Homeland Security and Governmental Affairs. My first investigation ultimately revealed the extensive editing of then-FBI Director James Comey of his July 5th, 2016, statement that exonerated Secretary Clinton regarding her use of a private email server for official business.

The edits were clearly made to downplay the seriousness of her actions. It is important to note those partisan edits were made by the same cast of characters in the FBI that would initiate and drive the corrupt Russian-Trump collusion investigation. During our investigation of the FBI's involvement in the Russian collusion hoax, Senator Grassley and I uncovered and made public highly partisan text messages between FBI employees Peter Strzok and Lisa Page.

Strzok's December 15, 2016 text, quote, "think our sishes [ph] have begun leaking like mad." Scorned, worried, and political, their kicking into overdrive has never been given the attention it deserves. In 2022 interview with Jeff Gerth, Strzok said he now believes that -- believes, quote, "it is more likely the text came not from the CIA, but from senior levels of the US government or Congress."

Who might those leakers be? Why aren't reporters who received the leaks outraged at being fed false information? And why haven't they blown the whistle on the leakers? Why didn't the mainstream media robustly investigate how they were all duped? The answer is they weren't duped. They were complicit in creating and fostering the political turmoil our country has been experiencing over the last six years.

Those leaks were a key ingredient in the most destructive, political, dirty trick in US history. The creation and promotion of the false Russia Trump collusion narrative. To be most effective however, that narrative rely -- relied on coordination between government actors and the media. And the left had allies in the FBI. Unable to verify the Steele dossier, the FBI offered Christopher -- Christopher Steele \$1 million to provide verification.

By December 2016, the FBI knew they had investigated Steele's primary sub source as a Russian spy. In the main body of the Department of Justice inspector general's report on FISA abuse, FBI official Bill Priestap is quoted saying the FBI quote, "didn't have any indication whatsoever," unquote of Russian influence on the Steele dossier.

Our investigation uncovered redacted footnotes to that same document that completely contradicted that statement. Why would Priestap's false statement appear in the report but the truth be hidden in classified footnotes? Fourteen months later in February 2018, the FBI still briefed the Senate Intelligence Committee that the dossier had validity.

When the Mueller report found no evidence of collusion, the left engineered an impeachment of President Trump. The cooperation

between the House Intelligence Committee and the impeachment whistleblower remains murky. Then Chairman Adam Schiff originally denied his committee had contact with the whistleblower prior to the filing of the complaint, a claim Schiff later attempted to walk back.

The genesis of the impeachment saga has yet to be fully investigated. It needs to be. Prior to the impeachment proceedings, Hunter Biden's obvious conflicts of interest in Ukraine became public and Senator Grassley and I began investigating. We didn't target Joe and Hunter Biden, their actions demanded it. On December 9th, 2019, the FBI issued a grand jury subpoena and took possession of Hunter Biden's laptop from John Paul Mac Isaac, a computer shop owner in Wilmington, Delaware.

As the FBI left his shop with the laptop, Mr. Mac Isaac recalled one agent saying, quote, "It is our experience that nothing ever happens to people that don't talk about these things," unquote. That statement was the opening salvo in a coordinated effort over the next ten months to sabotage any public revelation of Hunter Biden's laptop or any wrongdoing connected to the Bidens.

Senator Grassley has provided a number of examples of that sabotage. And we will release a report that goes into far greater detail than we have time for today. When available, I hope everyone -- everyone will read it. Perhaps the most egregious and effective act of sabotage against the truth was the public letter signed by 51 former intelligence officials who claimed the laptop had quote, "all the classic earmarks of a Russian information operation," unquote.

That letter itself was an information operation that interfered with and impacted the 2020 presidential election to a far greater extent than anything Russia ever could have hoped to achieve. Each of those

intelligence officials needs to be interviewed to determine how that letter was masterminded [ph]. While we all condemn the violence on January 6th -- we all condemned the violence on January 6th, the further in which -- the fervor in which the Biden Department of Justice has pursued those protesters and rioters stand in -- stands in stark contrast to the lack of interest in the summer of 2020 rioters.

Serious questions regarding instances of unequal application of justice and violation of January 6th defendant's due process rights remain unanswered. SWAT team arrests and treatment of prisoners are legitimate concerns. And neither the Senate nor House investigations adequately explained -- adequately explained why the Capitol was so woefully unprepared or how many federal agents and informants were in the crowd.

COVID has exposed the awesome power that can be misused by government officials. The loss of basic freedoms has been nothing less than breathtaking. Our response to the pandemic has been a miserable failure -- a miserable failure. Over 1 million lives lost. The human toll, the economic devastation caused by shutdowns that did not work, and the loss of learning and other psychological harms to our children.

Federal health officials denied patients early treatment and to this day refuse to acknowledge the extent of significant injuries caused by the COVID vaccines. Emails between Anthony Fauci and Francis Collins reveal how they intended to use their awesome government authority and power to accomplish a quote, devastating published take down, unquote, of scientists who offered a different approach to handling the pandemic.

Have emails also revealed Fauci's attempt to hide his agency's role in funding dangerous research that might have led to the creation of the deadly coronavirus? We don't know because those agencies won't provide the unredacted documents. Federal health agencies have not been honest or transparent. I've written over 50 oversight letters and the vast majority of the questions I have asked have either received an inadequate response or no response at all.

I have requested information that the public has a right -- has a right to know. Doctors who have had the courage and compassion to treat COVID patients using their off label prescription rights have been vilified, censored, and their careers destroyed. Other health professionals have noticed, toed the line, and remain silent.

Parents who out of concern for their children questioned school boards administrators have been labeled potential domestic terrorists and must now fear scrutiny from the federal government -- federal law enforcement. With the release of the Twitter files and the Missouri law -- and Louisiana lawsuits against the Biden administration, we are getting a clearer picture of how active government officials were in suppressing free speech and controlling the narrative.

It has also becoming obvious that the World Health Organization has been captured by the Chinese government, the global institutions in general have been captured by the left, and as some charitable foundations are exerting far more power over public policy than should be allowed. Chairman Jordan members of the committee, you have important work before you.

Although you have been generous in granting me 10 minutes to offer my testimony, I have barely scratched the surface in describing the complexity, power, and destructive nature of the forces that we face.

Our founders fully understood the government was necessary to avoid anarchy, but they also knew that government power was something to fear.

That's why they devised a set of checks and balances to limit government -- government's power and influence over our lives. Ideally, a free press would hold all government officials equally accountable. But with today's media mostly biased to the left, congressional oversight is needed now more than ever.

And because the administration is not cooperative and transparent, Congress needs whistleblowers from agencies throughout the federal government. I urge men and women with integrity to come forward and reveal the truth. Senator Grassley and I will do everything we can to encourage bipartisan oversight in the Senate and stand ready to assist your efforts in any way that we can.

Thank you.

JIM JORDAN:

Thank you, Senator Johnson. We look forward to your report. We hope that is coming shortly. We now recognize Representative Raskin for his testimony.

JAMIE RASKIN:

Chairman Jordan, Ranking Member Plaskett, dear colleagues, our framers were enlightenment thinkers who wrote us an enlightenment constitution. They wanted government to operate on the basis of facts, science, and common sense, not ignorance and superstition. They wanted America to usher in an age of reason.

With the separation of powers, the framers constitutionalized Newton's third law of motion checking every action with an equal and opposite reaction. And Congress in Article one was given the central role of legislating and making progress for our people. The oversight function is not specified in Article 1, but the Supreme Court has always said that it's implied something necessary and proper for the legislative function.

As Madison famously said, those who mean to be their own governors must arm themselves with the power that knowledge gives. Dear colleagues, your subcommittee could conceivably become part of a proud history of serious bipartisan oversight stretching from the Teapot Dome investigation to the Boeing investigation to the Watergate hearings to the tobacco hearings to the Select Committee on the January 6th attack.

Or it could take oversight down a very dark alley, filled with conspiracy theories and disinformation, a place where facts are the enemy and partisan destruction is the overriding goal. Millions of Americans already fear that weaponization is the right name for this special subcommittee. Not because weaponization of the government is its target, but because weaponization of the government is its purpose.

What's in a name? Well, everything is here. The odd name of the weaponization subcommittee constitutes a case of pure psychological projection. When former President Donald Trump and his followers accuse you of doing something, they're usually telling you exactly what their own plans are. By establishing a select subcommittee on weaponization, they're telling us that Donald Trump's followers, who obviously control this subcommittee, will continue weaponizing any part of the government they can get their hands on to attack their

enemies, defined as anyone who stands in the way of their quest for power.

To be clear, that's not an exclusively partisan operation. They've proven that they will weaponize the government, not just against the other party, but against anyone who refuses to bend to the will and whim of one Donald Trump, whether that's a lifelong Republican state election official like Georgia Secretary of State Brad Raffensperger, a foreign head of state like President Zelenskyy, a political movement like Black Lives Matter, a once close personal friend and ally of Trump's like his personal lawyer Michael Cohen for many years, or even a sycophantic Trump Cabinet appointee and lifelong Republican like Attorney General William Barr, if these people break from the habits of lying and lawlessness that define life as a camp follower in the cult of Donald Trump.

But if the Weaponize MAGA campaign isn't exactly partisan, it is entirely political because it's got an overriding electoral focus. And, you know, what it is. It's all about restoring Donald Trump, the twice impeached, former President to the office. He lost by 7 million votes in 2020 and tried to steal back in a political coup and violent insurrection against our constitutional order on January 6, 2021. You disagree?

Well, please don't take my word for it. As our chairman might say, just listen to what Chairman Jordan himself had to say six months ago at the Conservative Political Action Conference in Dallas where he was predicting GOP victory in the '22 elections and promising that oversight of Hunter Biden's laptop and the claim that the federal government is treating moms and dads like the ones in this room like terrorists would be the centerpiece of the GOP's work in the House when they got it back into power.

Relaxing with a friendly interviewer, Chairman Jordan gave the game away entirely. Quote, "all those things need to be investigated just so you have the truth," he said. Plus that will help frame up the 2024 race when I hope and I think President Trump is going to run and we need to make sure that he wins.

We need to make sure that he wins. This call to arms for the 2024 presidential election was met with wild applause from the CPAC audience. I urge every member of this subcommittee to go and watch the interview. Now, of course, a serious bipartisan committee focused on weaponization of the government would zero in quickly on the Trump administration itself, which brought weaponization to frightening levels -- new levels across the board.

Consider just a few examples, I've time for illustrative of dozens I can provide the subcommittee. One, in a six week period in 2020, Donald Trump fired or removed five different departmental inspectors general simply for doing their jobs and not caving into Trump's coercive political demands to cover up different forms of administration wrongdoing and misconduct.

April 3rd, 2020, Trump informed Congress he was firing intelligence Community Inspector General Michael Atkinson who had received a whistleblower complaint in August 2019 about improper demands made by Trump to Ukrainian President Vladimir Zelenskyy. In May 2020, Trump fired Steve Linick, IG of the State Department, later claiming he had no idea who he was and saying that he fired him only at Secretary Pompeo's request.

That inspector general was investigating Pompeo's decision to bypass Congress in sending billions of dollars in arms to Saudi Arabia. I don't have time to get into details of the others, but May 20 he fired Mitch

Behm, the transportation deputy IG. He relieved of duty Glenn Fine, acting IG for the Defense Department.

He removed Christi Grimm, the acting inspector general of HHS. Second, breaching the traditional separation between the president and Department of Justice criminal prosecutions, Trump and his obliging sycophantic attorney generals like Jefferson Sessions and William Barr repeatedly pressured career prosecutors to go hard or go soft in particular cases, always seeking to reward Trump's friends or to punish his enemies.

If weaponization of the Department of Justice is any meaning, this is it. Consider the egregious case of Gregory Craig, a White House counsel under Obama, who was targeted by the DOJ for alleged FARA violations and finally, indicted on a single count of making false statements. He was acquitted unanimously by the jury in less than five hours and one of his lawyers observed that the Department of Justice had hounded his client without any evidence and without any purpose.

Former US Attorney Geoffrey Berman said that Greg Craig never should have been prosecuted. Consider the case of Michael Cohen, the president's former lawyer and confidante for many years. In August 2018, he pleaded guilty to campaign finance violations over large hush money payments he arranged before the 2016 election to keep porn stars Stormy Daniels and Karen McDougal from talking about sexual affairs they had with Donald Trump.

You guys remember this one. Well after Barr became attorney general in February of 2019, he worked to kill further investigations related to those payoffs and suggested that Mr. Cohen's conviction on campaign

finance charges itself be reversed even though six months had already passed since Cohen had entered a guilty plea.

Amazingly, after Cohen was imprisoned for a year and then being transferred out of prison to home confinement during COVID-19 Barr and the DOJ intervened to block his transfer because Cohen would not immediately accept as a condition of his ankle bracelet home confinement not to engage in First Amendment activities specifically writing and publishing a book about Donald Trump or saying anything in public on TV or in the social media about Donald Trump.

Cohen had already been home for two weeks when this unconstitutional demand from DOJ appeared. And when he and his attorney dared to ask questions about it, three federal marshals showed up with handcuffs and shackles and he was returned to the Otisville Correctional Institute. There he spent 16 days in solitary confinement before they were able to get his case before a federal district judge who immediately found that Barr's purpose, quote, in transferring Cohen from release on furlough in home confinement back to custody was retaliatory in response to Cohen desiring to exercise his First Amendment rights to publish a book critical of the president and to discuss the book on social media.

Can you think of a more egregious example of weaponizing the Department of Justice for nakedly political purposes than imprisoning and putting in solitary confinement the president's own former lawyer simply because he wanted to exercise his First Amendment rights? Consider the John Durham investigation.

At the urging of Republicans, including the good Chairman, the John Durham Special Counsel investigation was set up in 2019 by Barr to try to find wrongdoing by intelligence or law enforcement agencies in

the origins of the Mueller investigation. And we've heard some of the murmurings about this today. After four years and millions of dollars spent, the Durham investigation closed as a total flop without unearthing anything like the deep state conspiracy that Republicans have been denouncing around here for years.

It couldn't find anything of substance to it. Yet, Barr in Durham kept pressing in clearly abusive ways I hope your subcommittee will investigate. One former DOJ prosecutor, Robert Luskin, a defense lawyer who represented two witnesses before the Durham probe told the New York Times he was shocked. This stuff had my head spinning, he said.

What did these guys -- when did these guys drink the Kool-Aid and who served it to them? Amazingly, when prosecutors participating in this wild goose chase actually came into possession of evidence of a real offense from Italian government officials of a potentially major financial crime committed by Donald Trump, Dunham -- Durham was suddenly deputized to investigate it and the whole investigation mysteriously disappeared without a trace.

Trump's enablers now want this subcommittee not to examine the Dunham -- the Durham debacle as a case study in dangerous weaponization of the justice function, but rather to pick up the baton from the defeated and demoralized Dunn -- Durham team and to keep the wild goose chase going today. Third, the former President had no qualms about literally weaponizing our nation's law enforcement and military against First Amendment activity for his political Purposes.

I commend to you the debacle that took place on June 1st, 2020 in Lafayette Square, where they mobilized an interagency law enforcement troupe and then unleashed them on horseback with

pepper spray and batons, billy clubs, rubber bullets against a totally lawfully present crowd. Mr. Chairman, I want to be clear.

I'm not suggesting that any of the investigations that have taken place during the last two years have been perfect. I'm sure they could have been improved in some ways. That's a legit thing for you to ask. But it's one thing to engage in systematic oversight driven by a commitment to facts and the truth and something radically different to set up a platform for a series of hit and run partisan attacks that are just vindictive, vendetta driven and meant to frame up a presidential campaign in 2024. And some of the new rhetoric we've been hearing can be dangerous as the ranking member was pointing out.

After the execution of a perfectly lawful judicial search warrant in Palm Beach in August of last year, Politicians and media figures began denouncing the FBI -- fellow [ph] FBI and FBI agents in vitriolic terms. And since then, the FBI and DHS have observed an increase in violent threats posted on social media against federal officials and facilities, including a threat to place a dirty bomb in front of the FBI headquarters and issuing general calls for civil war and armed rebellion.

And we've heard those calls before in this chamber. On August 11th last year, a person wearing a technical vest and armed with an AR style rifle and nail gun attempted to forcibly enter the FBI's Cincinnati field office. When officers responded, he fled the scene and a pursuit followed. During a prolonged standoff with the FBI, the man fired multiple shots at Ohio State Highway Patrol.

Chairman, the public is skeptical about this strange new venture with the strange new name that's being launched because so many of the members involved have done everything they can to block the January

6th committee's investigation of the worst insurrectionary domestic violent attack on an American election.

In the American Congress in our history. And the public wonders whether members who refuse to comply with congressional subpoenas themselves should be issuing congressional subpoenas to other people. Oversight must be organized around a comprehensive search for the truth. Truth that will lead to progress and not around revenge, which will lead us as a country to chaos and ruin.

I hope the subcommittee will find a way to embark upon a truly bipartisan agenda with all members participating in agreeing on a common agenda. And I wish you well and Godspeed on behalf of this difficult venture that you are about to proceed on.

JIM JORDAN:

I thank the gentleman. And I can assure the gentleman from Maryland that we will -- we respect the FBI agents, particularly the ones who have come to us -- the dozens who have come to us. And we will focus on the facts. Something I felt was not exactly presented in the proper way in your testimony. I understand that the senator from Wisconsin has a number of documents he'd like to ask to be entered in the record.

So without objection, those will be entered and we will get those from you, Senator Johnson. We now turn to our former colleague, the former Democrat member from the great state of Hawaii, Congressman Gabbard.

TULSI GABBARD:

Thank you very much, Chairman Jordan, Ranking Member Plaskett, and members. Aloha. Thank you for the opportunity to be here to speak with you today. Benjamin Franklin said without freedom of thought, there can be no such thing as wisdom and no such thing as public liberty without freedom of speech. I love our country and I cherish our God given freedoms that are enshrined in the Constitution.

Like every one of you, I took an oath, both as a soldier and as a member of Congress, to support and defend the Constitution of the United States against all enemies, foreign and domestic. Now I've had the privilege of serving alongside many of you in Congress for eight years representing the people of Hawaii 2nd Congressional District, serving on the Armed Services and Foreign Affairs committees.

I'm honored to be able to continue to serve as a lieutenant colonel in the US Army Reserves now for almost 20 years where during that time I deployed to three war zones and participated in multiple overseas training exercises where I had the opportunity to see firsthand what life is like in countries where there is no First Amendment, where there is no free press, where government deems itself to be the moral arbiter to its people dictating to them what is right and wrong, what can and cannot be said, who can speak, who cannot, who is free to worship, and who is not.

Our founders understood the importance of enshrining our God given freedoms in the Constitution and Bill of Rights to ensure that no matter which party or person may be in power at any given time, our founding documents serve as a reminder of these freedoms that are guaranteed to every American. Thomas Paine said he that would make his own liberty secure must guard even his enemy from

opposition for if he violates this duty, he establishes a precedent that will reach to himself.

We cannot be so shortsighted as to thinking silencing speech that we don't like today will not result in our own voices being silenced tomorrow. The work that you've all been charged with in this committee affects all Americans and it is too important to allow it to fall victim to partisan politics. No matter how deep your differences, we must all agree to stand on the side of liberty.

Unfortunately, right now we live in a country where many Americans are afraid to speak freely, afraid to express themselves, afraid to actually have real open dialogue and debate, afraid of losing their job, being canceled, or being accused of a crime which could happen if recently introduced legislation criminalizing so-called hate speech is passed into law.

Speech that no matter how abhorrent is still protected under the First Amendment. Now this fear and this culture of fear and self-censorship is not unfounded. We have individuals in our government often working through their arms in the mainstream media and Big Tech doing exactly what our founders rejected, trying to control what we the people are allowed to see and say under the guise of protecting us from so-called misinformation or disinformation.

Now of course they appoint themselves as the sole authority and voice of truth of information backed by the most lethal force on earth with the power to target anyone they deem a threat. They alone are the ones self-designated who get to decide what is true and what is false, what is information and what is misinformation or disinformation.

They say they're doing this for us, that they're doing this for our own good, to protect the people, but in reality, the truth is they think that

we're too stupid to think for ourselves, too stupid to discern for ourselves and to draw our own conclusions. Now the idea that we must just blindly accept whatever the government or those in power tell us is true goes against the very essence of our Constitution and Bill of Rights, which were created as a resounding rejection of the reign of kings, churches, and authorities.

They tell us we must blindly trust them or face the consequences even though our government has a long history of lying to us, the American people. Just to cite a few examples, we were lied to about the weapons of mass destruction in Iraq which spurred the war that I and so many others served in and so many others sacrificed their lives in. They lied for almost two decades claiming success in Afghanistan.

When in fact, we saw failure, after failure, after failure coming at a great cost to this country. We saw lies about Vietnam that were revealed in the release of the Pentagon Papers. We saw lies about our own government illegally surveilling Americans. These are just a few examples. There are many more. Ranking Member Plaskett talked in her opening comments about how individuals in the FBI also throughout our country's history have abused their power, weaponizing those agencies to advance their own political interests.

This is not and cannot be reduced to a partisan fight. The stakes are too high. We all must recognize our own responsibility to stand against such abuses. But as we sit here today, the danger is that if we choose to reject or challenge whatever those in power declare is the so-called truth, we are accused of being anti-authority.

We are accused of being a danger to society, accused of spreading misinformation, and are then targeted, smeared, and called things like Russian asset, white supremacist, bigot, racist, sexist, extremist,

traitor, and so on. More dangerous than any baseless smear, our own government institutions which exist to serve the people they are being weaponized against us. The Department of Homeland Security declared a heightened domestic terrorism threat due to three factors, the first of which is quote, "the proliferation of false or misleading narratives which sow discord or undermine public trust in US government institutions," end of quote.

They are the ones who get to decide what those false or misleading narratives are. Former CIA director John Brennan said in 2021 that quote, "Members of the Biden team are now moving in laser like fashion to try to uncover as much as they can about what looks very similar to insurgency movements that we've seen overseas. An unholy alliance frequently of religious extremists, authoritarians, fascists, bigots, racists, nativists, and even libertarians," end of quote.

Attorney General Garland charged his newly created domestic terrorism unit with targeting those who hold quote, anti-authority views. That included parents who dared to protest at board of education meetings, concerned and standing up for the right for themselves to have a say in their children's education.

A draft copy of the Department of Homeland Security Quadrennial Homeland Security Review outlined their intent to target, quote-unquote, "inaccurate information on a whole host of topics to include the origins of COVID, vaccines, the US withdrawal from Afghanistan, and US support to Ukraine." Their misinformation, disinformation, and malinformation team exists to quote, counter all types of disinformation.

Once again, they get to determine what this disinformation is. Meta CEO Mark Zuckerberg revealed on the Joe Rogan Experience podcast recently that Facebook limited the exposure of the New York Post

Hunter Biden laptop story just weeks ahead of the 2020 election only after talking with the FBI. Twitter took similar action, but they recently apologized for doing so recognizing that their decision was wrong.

The cozy relationship between the White House officials, the Department of Homeland Security, the FBI, and Big Tech is now well documented and results in private companies not restricted by the First Amendment doing the dirty censorship work of those in government who are not legally allowed to do so themselves.

The threat Big Tech monopolies pose to our democracy is real and serious. I've had personal experience with this. After the first Democratic primary Presidential debate in 2019, I was the most searched candidate of the night. Unfortunately, and suddenly my Google ads account was mysteriously suspended without any notice or explanation.

There were no responses to our multiple attempts to resolve whatever problem could have caused this, but after some time passed magically my account was reinstated again with no explanation or apology. But their actions limited my ability to connect with voters who were actively seeking more information about my candidacy and why I was offering to serve them as president and commander in chief.

This is not only happened to me, it's happened to other candidates running for various offices. Jo Kent running for Congress in Washington State is one I know personally of. This happens all the time with these Big Tech monopolies interfering in our democracy by manipulating search results based on whatever it is that they want the American people to know about a particular candidate or issue that should be concerning to any one of us and all of us. And now recently

we've learned that with the release of the Twitter files detailed by Matt Taibbi and others, high level former FBI and CIA and other government officials were behind Hamilton 68 and their list of 644 social media accounts supposedly linked to quote, Russian influence activities online.

Now Hamilton 68's work was widely cited as fact by institutions like Harvard and Stanford, by mainstream news organizations across the board, by members of the House of Representatives and Senate from both political parties including the head of the Intelligence Committee. The problem is it was false. Twitter themselves determined that the vast majority of accounts that Hamilton 68 targeted on this list of 644 were quote, "neither strongly Russian nor strongly bots," end of quote.

They were mostly anti-establishment, American voices from across the political spectrum. I was one of them. Former Secretary of State Hillary Clinton accused me, a sitting member of Congress, a soldier and a candidate running for president, of being quote, "groomed by the Russians." Her baseless smear worked as intended.

It was something that was repeated over and over, headline after headline, article after article, pushed online in every way. This had the harmful impact that -- that was intended. I could give you many examples of interactions that I've had with people throughout that campaign and still today. But I remember one in particular that had an impact.

Just weeks after the statement was made, I was in South Carolina at a campaign event when a woman -- an elderly woman came up to me, and I could tell that she was very disturbed. She came up and she put

her hands on my shoulders and she looked into my eyes, her eyes welling up, hands shaking and she said, look me in the eyes.

I need to know if you are working for Putin. She was serious. I couldn't believe it. I looked her straight back in the eyes and expressed to her from my heart how much I love this country so much that I'm willing to die for it. More recently, US Senator Mitt Romney accused me of treason, a crime that is punishable by death under our laws.

I challenged him to back this -- back this serious allegation up with evidence. What was this based on? There was no response, no explanation, no evidence, and certainly no apology. Now these accusations are often shrugged off as well, hey, it's politics. People say things about each other all the time. That may be easy for some of you to say, but for somebody who wears a uniform, this is serious.

And it's serious not only to me, but to my fellow service members and veterans. Every one of us making a decision at some point in our lives to raise our right hand prepared and volunteering to lay our life down for this country. What does that mean in reality? It means that before every deployment in our own hearts, we have to make peace with the possibility that we may not come home.

It means writing letters to our loved ones, trying to find the words to express our love and gratitude, knowing that that may be our final goodbye. It means for those of us who do come home doing our best every single day to honor the great sacrifices of our brothers and sisters who paid that ultimate price.

This is much bigger than me or anyone individual. When those who dare to challenge the establishment are targeted by this powerful conglomerate of government, corporate media, and Big Tech weaponizing all that they have against the people for their own selfish

gain, it has a dangerous chilling effect on free speech and it sends a very powerful message.

If you dare to challenge us, we will come after you. The more we allow this to happen, we start looking less and less like a democratic republic and more and more like a banana republic. Instead of a government ordained to secure these rights, we are now increasingly facing a government determined to take those rights away.

George Washington warned, for if men are to be precluded from offering their sentiments on a matter which may involve the most serious and alarming consequences that -- that can invite the consideration of mankind, reason is of no use to us. The freedom of speech may be taken away and dumb and silent we may be led like sheep to slaughter.

We have to stop this insanity and protect these sacred freedoms, vanquish the fear and self-censorship that is now pervasive. Every one of us taking action to breathe new life into the open marketplace of ideas that is at the heart of a thriving democracy, encouraging vigorous and substantive debate, encouraging people to think for themselves so we can draw our own conclusions, where we can disagree without devolving into hate.

Where we can respect each other as fellow Americans and treat each other with aloha. The work you have before you is critical for all of these reasons. The stakes are high. The consequences for better or worse will be long lasting. For the sake of the American people, our freedom, and the future of this country we love, I pray we can set aside our partisan differences and commit to standing together to defend the constitutional right of every American to live free.

Thank you, Mr. Chairman.

JOE JORDAN:

Thank you, Congresswoman Gabbard. We appreciate those fine remarks. Congressman Raskin, we thank you for being here. Senator Johnson, we thank you as well for your testimony. The committee will stand in recess for five minutes, more or less, to get ready for the second panel. [off-mic] Committee will come to order.

Let me introduce our second panel. We don't have all our second panel. Mr. Turley is -- Mr. Baker -- Mr. Thomas Baker is an international law enforcement consultant. He served for more than 33 years as a special agent with the FBI, including in leadership positions overseeing terrorism and other criminal investigations.

Mr. Baker, thank you for being with us. Professor Jonathan Turley is the JB and Maurice C. Shapiro professor of law at George Washington University Law School. He has written extensively on topics like constitutional law and has served as counsel to whistleblowers, military personnel, judges, members of Congress, and a variety of other clients.

Mr. Elliot Williams is a principal in the Government Affairs and Policy Counsel practice group at the Raben Group. He has served as deputy assistant attorney general for Legislative Affairs at the Department of Justice, an assistant Director for congressional Relations at US Immigration and Customs Enforcement.

And Ms. Nicole Parker is a former special agent with the FBI. During her time at the FBI, she worked on various matters including securities fraud, violent crime, and the Violent Crime Fugitive Task Force. We'll begin by swearing you in. Would you please raise your right hand? Stand -- stand and raise your right hand please.

Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief so help you God?

UNKNOWN:

[off-mic]

JOE JORDAN:

Let the record show that each witness answered in the affirmative. Please know that your written testimony will be entered into the record in its entirety. Accordingly, we asked you to summarize your testimony in five minutes and then we'll go through it. Then we'll get to questions. The microphones in front of you -- you all done this, I think, before -- most of you.

Green means go. Yellow means get ready to stop. Red means stop. And then -- then we'll get to the questions as quickly as we can. Mr. Baker, you're recognized first. Again, thank you for being here.

THOMAS BAKER:

Thank you, Mr. Chairman. Americans have lost faith in the Federal Bureau of Investigation, an institution they once regarded as the world's greatest law enforcement agency. I spent 33 years in the FBI and have continued to be closely engaged with the Bureau since my retirement. I am deeply troubled by this loss of faith.

Not only because of the challenge and danger it presents to our nation, but personally it breaks my heart. Specific lapses will be looked into by this panel. But the big issue is why did they happen? What changed? And what should be done? Culture is where it starts.

This widespread deleterious behavior of the past several years describes a culture, not just the work of a few bad apples.

Robert Mueller, when he was the FBI director, set out deliberately to change the culture of the FBI from a law enforcement agency to an intelligence driven agency. That had bad and unintended consequences. And the difference is this, in law enforcement, you spend every day consciously or unconsciously waiting for that day to come when you're going to raise your right hand before a judge or before a jury and swear to tell the truth, the whole truth, and nothing but the truth.

That's quite different than an intelligence agency that operates through deceit and deception and their end product is an estimate, some would call it a best guess. Guesses aren't allowed in the courtroom. Past reforms like the Church and Pike committees were necessary. This present subcommittee is a step in the right direction.

Hopefully its work will be bipartisan because the abuses of an intelligence driven FBI threaten the liberty of those on the left as well as those on the right. In 1978, the church -- after the Church Committee revelations, reforms were undertaken. The FBI and the DOJ enacted a series of attorney general guidelines for conducting investigations.

The Congress gave us the Foreign Intelligence Surveillance Act. Now however, the use of FISA against US citizens as seen in the Carter Page case, has presented a threat to American civil liberties. FISA suspends the Constitution. For its first decades, the Foreign Intelligence Act which used as its name implies to surveil foreign agents resident in this country.

FISA needs to be returned to that original purpose. That is something that the Congress can fix. That the FBI collided [ph] with Twitter to suppress free speech is shocking. What is even more surprising is the FBI's explanation or denial that they did that. Over the past few years, when shenanigans were discovered in the Bureau -- by the Bureau, the miscreants were shown the door.

Director Wray and other FBI leaders, their theme is the bad apples are no longer with us. With the Twitter revelations, there is not even that usual half apology, but a bald faced denial that nothing is wrong. The First Amendment guarantees free speech. The FBI, by urging Twitter to censor speech, which it could not itself do, was engaging in a perversion -- a perversion of the First Amendment.

For most of FBI history agents were trained that part of the FBI's mission was to be a guarantor of the Bill of Rights. That has now been turned on its head. A renewed emphasis on the Constitution as a cornerstone of the Bureau's work is what is called for. When I was in training as a new agent, we were each given a pocket copy of the Constitution.

We were told to keep it in our breast pocket and then if we did that, when you thought -- you would think about it when interviewing a citizen or when searching someone's home, if you kept it close to your heart, you wouldn't go wrong. For years when explaining the FBI to various groups, I would always emphasize that unlike other countries, the United States was blessed to have as its domestic security service a law enforcement agency, an agency rooted in the rule of law.

The United States now may be coerced to have a domestic intelligence agency with police powers. We may never get the bureau back to the culture of a tell the truth law enforcement agency that I lived and

loved in the pre-9/11 era. But the effort of reform is worth it, noble, and dearly [ph] needed. I thank you all for your efforts.

JOE JORDAN:

Thank you, Mr. Baker, for your testimony. Professor Turley, recognized for five minutes.

JONATHAN TURLEY:

Thank you, Chairman Jordan, Ranking Member Plaskett, members of the subcommittee. It's an honor to appear before you to discuss the subject. It is my sincere hope that there is room for bipartisan agreement even in these times when we talk about the government's role in regulating speech. We all are here today because we all have a deep love for this country.

We come from different backgrounds, different parts, but we share that common article of faith. I'd like to speak to that today. These are difficult questions that I'm going to address and these are divisive times, but they transcend politics. Notably, yesterday -- in yesterday's hearing in the Oversight Committee, James Baker said that he also thought there might be a need for legislation.

This is the former Twitter executive, former FBI general counsel, and he said there might be a need for legislation to limit the role of the FBI and other agencies in their relationship with social media companies. I think that that is true. But one of the reasons that this committee has a difficult task before it is that there is a crisis of faith.

And it's not just simply with some of our constitutional values. Polls are showing that people have a distrust for the Federal government, but also with the FBI. 20 percent in a recent poll said that the FBI was

the greatest threat to the country. Only 40 percent of Americans said that they trust the FBI most of the time.

Fifty-three percent said they felt the FBI was acting politically. I'm not saying that those results are warranted. What I'm saying is it's a serious problem when the public -- large portions of the public have that level of distrust. My testimony that I've submitted to the record goes through the constitutional case law that applies to this issue of when the government goes too far.

And I say that these are really very heavily contested questions. There are cases on both sides. And in some of my discussions, I say that actually I think the social media companies have a better argument and in some parts I think that there are legitimate issues here that might trigger the First Amendment.

There are two different aspects to that analysis. One is that we do have direct action shown in the Twitter files by government employees. So we don't have to get into what I spend most of my time on which is agency theory under the First Amendment. We know that there were dozens of federal employees who tagged or targeted particular posts and posters for possible elimination and suspension.

Now we can question whether that was a directive or a partnership or a coordination, but there was direct government conduct. So the question for this committee first and foremost is do you want your government in that business? And we can have I hope a civil and respectful conversation about that. What's interesting about the Twitter files is that they establish what could be viewed as an agency.

Now, as I go through a lot of the cases in the past, courts have really struggled with this. At what point does a private party become an agent of the government? Cases like Page and others say that you can

have that. Even if by the way the private agent turns down some requests, you can have that. And I go through the various tests in -- that -- that apply.

I also go through three things that are established. One, this may be the largest censorship system in the history of our country. Twitter alone reaches 450 million people. They're 15th on social media. Companies like Facebook dwarf them in terms of their size. It is a censorship system. The ACLU has made clear that censorship can be both in government or private form and it certainly can be in a government and private type of coordination.

Second, this is beyond what agencies usually do. This was not the FBI responding to criticism of the FBI, it was generally policing this thing called disinformation. And eventually they tagged things like jokes, they tagged -- it's just a ridiculous scope of information that they believed could be removed.

And then third, I -- what we have here -- and these in terms of -- of what the government is doing is what we've seen before. Even if you assume that this does not create an agency relationship, it's wrong. It's wrong for the government to be in the business of silencing citizens. It's wrong. We saw it during the McCarthy period where the government was behind the blacklisting of individuals.

We said it was wrong. It was wrong then. It's wrong now. We have to have that debate and it has to move somewhere beyond our normal partisan divisions. Adlai Stevenson said that when there's a loss of faith in government, we lose everything. I hope that Senator Stevenson's words resonate with members of this committee.

We have everything at stake when you have the government involved in censorship. And so I thank you again for allowing me to appear.

And I look forward to working with members on both sides to look at this issue. Thank you.

JIM JORDAN:

Professor, thank you. Thank you for stating the gravity of the -- of the situation and the question before us. Mr. Williams, you are recognized for five minutes.

ELLIOT WILLIAMS:

Thank you, Mr. Chairman, Ranking Member Plaskett, and members of the subcommittee. Thank you very much for inviting me to testify today. My name is Elliot Williams and over the course of 15 years I have the honor of serving in all three branches of our government. Across that time, I worked as both a career prosecutor and a senior appointee as both a rank and file employee and in senior management and in both Republican and Democratic administrations.

For a major portion of my time in government, I served in roles tied directly to the relationship between the executive and legislative branches of government. I served as counsel to the Senate Judiciary Committee across the building -- or across the courtyard, and helped run legislative affairs at both the United States Department of Justice, the United States Customs and Immigration Enforcement, or ICE. And I note that I'm here today speaking in my personal capacity and not on behalf of any employer.

Now having sat in the seats of the very staff behind you alongside some of the very people who are still here today, as well as in the role of the executive branch employee or official responding to your requests, I can say that each institution's interests are critically important to creating a healthy, functioning democracy.

When they collide, it is crucial to recognize that our institutions are best served by reaching compromises or accommodations -- we're going to hear that word again in a moment -- that protect the core interests of each branch of government. congressional oversight, the reviewing or monitoring or supervision of federal agencies and activities, is essential to good government.

It helps ensure that officials who hold the public trust apply laws fairly and spend their funds wisely -- our funds wisely. It uncovers abuse and uproots waste. It encourages efficiency and fosters transparency. Now this is a two way street where Congress ends up better informed when making its legislative decisions and the executive branch is in a better position to carry out its enforcement of our laws.

Now there is a natural and perfectly reasonable push and pull of constitutional and legal interests when two branches of governments interact. But too much pushing or pulling from either side poorly serves the American people and does not serve the work of the American people. Now each branch of government, and I mean the legislative and executive, have a tremendous amount to lose and a lot to gain in the process.

It's in the interest of people at both ends of Pennsylvania Avenue and across the country that our institutions and our democracy function properly. Now Congress and the Justice Department, both where I worked, for a long time have recognized this principle. The Justice Department has attempted throughout the years to balance satisfying legitimate legislative interests with protecting the executive branch's confidentiality interests.

An obvious example arises when disclosure of case materials from an open criminal case or civil case might be disclosed to the public or to

Congress. There might be a significant public interest in the Justice Department's efforts to protect those materials. Likewise, Congress has a very long history of engaging in responsible oversight and bipartisan oversight, at that matter, of the executive branch.

This means reaching accommodations that have regularly included narrowing requests for information, limiting access to information that's provided by the executive branch, or even at times delaying a congressional investigation until the work of the Justice Department in the form of prosecutions or declinations are completed.

For instance, here's an example. In the early 2000s, the House Oversight Committee wanted to obtain documents from Special Counsel Patrick Fitzgerald's investigation into the leak of the covert identity of CIA officer Valerie Plame. They consulted -- this is the committee -- the oversight committee -- consulted with the Special Counsel and agreed to delay receiving information until after the end of the litigation or after the investigation and litigation.

Even then, the chair of the committee worked closely with the Special Counsel to narrow his requests that the Special Counsel agreed would not infringe on his prosecutorial independence or intrude upon grand jury secrecy, which as many of you know is protected by law -- under the law. Both sides here, Congress and the executive branch of the Justice Department had interests.

They both balanced them for the good of democracy, the health of our institutions, and transparency for the American people. Now as with any process of negotiation, not every party will always receive what they seek to recover, nor will they be able to protect every bit of information they wish to shield.

That is not a bad thing, and we will talk about that over the course of the day. Needless to say, thank you again for inviting me to testify and I look forward to answering any questions you might have.

JIM JORDAN:

Thank you, Mr. Williams. Ms. Parker, you are recognized for five minutes.

NICOLE PARKER:

[off-mic]

JIM JORDAN:

Ms. Parker, hit that -- hit that button. There you go. Thank you.

NICOLE PARKER:

Chairman Jordan, Ranking Member Plaskett, and members of the subcommittee, I would like to thank you for inviting me to come and respectfully speak to you today. The people of this country deserve the right to have faith in those sworn to protect. Faith is the foundation of hope and hope can be restored through honest reflection of who we have become and who we could and should be. On September 11th of 2001, I was working for Merrill Lynch in the World Financial Center in New York City.

I witnessed up close the horrific, deadly terrorist attacks on the adjacent World Trade Center. My colleagues and I evacuated our building and were lead safety thanks to the heroic efforts of NYPD officers. 2,977 souls were not as fortunate that day. As I watched the mayhem unfold, to include people jumping to their deaths, I was shocked, heartbroken.

I vowed to God that I would give back and serve this great nation. This vow led me to leave a multibillion dollar hedge fund in 2009 and apply to become an FBI special agent. According to the Wall Street Journal, around 45,000 people applied to be special agents that fiscal year. About 900 made the cut, and I was one of them.

After five months of arduous training at the academy in Quantico, I was a sworn in special agent assigned to the Miami Division. I considered it a very sacred responsibility and was honored to be entrusted to protect and serve the American people. My entire career was spent in the field where I believed I could make the strongest impact in rescuing victims and putting criminals behind bars.

It was my privilege to work alongside the finest and brightest in the FBI, local law enforcement, and our federal partners. Participating in the investigations of myriad criminal cases: The Marjory Stoneman Douglas High School shooting in Parkland, Florida; the 2017 Fort Lauderdale Airport shooting; the Cesar Sayoc pipe bomb case; multi-million-dollar Ponzi schemes; crimes on the high-seas; bank robberies; murders for hire; sexual assaults; extortions; and more.

Yes, it was physically taxing and emotionally jarring, but I believed I was making an impactful difference. And every day I woke up and I embraced being an FBI special agent until things changed. Over the course of my 12 plus years, the FBI's trajectory has transformed. On Bureau the papers -- the Bureau's mission that remain the same, but its priorities and governing principles shifted dramatically.

The FBI became politically weaponized starting from the top in Washington and trickling down to the field offices. Although FBI employees have their First Amendment rights, they are not at liberty

to allow their personal political views or preferences to determine their course of action or inaction in any investigation.

Lady Justice must remain blind. Those that do not uphold these responsibilities cause a negative ripple effect throughout the agency in the field. It's as if there became two FBI's. Americans see this and it is destroying the Bureau's credibility causing Americans to lose faith in the agency, and therefore, the hardworking and highly ethical agents who still do the heavy lifting and pursue noble cases.

It makes it very difficult for agents to do their job when the FBI loses the respect of the American people. There has also been a shift in recruiting practices, a lowering of the eligibility requirements, which is negatively impacting the agency's performance. And all this adds up to a loss of trust in the FBI by many Americans and low morale among many FBI employees.

For many becoming the special agent was their calling in life, but now it's merely a very dangerous and high risk job with minimal contentment. Wary of consequences that come with voicing their displeasure, these agents keep their heads low, they work hard, and they stay off the radar, and they count down the days until they can collect their well-deserved pensions.

For me, distancing myself from egregious mistakes, immoral behavior, politically charged actions taken by a small, but destructive few FBI employees became exhausting. Although I was always treated with the highest level of respect in the Miami division, I no longer felt that I was the type of agent that the FBI valued.

I began to lose passion for the career I loved and peace came as I reflected on the victims I assisted, the criminals I took off the streets, and I remembered positive performance reviews, awards, and

accolades I'd been given, as I left nothing on the line in my work as a special agent. I held out as long as I could hoping things would improve.

But finally, I knew it was time to go., So less than four months ago of my own volition, I made the difficult decision and quietly walked away from the FBI with an exemplary and spotless record. I love the FBI I joined and I have treasured memories working alongside remarkable people. I'm proud to have served with honor as a special agent.

And while I sincerely pray for the future -- the FBI's future success, the FBI's troubles of late were bigger than anything I could change. Going forward, I will continue to serve others in our beloved country while honoring and celebrating the true heroes, both past and present, of the FBI. When I was invited to participate in this hearing, my initial reaction was to decline the request as there may be others more capable who would do a much better job than me. And why would I want to subject myself to the stress of testifying, putting a target on my back, and likely facing public scrutiny.

As I prayed about this invitation -- sorry -- the thought came to me, to whom much is given, much is required. And I realized that this is not about me. I have been given the opportunity to speak up on behalf of numerous current and former Bureau employees who feel similarly, but they do not have a voice.

I am not here today to show favor to any political party. I am here to stand for the truth based on my experience at the FBI. In all humility, I hope to make an impact in creating a stronger agency which is what Americans deserve.

JIM JORDAN:

Thank you, Ms. Parker, and thank you for your service. We'll now proceed under the five minute rule with questions. The chair recognizes the gentlelady from New York, Mr. Stefanik.

ELISE STEFANIK:

I want to echo the chairman. Thank you, Ms. Parker for your extraordinary service and your courage for being here today. Mr. Turley, I want to start with you. The Twitter files laid bare for the American people what you correctly call unconstitutional, quote, "censorship by surrogate." Matt Taibbi writes, quote, "Twitter's contact with the FBI was constant and pervasive as if it were a subsidiary."

Do you agree with that assessment?

JONATHAN TURLEY:

I do. What we know on the record so far shows a relationship that goes beyond this sort of informal exchange of ideas.

ELISE STEFANIK:

You're correct. In fact, isn't it true that leading up to the 2020 election, Twitter had weekly meetings with not just the FBI, with DOJ, with DHS, with DNI to conduct this unconstitutional censorship by surrogate. We know that because of the Twitter files, correct?

JONATHAN TURLEY:

Correct.

ELISE STEFANIK:

And it was not just meetings, not just censorship of stories like the Hunter Biden laptop story. We also now know that the FBI paid Twitter over \$3.4 million of taxpayer -- taxpayer funds to censor these stories before the 2020 election. Is that correct?

JONATHAN TURLEY:

That money was paid. Twitter confirmed that.

ELISE STEFANIK:

And this -- the Twitter files are just the tip of the iceberg because there's so much more. There was a corrupt revolving door at the highest levels between the FBI and Twitter. Look no further than Jim Baker, former general counsel at the FBI, who helped unlawfully investigate Donald Trump in the 2016 election.

Or look at Jim Comey's deputy chief of staff, who became the director of strategy at Twitter. Isn't it true, according to the Twitter files, that there were so many FBI officials who then went to work at Twitter that -- that created their own Slack channel and crib sheet for onboarding? The Twitter files confirm that, correct?

JONATHAN TURLEY:

Correct.

ELISE STEFANIK:

Are you aware as the American people are aware that according to polling, of the people that were made aware of the Hunter Biden laptop story, 53 percent would have changed their vote, including 61 percent of Democrats. This is the definition of election meddling and

it's the definition of election meddling by the FBI on behalf of Democrats paid for by the US taxpayers.

It's collusion, it's corruption, and it's unconstitutional. Ms. Parker, I want to go to you next about your experience at the FBI. Because this is not just about the Twitter files, which folks are focused on because of the news it made, it's about a systemic rot in the culture and the politicization of the leadership of the FBI and it needs to be rooted out.

Let's take a step back. Let's look at the targeting illegally of parents who wanted to stand up for their kids at school board meetings. On September 29th, 2021, the National School Boards Association sent a letter to Joe Biden equating parents at school board meetings to domestic terrorists. And on October 4th, Attorney General Merrick Garland issued a memorandum to the FBI and US attorneys that the department would use federal enforcement tools to target and prosecute these parents.

Do you consider parents as domestic terrorists?

NICOLE PARKER:

I do not consider parents as domestic terrorists. No, I do not.

ELISE STEFANIK:

No. And neither do the American people, but there's more to this story. It goes back further than that initial letter on September 29th because the letter didn't happen organically, it was solicited. It was solicited by the White House and by the Secretary of Education. Essentially, the Biden administration laid the predicate for which it

used to justify illegally targeting the American people, targeting these parents.

Is it proper protocol, as a former FBI officer, to set that predicate, to manufacture the reasoning to justify opening an investigation?

NICOLE PARKER:

I believe that no one should be targeted for free speech and that violence should never be tolerated under any circumstance, but it should definitely not -- no one should be targeted because they want to speak up at a school board meeting.

ELISE STEFANIK:

This was a set up and it was the set up and it's the real definition of weaponization of the government against the American people. And it's not just this example of targeting parents at school boards association, it goes back to the opening of Crossfire Hurricane. It goes back to the faulty FISA application.

It goes back to what we heard on that first panel from Senators Grassley and Johnson. It goes back to the suppression illegally of the Hunter Biden laptop story paid for by the US taxpayers. This corruption needs to be rooted out. And it's not just about protecting the US Constitution, it is most importantly about protecting the American people from the weaponization of the federal government against them.

Yield back.

JIM JORDAN:

Gentlelady yields back. The chair now recognizes the ranking member for five minutes.

STACEY PLASKETT:

Thank you, Mr. Chairman. Very interesting. As a parent of five children, I think having my rights as a parent is -- is a very sacred trust -- very sacred trust. But Mr. Williams, would you say that having worked as a prosecutor, threats of violence against individuals is something that supersedes an individual simply being a parent?

ELLIOT WILLIAMS:

Of course, Madam Ranking Member. Threats of violence are actionable under the law. When they come, prosecutors can invest -- or the FBI or any other investigative agency can investigate them and prosecute as appropriate.

STACEY PLASKETT:

Sure. This one page DOJ memo that we've made much ado about says in its first instance that the First Amendment protected activity should never be subject to prosecution. And issues of concern to legal violence and threats of violence that are made to school board officials, most of whom are surprise, surprise parents, volunteers who do the unenviable job of trying to direct their children and their communities' activities with regard to education.

Job most of us thankfully have not had to do. And I'm also troubled -- I'm deeply troubled by all of the events as well as the increase in violence and threats of violence against civil servants and federal law enforcement as we attempt to weaponize these individuals doing their

job. You know, in fact, we've seen the consequences of this rhetoric over and over again.

I'm also deeply troubled by the idea of Congress, as I said in my opening statement, using oversight as a weapon to air a list of political grievances. Seem to hear much of that from the first panel especially. I've been a member of the House Oversight Committee where I saw firsthand how good oversight can help Congress make better public policy.

Mr. Williams, you've worked in both Congress and the executive branch. Do you agree with me that oversight of the federal government is an important legislative process?

ELLIOT WILLIAMS:

Absolutely. As Representative Raskin said at the first panel, the Constitution doesn't explicitly lay out an oversight mandate, but the legislative mandate of Congress -- provides Congress -- provides Congress with its ability to engage in oversight. Oversight is good when it helps the government work better.

STACEY PLASKETT:

Thank you. Do you agree that congressional oversight is at its best when it's focused on addressing the real problems that Americans face on every day?

ELLIOT WILLIAMS:

The real problems Americans face every day and making government work better. Absolutely, Congresswoman.

STACEY PLASKETT:

I believe in congressional oversight and committee Democrats would be willing to work together to conduct oversight of matters such as the disproportionate audits by the IRS of African-American families. Recent reports about former Attorney General Bill Barr and special counsel John Durham. Mr. Williams, do you agree that congressional oversight works best when it's bipartisan in nature?

ELLIOT WILLIAMS:

Absolutely.

STACEY PLASKETT:

And have you seen examples of that in bipartisan investigations?

ELLIOT WILLIAMS:

Oh, absolutely.

STACEY PLASKETT:

So -- it's so infrequent now, but have you ever seen any?

ELLIOT WILLIAMS:

Absolutely. Great example is in 2016 when the House Committee on Oversight led by Republican Chairman Jason Chaffetz and Ranking Member Elijah Cummings worked together on an investigation -- a bipartisan investigation of the United States Secret Service and mismanagement and misbehavior there. It led to bipartisan legislation that made, as I said, the government work better and Secret Service a more functioning and more functional organization.

STACEY PLASKETT:

What about cooperation between the branches of government? Is it necessary for Congress to be willing to work with the executive branch in investigations?

ELLIOT WILLIAMS:

Yes. And vice versa. Absolutely. The executive branch should be willing to work with Congress as well.

STACEY PLASKETT:

And in -- would that first instance be trying to come to agreement as to when and how documents and information could be given?

ELLIOT WILLIAMS:

Absolutely. You know the public sees hearings, but does not see when the process works properly. There's a back and forth and a give and take between the two parties at both ends of Pennsylvania Avenue as I said before.

STACEY PLASKETT:

Would you say two weeks into the Congress issuing subpoenas might be a bit premature for the investigation and cooperation between those branches of government?

ELLIOT WILLIAMS:

You know, certainly, Congresswoman, Congress has the authority to issue subpoenas quickly if they wish, but I guess you get more flies with honey than with vinegar. To be cute. And working with the other side collaboratively is always going to be a better approach.

STACEY PLASKETT:

Vinegar seems to work better on social media though than the honey.

I yield back.

JIM JORDAN:

I thank the gentlelady. I would just point out, we tried the honey --

hundred letters we sent the last Congress. We tried the honey --

STACEY PLASKETT:

The last Congress -- [crosstalk] -- now in the majority should have

tried that first as the chair of this committee, not as the ranking

member.

JIM JORDAN:

We -- we -- we tried --

STACEY PLASKETT:

You didn't do that, Mr. Chairman.

JIM JORDAN:

With 100 and something letters.

STACEY PLASKETT:

You didn't.

JIM JORDAN:

The chair now recognizes the gentlelady from the state of Wyoming,

Ms. Hageman.

HARRIET HAGEMAN:

Thank you, Chairman Jordan. It is a privilege to serve on this select subcommittee and I look forward to the work we have ahead of us. After over 30 years as a water, natural resource, and constitutional attorney, I've seen firsthand and fought against the weaponization of the federal government against my fellow Wyoming citizens and the country at large.

Through the testimony of our witnesses today and the points made by my colleagues, it is clear that the culture and mission of the FBI and DOJ has changed in a manner which runs counter to the rights and liberties of the American people. The purpose of government is to secure our natural rights yet the testimony we have heard and the information received from the whistleblowers and other investigative findings has shown that the FBI's mission has moved from securing those rights to using them as a predicate for investigating and surveilling the American people and weaponizing their government structure against them.

Mr. Baker, in a Wall Street Journal piece you wrote titled, "The FBI Needs a Wray of Courage," you stated that in response to Attorney General Garland's memoranda directing the targeting of American parents Director Wray should respond by highlighting that the FBI won't undertake any investigation based on speech alone.

It is troubling that that statement would even need to be made. But Mr. Baker, do you think your advice was heeded by Director Wray?

THOMAS BAKER:

In fact, I remember that episode quite clearly, I wrote that article in October just days after the -- the announcement became public and I

was in touch with high executives at the FBI a day or two after that. They assured me that the FBI would maintain the standard of only investigating those situations where there was violence and not investigating free speech.

I have to accept the -- the ranking members of the FBI who told me that. However, my article in the Wall Street Journal still stands. We needed, the FBI needed, the American people needed to hear Director Wray say that publicly as other FBI directors have spoke up to previous attorney generals and previous presidents.

And he never did publicly. And the American people needed to hear -- we wouldn't be having this discussion today if he in -- clearly stated that we will not investigate speech, we'll only investigate violence. We're still waiting for that statement.

HARRIET HAGEMAN:

OK. Mr. Turley, from what Mr. Baker just said, we have seen two issues stemming from this abuse in change of priorities with the -- within the FBI and DOJ. They are either investigating Americans based upon their constitutionally protected rights or they are flagging lawful action to which they have political objection.

In some of your recent writings, you have identified two very important points from the revelation of the FBI Twitter relationship. First that this relationship is a First Amendment violation as it constitutes censorship by surrogate or proxy. And second, you also are concerned that you don't know what is more menacing the role the FBI played in Twitter's censorship program or its response to the disclosure of that role?

The Constitution is a limited governance document. The First Amendment identified our God given right to speak freely and imposes restraint that the government shall make no law abridging the freedom of speech. Mr. Turley, can you explain the implications of the government relying on private industry to circumvent the First Amendment?

JONATHAN TURLEY:

Thank you for that question. The Supreme Court and lower courts have spent a great deal of time trying to define when a relationship with a private party can cross over to a type of agency relationship. And that also applies on the state level through the 14th Amendment. In cases like Page for example, you have situations where you have a government official who called an employer to say I don't like what this person said in a public meeting and that employee was fired.

And the court said, you know, that is government action. That is a violation of the First Amendment. One of the things that this -- this subcommittee has to deal with is that difficult line. And I admit it is difficult, but in these Twitter files, there's a very disturbing picture that emerges. You have regular meetings between the FBI and Twitter.

They even offered to give clearances to Twitter officials. You have complaints among Twitter employees that this is overwhelming in terms of the number. And what you really see is how insatiable censorship becomes that eventually they were doing what appear to be word searches and just sending all of these postings in for possible action by Twitter and then included things like jokes and other things that anyone looking at it would realize that this is not a nefarious Russian operation.

So when we talk about surrogate censorship, we're talking about one of the most -- most serious threats against free speech. You know, people always say, well, you know, the First Amendment only applies to the government. The First Amendment is not synonymous with free speech. It deals with one problem of free speech.

What we're talking about with surrogate censorship is a much greater problem for those of us who value free speech as a defining right of this country.

HARRIET HAGEMAN:

I appreciate that. And one more point to make. They also pay --

THOMAS MASSIE:

Sorry, the gentlelady's time is expired.

HARRIET HAGEMAN:

I will yield back.

THOMAS MASSIE:

Thank the gentlelady from Wyoming. And now I recognize my friend on the other side of the aisle, Mr. Lynch, who has worked -- who worked successfully and diligently with our late friend Walter Jones to secure the release of 28 pages of the 9/11 document. And now I recognize Mr. Lynch for five minutes.

STEPHEN LYNCH:

Thank you, Mr. Chairman. Mr. Williams, on August 12th, 2022, the FBI and DHS released a joint intelligence bulletin warning of an increase in domestic terrorist threats against federal law enforcement

officials following the search of Donald Trump's offices at Mar-a-Lago including quote, a threat to place a so-called dirty bomb in front of the FBI headquarters and issuing general calls for civil war and re -- rebellion.

On August 9th at Judiciary, GOP tweeted, "The IRS is coming for you. The Department of Justice is coming for you. The FBI is coming for you. No one is safe from the political punishment in Joe Biden's America," close quote. And on that same day, my colleague Representative Gosar -- my Republican colleague called the FBI, quote, "The enemy of the people and tweeted, we must destroy the FBI," close quote.

Do you share my concerns as a former FBI employee about this type of rhetoric inflaming those who might already be inclined to harm -- to do harm to our federal officers?

ELLIOT WILLIAMS:

Mr. Lynch, above all else, I should take a moment to praise the work of the FBI and the many law enforcement agencies and individuals that I worked with throughout my time, 15 years in government, much of it in law enforcement. They do work on behalf of the American people and frankly don't sign up for threats or abuse.

So to answer your question, no, absolutely the threats hurt and are toxic and corrosive to our democracy.

STEPHEN LYNCH:

Is it ever appropriate for American leaders to encourage violence against another branch of government?

ELLIOT WILLIAMS:

The encouragement of violence is never appropriate either as a moral matter or under the law, sir.

STEPHEN LYNCH:

Now the -- thank you. The -- the FBI has to respond to facts on the ground. And as recently reported by the Bipartisan Center for Strategic and International Studies, 28 of the 30 domestic terrorism fatalities that occurred in 2021 were the result of far right terrorist attacks perpetrated by individuals who were and I'm quoting, "motivate -- motivated by ideas of racial or ethnic supremacy, opposition to government authority, including perceived overreach related to protocols following the COVID-19 policies, misogyny, hatred based on sexuality or gender identity and belief in QAnon the spirited spirit -- excuse me, QAnon conspiracy theory are opposition to certain policies such as abortion."

Mr. Williams, could a congressional investigation designed to spread misinformation suggesting that the government is a threat actually compromise the safety of an American citizen?

ELLIOT WILLIAMS:

The important words there were designed to. And so of course a congressional investigation that were designed to do that would be improper, sir.

STEPHEN LYNCH:

As -- as you've raised as well, I was on the committee when Mr. Chaffetz and our dear friend Elijah Cummings conducted those negotiations around investigations of the Secret Service. And I also

agree with the -- the former chair's instructions around our joint investigations with -- with Walter Jones. But could congressional investigations predicated on anti-law enforcement rhetoric contribute to misinformation that could lead extremists to target government actors?

ELLIOT WILLIAMS:

Yes, sir.

STEPHEN LYNCH:

How -- explain that. Go into that a little bit. Rather than yes or no -- sat in that seat. Explain to the audience.

ELLIOT WILLIAMS:

Sure. I think a lot of it's the climate we're in today. There is a significant risk of harm to an individual when people are whipped up by what they read and see. And so certainly these aren't mere statements in addition to being legally actionable. They come at a significant cost, sir.

STEPHEN LYNCH:

At the same time a unilateral this -- this -- this committee is -- is based on the premise that -- that the American people are under attack by the federal government, by Department of Justice, by the FBI, by the Department of Homeland Security. That's the premise on which this this committee was -- was based.

And I just -- I just regret the impact that that's going to have on people who might otherwise consider serving in those agencies. And I just wonder if you have a perspective on that as well?

ELLIOT WILLIAMS:

Again, as I said briefly before, people come to -- and in my experience, the vast majority of people I work with and frankly if not all of them came to serve, came to treat the rule of law as their guide and serve the American people. The fear of threats will chill people's ability, number one, to do their jobs, but also in terms of recruiting.

People will not want to sign on for a job that will come necessarily with being threatened or doxed online, sir. So I absolutely agree with that statement.

STEPHEN LYNCH:

Thank you. My time is expired. I yield back.

JIM JORDAN:

Gentleman yields back. The gentleman from Louisiana, Mr. Johnson, is recognized.

MIKE JOHNSON:

Thank you, Mr. Chairman. A lot has been said here about the fear of threats, but what we're concerned about in the scope of this committee is the fear of threats to the American citizens. The reason we use the term weaponization is because it is appropriate. We have so many examples of that across so many federal agencies.

They were designed to serve and protect the American people and have been used in recent years against them that it will take us probably two years to out -- to lay that out. But I just want to focus on one that's been mentioned this morning because the timeline is important. The school board's issue. On June 22nd, 2021, Loudoun

County parent Scott Smith spoke out at his local school board meeting and he was arrested.

On September 29th, citing Mr. Smith's arrest as an example, the National School Boards Association sent a letter to the Biden administration requesting federal law enforcement involvement in local school board disputes. Now here's what's really important. We learn later that the White House helped the NSBA draft that letter to itself.

On October 4th, Attorney General Merrick Garland issued the now infamous memo directing federal law enforcement to mobilize against the parents of schoolchildren who protest at their local school board meetings. He turned the FBI, the US attorney's offices, the full weight of the federal Department of Justice against the very citizens they were sworn to defend and protect.

On October 12th, we learned that the Loudoun County parent Scott Smith's daughter was actually sexually assaulted at her -- at her school and that the school board covered it up and that was the reason why that dad showed up to protest. Nine days later October 21st happened to be the day previously scheduled for Attorney General Merrick Garland himself to appear before our House Judiciary Committee.

In that hearing, as my colleagues will remember, he was forced to acknowledge before our committee that the NSBA letter was the basis of his memo targeting concerned parents. But he refused to acknowledge the obvious chilling effect that memo involving the full weight of the federal law enforcement apparatus would have on parents' protected First Amendment speech.

He also, by the way, refused to commit to a mandatory, under federal law, a mandatory ethics review of his own family's financial ties to

advancing critical race theory in schools and its relation to his school board memo and the obvious appearance of the conflict of interest there in. I encourage all interested citizens to watch the video of that hearing.

It was pretty contentious. The very next day on October 22nd, after much public outcry, the NSBA retracted and publicly apologized for its letter labeling concerned parents like Scott Smith as quote, domestic terrorists. In the following weeks, over 20 different state school board associations severed their ties with the National School Boards Association.

Our Democrat colleagues have tried to downplay the importance of the select committee and even criticize its name as hyperbolic. But as this example and so many others clearly show, key agencies have indeed been weaponized. We're informed even still today that that memo has not been retracted by the attorney general.

Here's the question, Mr. Baker. You were an FBI agent for 33 years and were involved in a lot of the important and noble work there. But you've also said clearly and been vocal about some of the egregious overreaches you've seen from the FBI and the DOJ. In recent years, you've described what has devolved into a culture of quote, deceit and deception, involving quote, alarming FBI behavior.

And you've written that those abuses threaten the liberties of those on the left as well as the right. Professor Turley just cited statistics here today that the large -- there are large numbers of Americans who now distrust the FBI. Our task here is to determine exactly how that's happened and how to correct that framework.

Mr. Baker, here's the question. In your testimony, you noted that FBI Director Mueller a couple of decades ago worked to centralize the FBI.

meaning that he centralized all information and decision making -- making that if the FBI headquarters as opposed to his predecessors' decentralized model which empowered the field offices instead.

Do you believe the elimination of all those layers of supervision, review, and independent judgment is a key reason for all this corruption we see today? And that is something that must be reformed and reversed? Hit that button for me if you will.

THOMAS BAKER:

Yes, in fact, I do, Congressman. I don't use the term corruption. The term I think is more appropriate that your colleague Congresswoman Stefanik used the rotten culture, the culture rot. And -- and specifically as regards to centralization, there's no question about it. Traditionally, the FBI field agent had an investigation.

He had a field supervisor above him. Above him was the agent in charge of that office. Only then did the information and the decision making go to FBI headquarters, What happened under Muller's centralized thing, all of that was eliminated. They ran these key investigations, the Hillary Clinton email investigation and then the Trump collusion investigation out of headquarters, eliminating all these layers of independent judgment.

Supervision gone. So you had someone like if somebody mentioned his name already here Strzok not only writes the communication opening the case, he goes the next day to London and connects to -- conducts the first interview in the case. You have McCabe, a deputy director, number two in the whole Bureau, directs the investigation.

And sends two agents to the White House to interview General Flynn. No levels of review. It was bound to end badly.

MIKE JOHNSON:

Thank you. I'm out of time. Yield back.

JIM JORDAN:

I thank the gentleman. Yeah, they had a name for it is called a headquarters special. And the point is it wasn't special so much, it became the norm. With that, the chair now recognizes the --

DAN GOLDMAN:

Mr. Chairman, can I have point of order? There have been a lot of mention of information and testimony that you all have received from whistleblowers. When are you planning on providing that to the minority?

JIM JORDAN:

You could have been for the very first deposition or, excuse me, transcribed interview of the whistleblower. I was there when he testified on Tuesday.

DAN GOLDMAN:

OK, that's fine. I assume -- I assume you'll turn those over. But what about -- are -- you talk about dozens of whistleblowers? When are we going to get that information?

JIM JORDAN:

When -- when they testify when -- when we work with -- I'll work with the ranking member on -- on that --

DAN GOLDMAN:

You don't have any transcriptions of their interviews?

JIM JORDAN:

We have the first one and we have the dozens who come and talk to our office.

DAN GOLDMAN:

They talk to your office privately?

JIM JORDAN:

They talk to Republican staff. Right.

DAN GOLDMAN:

And they're not transcribed? No notes? No nothing?

JIM JORDAN:

The first one happened Tuesday --

DAN GOLDMAN:

No, no, I'm not talking about the first one. Just what --

JIM JORDAN:

The first one happened Tuesday. The next one happens tomorrow.

The third one happens next Wednesday and we'll continue to do that.

DAN GOLDMAN:

You just said dozens. Are -- you do have notes from those or they're just talking to you -- to your --

UNKNOWN:

Mr. Chairman, isn't -- isn't that how whistleblowers typically work?

JIM JORDAN:

Well, it's how they're supposed to work. It's not how they worked in that -- in the impeachment that Mr. Goldman was a part of when Mr. Schiff said he didn't have contact with that whistleblower but in fact he did --

DAN GOLDMAN:

Actually it worked exactly appropriately until Mr. Trump would not allow.

JIM JORDAN:

We're doing it the way we're supposed to do it, Mr. Goldman.

DAN GOLDMAN:

No, you're supposed to turn it over to the minority.

JIM JORDAN:

When they -- when they -- when they come and testify, you'll have access to the transcript like everyone on the committee will.

DAN GOLDMAN:

You mean your staff is not going to turn it over to our staff? We're just in the dark.

JIM JORDAN:

When the transcript is done, you will get the transcript.

DAN GOLDMAN:

I mean, of all the dozens of whistleblowers you have already talked to the came to talk to your staff.

JIM JORDAN:

Yeah. What do you want me to turn over there?

STACEY PLASKETT:

Their names.

DAN GOLDMAN:

Notes. Did anyone take notes?

JIM JORDAN:

We'll be -- I'll be happy to talk with the ranking member on how we handle that information.

DAN GOLDMAN:

Thank you.

JIM JORDAN:

All I'm saying is we will schedule each for a deposition and we are doing that. You didn't show up for the first one. You could have been there. With that --

DAN GOLDMAN:

I didn't know about it.

JIM JORDAN:

The chair now recognizes -- [crosstalk]

UNKNOWN:

Cicilline was there.

JIM JORDAN:

There were Democrat members at --

UNKNOWN:

I think you need to work on your schedule.

JIM JORDAN:

The -- the chair now recognize I think Ms. Sanchez. The gentlelady from California is recognized.

LINDA SANCHEZ:

Thank you, Mr. Chairman. I know from experience how good investigations can really improve public policy. In 2009 my investigation shed light on the traumatic brain injury risks that accompany professional football. And I'm proud to say that that work changed how football teams and more importantly, youth sports leagues addressed concussions.

But I have also seen congressional oversight at its worst. I served on the Select Committee on Benghazi and I saw how politicized and

expensive that investigation was. And I want to note again that the final report found no new evidence of wrongdoing. Mr. Williams, you've handled oversight for both Congress and the executive branch.

Based on your experience, what are the hallmarks of fair and effective congressional oversight?

ELLIOT WILLIAMS:

Again, fair and effective oversight is number one, does it serve to make government work and function better on behalf of the American people? And then I would say two, is there a process of accommodation between the branches of government that are seeking to have information and that so that you know, in my case there was a Justice Department and the Department Homeland Security, but any government entity, are they working productively together?

Those two things.

LINDA SANCHEZ:

I'm glad you raised the issue of accommodation process. Can you explain why that's necessary and why the government can't simply comply with every congressional oversight request the moment that it's made?

ELLIOT WILLIAMS:

Sure, and here's an example, Congresswoman Sanchez. It's actually more efficient in many circumstances for the parties to attempt to come to an agreement prior to whether it's issuing subpoenas or going straight to hearings and so on. Because of the fact that things that are more contentious are far more likely to end up in litigation and tied up

in the courts for whether it's months or years thereafter, where if the parties had just at the beginning tried to resolve it, like the judge I clerked for, can't you all work this out?

We try to work it out upfront and come to some agreement where not everybody gets what they were initially asking for, but somehow the process moves forward.

LINDA SANCHEZ:

Last week, just two weeks after being named Chairman, Mr. Jordan served multiple subpoenas seeking internal information from the executive branch. In your experience, can it sometimes take time for the accommodations process to play out?

ELLIOT WILLIAMS:

Exactly as I said, it can take time, but it's far more productive to end up with a more time consuming process upfront but where everybody ends up getting what they want.

LINDA SANCHEZ:

Thank you. Now I'm not a prosecutor. But you've been a prosecutor, correct?

ELLIOT WILLIAMS:

Yeah.

LINDA SANCHEZ:

The chairman of this select committee held a press conference earlier this week to talk about various interviews that his staff is conducting. Now I haven't been able to be in those interviews, but I want to ask

you about some things that the committee should keep in mind as it moves forward with our work on this select committee.

Could the fact that someone has no firsthand knowledge of the matters they're discussing impact the credibility of what they say?

ELLIOT WILLIAMS:

Yes.

LINDA SANCHEZ:

And what if they vocally advocated conspiracy theories that have no basis in fact? Should that impact how the committee views their testimony?

ELLIOT WILLIAMS:

Yes, openly advocating conspiracy theories that have no basis in fact would have a negative impact on an open investigation.

LINDA SANCHEZ:

Thank you. And now I just want to clarify some of the discussion that we've heard about parents protesting at -- at -- at school board meetings. People have the right to free speech in this country, but is that an absolute right?

ELLIOT WILLIAMS:

Absolutely. And the best example is threats against other people are not -- it's just not protected speech.

LINDA SANCHEZ:

And in fact, many of these people who have shown up at school board meetings had threatened school board officials with violence or even with -- with death. And isn't that the reason why they were placed on this, you know, a special sort of monitoring thing to make sure that they were not going to carry out those threats of violence?

ELLIOT WILLIAMS:

To be clear, Congresswoman, I'm not familiar with the particulars of each individual case. I can say however, and this is based on my experience as a prosecutor, if somebody threatened somebody else or violated the law in another way in a manner that could either -- the term is probable cause. If there is probable cause to believe that an offense was committed, then certainly law enforcement can take action.

And frankly, if law enforcement overstepped its bounds, there's a process through the civil rights process or any other way of dealing with that and addressing it.

LINDA SANCHEZ:

So again, we have the right to free speech in this country, but it's not absolute if it includes threats against other people. And it's not just violence that we should be looking out for, but it's also threats of violence that law enforcement should be looking out for.

ELLIOT WILLIAMS:

Absolutely. It's the threats of violence because to be quite straight forward threats of violence lead to violence or can.

LINDA SANCHEZ:

Great. Thank you. I appreciate your testimony. And I yield back.

JIM JORDAN:

Gentlelady yields back. Chair now recognizes the gentleman from Florida, Mr. Gaetz.

MATT GAETZ:

Mr. Williams, wouldn't the American people feel like this government wasn't so weaponized against them if there wasn't such a revolving door between Department of Justice, senior officials, and lobbying?

ELLIOT WILLIAMS:

I -- I don't quite follow the premise of your question, sir.

MATT GAETZ:

It's pretty easy. There's a revolving door between senior officials at the DOJ and the lobbying profession. Do you think that that gives the public more or less trust?

ELLIOT WILLIAMS:

There are rules governing what employment and this is based on my understanding have been government for 15 years governing what post government employment can be. One, what individuals actions can be once they're employed elsewhere, but also what they're allowed to --

MATT GAETZ:

I mean, lobbying is influence peddling. And you are the principal at the Raben Group, which is a lobbying firm. And I would observe the

reporting of Project Veritas where Jordan Tristan Walker, who's a director of research and development, said on a recording, one of the things we're exploring is like why don't we just manipulate COVID ourselves?

Mutate COVID via directed evolution. FISA is a revolving door for all government officials. It's pretty good for industry, to be honest. It's bad for everyone else in America. FISA is one of the clients of the lobbying firm that you're a principal of, isn't it?

ELLIOT WILLIAMS:

I do not represent FISA. I do not know --

MATT GAETZ:

You're a principal of the Raben Group, right?

ELLIOT WILLIAMS:

No, that is correct. I mean --

MATT GAETZ:

Mr. Chairman, I ask unanimous consent to enter into the record the clients of the Raben -- Raben Group, which include FISA.

JIM JORDAN:

Without objection.

MATT GAETZ:

Not just FISA, but Google as well. And in response to the Twitter files, we saw a statement come from the FBI where they said correspondence from the FBI on Twitter show nothing more than

examples of our traditional long standing and ongoing Federal government and private sector engagements. Are there such engagements between the FBI and Google?

ELLIOT WILLIAMS:

When you say such engagements, sir, I don't quite --

MATT GAETZ:

Does Google engage with the FBI, Mr. Williams?

ELLIOT WILLIAMS:

I don't work for either Google or the FBI.

MATT GAETZ:

Gosh, I'd have to again point you to your own client list that you advertise on your own website, which includes Google. Does it surprise you that at the Raben Group's website, FISA and Google are clients.

ELLIOT WILLIAMS:

It does not surprise me, sir. No.

MATT GAETZ:

The Soros funded Open Society is one of the clients as well. Does that surprise you?

ELLIOT WILLIAMS:

Sir, I don't have our client list in front of me right now. I will -- assuming that's what it says, I will -- I'll take your word for it.

MATT GAETZ:

I would think that maybe one of the legislative initiatives we could pursue would be to tighten this revolving door that folks at FISA and folks at Big Tech seemed to freely acknowledge in which you seem to be the incarnate of the revolving door. Mr. Baker and Ms. Parker, I want to --

ELLIOT WILLIAMS:

Respond to that or --

MATT GAETZ:

I want to assure you both we come not to trash the FBI, but to rescue the FBI from political capture. And it seems as though that political capture was really enhanced when Robert Mueller took a lot of the authority and power away from the field offices all over our country and centralized that power. Yeah.

Mr. Baker, do you believe that through legislation we might be able to restore the system of office origin where -- where events occur, people are able to conduct investigations in the absence of the influences of Washington DC?

THOMAS BAKER:

There's no doubt Congress can be an advocate. You're doing a lot of good by having these hearings, this panel. A lot of these things don't have to be done internally by the DOJ and the FBI, but there's absolutely a role for Congress looking at the abuses of FISA for one, the abuses of the unmasking for another, the abuses of the indirect targeting, which actually the CIA and the NSA do rather than the FBI. But these are all things Congress can legislate solutions to.

MATT GAETZ:

And it seems as though those abuses become more acute, the greater they have a geographic proximity to Washington DC. Seems we don't see these abuses with the brave FBI agents like Ms. Parker, who I'm very grateful served my fellow Floridians in the Miami field office. Ms. Parker, if we got the decision making more out of Washington DC and into the hands of our field offices where we have so many patriotic and brave FBI officials, do you think we'd be able to escape this political capture that quite literally drove you out of the Bureau?

NICOLE PARKER:

I think that's absolutely critical at this point in our -- in our American history. When I mentioned in the opening statement as says if there are two FBI's, we in the FBI see it as the field offices, the standard rank and file. We are typically the agents who just came to the FBI to serve the country, protect American citizens, fight crime.

We have no interest in politics. We really have no interest in promoting many times. And then FBI too is kind of more individuals that are at the headquarters level and sometimes executive roles --

MATT GAETZ:

It seems as though that politics isn't out in the field offices, it's here in Washington DC. And that's precisely what we ought to deconstruct legislatively. I thank the witnesses and I yield back.

JIM JORDAN:

Gentleman yield back. The chair now recognize the gentlelady from the state of Florida, Ms. Wasserman Schultz.

DEBBIE WASSERMAN SCHULTZ:

Thank you, Mr. Chairman. Mr. Williams, you want to take about 30 seconds to respond?

ELLIOT WILLIAMS:

Won't even take 30 seconds, Congresswoman. What I would say is if we're talking today about what -- what's within Congress's powers and duties under Article one of the Constitution, one such thing is legislation. If Congress wishes to pass bipartisan legislation either about the Federal Elections Commission or lobbying requirements, have at it. That is Congress's role and work together and do it. I would support it and I'm sure many people in this room would.

UNKNOWN:

Our -- our first bipartisan agreement.

ELLIOT WILLIAMS:

We're in agreement there.

DEBBIE WASSERMAN SCHULTZ:

Reclaiming my time.

ELLIOT WILLIAMS:

Sorry. I'm sorry.

DEBBIE WASSERMAN SCHULTZ:

That's OK. Not from you. Thank you. [laughter] First, I want to thank you, Ms. Parker. As a victim of the -- of the Cesar Sayoc bomb package

case along with my staff, I appreciate your service and the work that you did in the -- in the Miami bureau. Mr. Williams, you worked in oversight and for a long time as you noted in Congress for the executive branch, you've seen it at its best and worst.

And all the Judiciary Committee has issued subpoenas over unfounded accusations just two weeks into this Congress. I know I have serious concerns over their rush to judgment like many other committee actions that are employed by Republicans for purely political reasons. But their move also clearly shows that when Republicans are in charge, they use the levers of power to weaponize government.

So can you tell us some examples of congressional oversight that has been abused in that way?

ELLIOT WILLIAMS:

Well, what I will say, Congresswoman, is that when congressional oversight is abused, history doesn't treat it well. And none of us today are the judge or the guide, but history will be. And if for instance, individuals are targeted, history will not be the judge of that. If Congress is using its authority to do so and overstepped its bounds beyond the scope of article -- of its Article one authority.

DEBBIE WASSERMAN SCHULTZ:

Thank you. And what can members of Congress learn from past examples of the politicization of oversight?

ELLIOT WILLIAMS:

I think past is prologue and by recognizing that with a large platform as Congress has, it has the tremendous ability to -- to harm people as

much as -- as much as it does to do good. And Congress ought to perhaps have that in mind when thinking about how to make government work better.

DEBBIE WASSERMAN SCHULTZ:

Thank you. In 2015, a member of Congress who happens to currently hold the gavel now in the House boasted that the Benghazi Select Committee was effective all because it hurt Hillary Clinton politically saying, quote, "Everybody thought Hillary Clinton was unbeatable. Right? But we put together a Benghazi special committee -- a select committee. What are her numbers today," unquote. He even bragged in the same statement that because of it, her quote, numbers are dropping, unquote. During Hillary Clinton's 2016 campaign, Republicans held nine investigative hearings focusing on her, including one where they called her to testify for over 11 hours. That was clearly politicized and weaponized oversight.

And frankly, this weaponization committee itself epitomizes the weaponization of government. So Mr. Williams, is it ever appropriate to turn congressional oversight authority into a weapon to harm a political opponent?

ELLIOT WILLIAMS:

No.

DEBBIE WASSERMAN SCHULTZ:

And how can the politicized -- politicization of congressional oversight harm the credibility of future congressional investigations?

ELLIOT WILLIAMS:

That's exactly the point I was going to get to, Congresswoman. It -- if the public loses its faith in Congress's ability to be a fair arbiter of oversight disputes, the -- then what does Congress have ultimately? So yes, this is about the integrity of Congress, I think.

DEBBIE WASSERMAN SCHULTZ:

Thank you so much. Mr. Turley, turning to you/ Have you ever worked for Twitter?

JOHNATHAN TURLEY:

No.

DEBBIE WASSERMAN SCHULTZ:

Do you have any formal relationship with the company?

JONATHAN TURLEY:

No, I just have an account.

DEBBIE WASSERMAN SCHULTZ:

Do you have any specific or special or unique knowledge about the inner workings of Twitter?

JONATHAN TURLEY:

Nothing beyond the Twitter files and what I read in the media.

DEBBIE WASSERMAN SCHULTZ:

So essentially your responses to the questions here today were your own opinion and pure conjecture?

JONATHAN TURLEY:

No, I wouldn't say that. I mean, they're based -- I try to base them on what we know from the Twitter files.

DEBBIE WASSERMAN SCHULTZ:

Well, but you said that you don't have any specific or unique knowledge of Twitter, but you spoke as if you did. You were asked very specific questions about Twitter's -- the way Twitter functions and the decision making that they -- that they make. But yet you don't have any unique or special knowledge about Twitter and have never worked for them.

And so this is only just your opinion, would you say, as a Twitter account user?

JONATHAN TURLEY:

No, I come to give legal analysis based on facts that are in the public domain. And I was really referring to what I was asked about --

DEBBIE WASSERMAN SCHULTZ:

Reclaiming my time. Legal analysis is another word for opinion.

JONATHAN TURLEY:

I would -- I would think there is some distinction, but yeah, it's all ultimately is an opinion/ But I believe the question to me was based on what the Twitter files show and that that was my reading of the Twitter files.

DEBBIE WASSERMAN SCHULTZ:

Right. And again that's another way of describing your opinion being offered which was represented as unique and special fact which you don't possess. Thank you. I yield back the balance of my time.

JIM JORDAN:

Gentlelady yields back. The chair now recognizes the gentleman from California, Mr. Issa.

MATT GAETZ:

Mr. Chairman, before he goes, may I be recognized for unanimous consent.

JIM JORDAN:

My apologies. Gentlemen's recognized for unanimous consent.

MATT GAETZ:

Thank you, Mr. Chairman. I seek unanimous consent to enter into the record a Republican staff report from the Committee on the Judiciary dated November 4th, 2022 entitled, "FBI Whistleblowers: What Their Disclosures Indicate," and ask that the committee also provide a copy to Mr. Goldman so that he might be able to review all the staff notes compiled in the report.

JIM JORDAN:

Without objection, so ordered. The chair now recognizes gentleman from California.

DARRELL ISSA:

I thank the chairman. Dr. Turley, let me just go back -- Mr. Turley, let me just go back. How many times have you testified before Congress on behalf of -- of all of us dozens and dozens and dozens over my 22 years.

JONATHAN TURLEY:

I've testified both as a Republican and Democrat witness over 50 times approaching 60.

DARRELL ISSA:

So to use a term of art, you're an expert witness when it comes to evaluating the Constitution and a great many laws and their interpretation.

JONATHAN TURLEY:

That's how I've been called. That's why I've been called.

DARRELL ISSA:

And you teach in that role?

JONATHAN TURLEY:

I do.

DARRELL ISSA:

OK. And I want to thank you. Because in my 22 years, I have seen you representing both sides many times and normally treated with the respect that your opinions based on your readings or your scholarly work are generally respected by both sides of the aisle. And I thank you for that. You know, this committee is rightfully being talked about

-- subcommittee about as weaponization of government, but I just want to clear up a couple of points.

The organ -- the previous operation known as Operation Choke Point where government limited people's ability actually to have bank accounts, that would be weaponization by government, a decision by government to affect commerce, correct?

JONATHAN TURLEY:

Well, it certainly affects con == commerce. There's no question about that.

DARRELL ISSA:

OK. And it's outside what one would think the administrative state has a right to do in any sense? Our right, our liberties include that right to have commerce not impinged by -- based on our political views by our government. So in a sense, the weaponization of DOJ isn't new, is it? It predates this administration and even the previous one.

JONATHAN TURLEY:

No, that's true. Some of the darkest chapters in our history have come from the Department of Justice losing that independence, an objective element that they pride themselves on. And that goes back to the Palmer raids and even before then. And whenever the DOJ and the FBI has -- has lost its way in that sense, it has come at a great cost to the country as well as the department.

DARRELL ISSA:

Well and speaking of lost their way, back in 2010, 2012 with the IRS targeting of conservative groups headed by Lois Lerner, that certainly

limited the free speech of those organizations when they were denied their -- their ability to hold themselves as a not for profits, correct?

JONATHAN TURLEY:

That had serious free speech implications.

DARRELL ISSA:

So when we look at the weaponization of government, we should not limit it to three letter words over at DOJ. But in fact, we need to look at -- at government broadly and how it might impinge free speech or our rights to simply have our liberties. And to that -- to that extent, we've covered a lot of the FBI and I think that's important.

I'm mentioning the IRS, but behind there, I have a concern about the FBI and I'll -- Ms. Parker, I've got to go to you. Is that something that you think represents the neutralism of simply being law enforcement for the FBI basically to kneel in support of Black Lives Matter?

NICOLE PARKER:

That would not be deemed appropriate. They're wearing their official FBI ballistic vests. And although like we've mentioned, FBI agents, I have the right to my First Amendment thoughts, but I am not at liberty to express any of my political or social opinions while on the job. I know that in that instance they were guarding our national institutions and that they were -- we heard that they were saying that they were trying to de-escalate the situation.

But in those pictures, it appears that there were people smiling, clapping. It looked very far from de-escalation to me. But it is not appropriate to make any sort of potentially political or social

statement while wearing your FBI ballistic vest on official duty. No, it is not appropriate.

DARRELL ISSA:

In the decades I served in the Army, we were warned about when -- when in uniform being involved in anything that appeared to pick sides. And certainly they picked a side there. I want to just close my questioning because we're going to be doing this probably for two years and ask a question again, Mr. Turley.

We -- we have this question of -- of government and what it's doing, but a lot of people are talking about how Twitter's a private company, Facebook's a private company, they're all private companies. Isn't it fair to say that from a standpoint of statutory and constitutional history, our government has clearly looked at entities which convey free speech, newspapers, radio, television and has limited the concentration of power and the concentration of ownership in order to maintain, although private, an ability for all or at least most free speech to find an avenue.

Isn't that the history that we're also going to have to look at when it's concentrated in just a few companies?

JONATHAN TURLEY:

It is. And, you know, the fact is that much of our political dialogue now takes a place on social media, which has replaced even telephones as a common form of communication. And that's why it is true that private companies can limit speech. But you have to keep in mind these are communicative companies.

These are closer to the AT and T than they are Starbucks. And that raises a serious question in terms of not just looking at the government aspect of coordinating and targeting citizens for possible censorship. But the control of these companies over speech. And I think that people that they have sort of dismissed that are really losing the fact that this is now much of what is the marketplace of ideas.

You know, the marketplace of ideas is now a digital marketplace and is controlled by these companies.

DARRELL ISSA:

Thank you. Thank you, Mr. Chairman. I yield back.

JIM JORDAN:

Gentleman yields back. The gentleman from Virginia, Mr. Connolly is recognized.

GERRY CONNOLLY:

Thank you, Mr. Chairman. And I'm so glad my friend from California just brought up Lois Lerner and the IRS. And -- and your comment Professor Turley that that was troubling in terms of targeting a particular point of view because of course, that's not true. As we learned the inspector general, the TIGTA deliberately focused only on conservative filters even though he was presented with clear evidence that the filters were nonpartisan, there were liberal filters, lefty filters, conservative filters, Republican filters, Democratic filters.

But they chose because they wanted to make a case that this was deliberate censorship and targeting by the IRS. Wasn't true. Never was true. False premise. And that's what I worry about right here on this committee, the premise is the FBI is tainted. The FBI is doing

dirty work. It's -- it's got the hot mail boot of government on the necks of the American people who are simply trying to express themselves.

Mr. Williams, you think the insurrectionists, thousands of them who came here, many of them armed, that led to five deaths and the storming of the Capitol to try to prevent the constitutional certification of the counting of the ballots for the president of the United States on January 6, 2021, you think that was nothing more than patriots who got a little carried away and they were just expressing their First Amendment rights?

And the FBI shouldn't have been looking at it and certainly shouldn't be prosecuting people for it?

ELLIOT WILLIAMS:

Well, certainly, sir, I believe almost 1,000, if not over 1,000 people have been charged with crimes in connection with that day. Several people have now been convicted by juries and also with findings that were affirmed by federal judges of seditious conspiracy that's using force or threats to impede or delay the execution of laws of the United States.

GERRY CONNOLLY:

So we -- I guess I hear you saying we need to make a distinction between the expression of views, which is absolutely protected under the Constitution of the United States First Amendment and the use of violence to propound and propagate those views.

ELLIOT WILLIAMS:

That is correct. So the First Amendment does not protect the use of violence.

GERRY CONNOLLY:

Right. In fact that's illegal?

ELLIOT WILLIAMS:

Correct.

GERRY CONNOLLY:

So when we talk about parents just going to school boards, trying to express their concerns, that's true, many parents go. I was a parent with a kid in a school system. I was a card carrying PTA member. I certainly testified now and then about the school budget or school lunches [ph], but I didn't threaten the lives our families of school board members.

I didn't anonymously threaten violence or let it be known that I knew where they lived and that there'd be trouble. That's a different form of speech, isn't it?

ELLIOT WILLIAM:

Yes.

GERRY CONNOLLY:

Would it be wrong for the FBI under some circumstances to be called in to look into that for the protection of elected school board members and for that matter active parents?

ELLIOT WILLIAMS:

Both the FBI or state and local authorities who also have the ability to investigate violent crimes --

GERRY CONNOLLY:

Do you -- do you think the FBI is the enemy of the American people?

ELLIOT WILLIAMS:

I do not. In my experience, look, again I was in --

GERRY CONNOLLY:

Do you think the FBI ought to be defunded?

ELLIOT WILLIAMS:

I do not believe the FBI should be defunded --

GERRY CONNOLLY:

So for example, the -- if they were, the Tampa field office that infiltrated and spent six months embedded in a network of ransomware gang, Hive and took it down. Hive is no longer functioning. Is that a good thing or a bad thing?

ELLIOT WILLIAMS:

It is a very good thing. Look, I was a prosecutor and a senior executive at the Justice Department. Fighting crime is a good thing and I think we can all agree on that.

GERRY CONNOLLY:

I see. So they're not just, you know, censoring free speech. They're actually doing some good things that protect the American people?

ELLIOT WILLIAMS:

Yes.

GERRY CONNOLLY:

Would you say that characterizes largely their mission and their function?

ELLIOT WILLIAMS:

In my experience of working with the FBI and other federal law enforcement for years. Absolutely, sir. That was my experience.

GERRY CONNOLLY:

So we have to put everything in context here. We can't allow somebody who asserts there -- they're up to no good because that particular agent or a couple of agents may be doing X, Y and Z. Not to taint the entire function and mission or personnel of the FBI. Is that a fair statement?

ELLIOT WILLIAMS:

That is a fair statement. Correct.

GERRY CONNOLLY:

And -- and that goes to their other missions cyber security protection, human sex trafficking, breaking up those rings and for that matter protecting us from domestic extremists who are propounding and using violence as a weapon to further their cause.

ELLIOT WILLIAMS:

What is special about the FBI, sir, very quickly is that unlike many other law enforcement agencies, it has both a counterterrorism

element and a law enforcement element. Now many people may think those are all one and the same, but those are actually two different functions. And so, yes, both of those help keep the American people safe.

GERRY CONNOLLY:

I thank you. And I yield back.

JIM JORDAN:

I thank the gentleman. The gentleman from Utah, Mr. Stewart, is recognized.

CHRIS STEWART:

Thank you, Chairman. And to witnesses. Thank you, Mr. Turley. My condolences that you've had to sit through 60 of these, but thank you for being willing to do that. I look forward to hearing from all of you, but Mr. Chairman, I also look forward to hearing who others who are key to this investigation. Christopher Wray, the attorney general, former FBI Director Comey, former CIA Director Brennan.

I hope we have a chance to hear from them as well. I want to share with you my first experience in this area. 2017 member of the House Intelligence Committee, after months and months of stonewalling, we were finally allowed to go to the FBI building and to read the FISA application on Carter Page. And after reading that application, it was very, very clear to me, the FBI has lied to the FISA courts.

The FBI has lied to Congress and the FBI has lied to the American people. After that, I had a similar experience with some CIA documents and then other agencies. And the result of this is when, Mr. Turley, you talk about losing the faith of the American people. If

an FBI agent called me today and said they wanted to speak with me, I would never speak to them regardless of the topic, without my attorney present.

And by the way, Congress has to reauthorize 702 this year and we are a long way away from getting the trust and confidence because of the subject we're talking about today and we'll lose a valuable tool if many people are simply going to say we won't give them that authority, they abuse it. I'd like to focus on the FBI abuse, if I could.

I'd remind you, Carter Page was an innocent American citizen. The FBI said he was a Russian spy. It turned out that was not true. In fact, turned out there was zero evidence that he was a Russian spy. And yet the IG -- FBIG [ph] went and looked at the FISA application and this is what they found. And Mr. Williams, I hope you'll pay attention to this because I'm going to ask you a question about this.

They found 17 significant errors or omissions. They found 51 wrong or unsupported factual assertions, including FBI lawyers who simply made up evidence and included it in the FISA application. Disgusted by this, I would suppose the IG went and looked at random 25 other FISA applications and found significant inconsistencies and omissions in every one of them.

Mr. Baker, you're a former FBI agent. Do you think that 17 omissions, 51 wrong assertions in a FISA application that, by the way, if you're going to get one right, don't you think the one that's targeting the president of the United States would be one you'd be particularly careful of? And yet, they found that many omissions.

Do you find that a standard acceptable?

THOMAS BAKER:

Of course not, Congressman. And in fact, it's actually even worse than you described. The -- the -- there was a exculpatory information available that was not considered, some of the information that was considered. We now know from the Steele dossier was false --

CHRIS STEWART:

That's right. And the list goes on --

THOMAS BAKER:

Even beyond that, the -- the fact is that individual American, that US person Carter Page, should not have been subject to that FISA surveillance because he was an individual who -- and this is all on the public record now, he cooperated with the CIA and the FBI and previous investigations. So he would by the guidelines that existed then he should have been excluded from FISA. He could have been directly interviewed.

CHRIS STEWART:

That's right. Mr. Baker, I'm going to cut you off because you made your point. Mr. Williams, do you think that as I've described to you 17 omissions, 51 wrong assertions in one FISA application is professionally done?

ELLIOT WILLIAMS:

Sir, I would say that this is a matter that continues to be of interest to them.

CHRIS STEWART:

Simple question, Do you find that acceptable? I be -- I think it's hilarious that you won't say no, I don't.

ELLIOT WILLIAMS:

What I'm saying, sir, is that this is a matter before the Justice Department and Congress that has been ongoing for years --

CHRIS STEWART:

And so you won't answer the question --

ELLIOT WILLIAMS:

What I will say is that it makes sense for you to direct the question to the Justice Department.

CHRIS STEWART:

I'm asking your opinion, I'm not asking for -- for any insight into their investigation. I'm asking for a simple opinion. Do you find that acceptable?

ELLIOT WILLIAMS:

What I will say as is --

CHRIS STEWART:

OK. Never mind. Didn't answer the question.

UNKNOWN:

Think he's answered.

CHRIS STEWART:

Because of this, the FBI initiated reforms. And you know what they were? Trainings. Here are some trainings for senior FBI officials. Training number one, don't lie to FISA courts. Training number two, don't make things up. How about training number three? Don't hide evidence. That's what senior officials in this in the FBI did.

And I wish I had more time, I'm almost out of time because I would come to you and ask first, Mr. Williams, I'd come back one more time and ask you if you find that acceptable or not, but we won't waste time with it. I would ask how do we restore faith in the FBI. Because we want to trust the FBI and people say you're going after the FBI, what nonsense.

We're trying to protect the FBI, I know FBI agents who are deeply offended by what they see. They want us to hold them accountable. And that's what the committee is going to do. Thank you. I yield back.

JIM JORDAN:

Thank the gentleman. The chair now recognize the gentleman from California. Mr. Garamendi.

JOHN GARAMENDI:

Thank you, Mr. Chairman. It pays to do a lot of listening. And what I've heard is a lot of discussion about this memo. And we ought to really take a look at it. In fact, it's on the FBI website right now. You can pull it up as I talk. And Mr. Chairman, I'd like to enter that memo into the record.

JIM JORDAN:

Without objection.

JOHN GARAMENDI:

Thank you. So what are we going? What do we really have here? I've read the memo. I recommend we all do. It starts off in the first paragraph making it perfectly clear that, one the lawful First Amendment protection activities should never be subject to persecution or prosecution. That's the free speech piece right there in the very first paragraph of the memo.

And two, the actual issue of concern in this memo is the illegal violence, which has been discussed by several of you as totally illegal or threats of violence. So let me be very, very clear here. We have myriad examples of extraordinary, serious, violent threats targeting school board officials that should be of concern to everyone in this room and all of my colleagues.

Behind me are just three of the written examples that were of concern to the FBI. One, quote, "It's too bad that your mama isn't an ugly communist whore. If she doesn't quit or resign before the end of the year, we will kill her. But first, we will kill you." It would seem to me that is a rather clear example of a violent expression.

A free speech which is illegal. Also behind me is another written. This is why Hitler -- this is why Hitler threw you -- expletive -- into the gas chamber. Third, we are coming after you stinking traitors of America. This is what was out there in public school board meetings. I would love to show you the videos of those meetings.

But we're not allowed to under the rules apparently. But if we were to do that, we would have a rather clear and numerous examples of violent threats to school board members, teachers, administrators across this nation. This memo by the Attorney General, however it

came to be, and that's been discussed here that maybe somebody suggested that he take action on this, which is rather common.

There's not one of us on this dais that hasn't been asked by one or more of our constituents to do something. And so the attorney general does, he sends out a memo to the FBI agents across the country saying bad things are going on. Maybe I should just read it. Threats against public servants are not only illegal.

They run counter to our nation's core values. Those who dedicate their time and energy to ensuring that our children receive a proper education in a safe environment deserve to be able to do their work without fear for their safety. That's the memo. That's what happened here. Is it the director noting, and I'm sure he had more than one source than the School Board Association, that there were things going on in our society.

There were dangerous. Ms. Parker, you spoke to the difference here between free speech and violent speech. Is what the FBI director did. He said, to the agents pay attention to this and keep track of it? Why -- why did he want them to do that? Because there were threats. Very real threats. Did any of them materialize?

There's evidence that they did. Take a look across this country at the number of public servants that simply decided to not serve because of the violent threats. So as we go about our work here, as we go about looking at the weaponization of the federal government, we must be careful that we don't become a weapon to be used for political purposes.

There clearly, absolutely is a need to monitor all federal agencies, law enforcements, military, on and on. But let's be very careful that we don't use this committee as a weapon for political purposes.

JIM JORDAN:

Gentleman's time has expired. Gentleman yields back. Gentleman from Kentucky is recognized.

THOMAS MASSIE:

Thank the gentleman from Ohio. It occurs to me that we're sitting here in a committee that's got a fancy name, a different name. There are people watching our very first hearing and wondering, are these folks serious? There are people who have spent their careers dedicated to the service of people in this country working at the FBI, wondering are these folks serious enough that I could be a whistleblower, that I could come forward and share information with them and they would actually do something with it and that something good could come from it. And I want to let those people who are watching.

Ms. Parker and Mr. Baker, you're an excellent example of people who will come forward and make a difference. And I want to let those people know that I've come to this city for ten years with one basic premise, which is this is the best country on the planet, the best country that's ever been. It's deeply flawed, but we owe it to our children to fix it. And that's why I sought to be on this committee.

And that's why I thank you Mr. Baker and you Ms. Parker for being here and why I invite others who are watching to please come to us, find somebody on this dais that you trust and tell us your story so we can fix it? And speaking of fixing things, I want to talk about the FISA program, which, Mr. Baker, you've talked about in your testimony, particularly 702 part of it. Parts of it that we are going to reexamine and reauthorize potentially.

On the surface of it, It sounds like a practical legal concept that you would collect information on foreign targets who don't have constitutional rights and you might incidentally collect information that pertains to US citizens who do have constitutional rights. But because it was collected incidentally and not in pursuit of that US person, oh we'll go look at this data, you know, we'll you put some policies and procedures, but the Constitution does not apply here because it was incidentally collected.

Well, if the incidental collection were small enough that -- that might be a valid concept. The problem is we've collected millions of exabytes of data. When you're -- when what you're collecting incidentally becomes the entire universe, I think you might need a warrant to go look at that information. And when the number of searches that is done on US persons by the FBI -- I'm not talking about CIA, NSA. We know in 2020 it was over a million searches into this -- fishing into this database where you don't need a warrant.

And then in 2021, it went from a million to over 3 million searches. This is -- this is problematic. And I hope we look at this going forward. Mr. Baker, you mentioned something in your written testimony I don't think you got a chance to speak about here today. Can you tell us what reverse targeting is and why we need -- why we might want to be concerned about that?

THOMAS BAKER:

Yes, it is not well understood, but in a nutshell here it is. The CIA and the NSA are forbidden to target Americans. As you know, they often and as you said, the numbers are in vast numbers where they pick up Americans most of the time just by incidental collection. And the Americans are not really doing anything wrong.

If they pick up information that an American is breaking the law or is somehow a threat to national security, those other agencies, the CIA and the NSA, are supposed to provide that information to the FBI for appropriate action. And action can be taken on it. But in reverse targeting, which John Brennan during the Russian collusion thing acknowledged they were doing, they would target a foreign person who was close to an American they were really interested in. And then when they picked up that information on the Americans, aha, we got it in incidental collection, which that was all phony and false.

It wasn't incidental collection at all. That is another thing that you in the Congress on both sides of the aisle can address and correct. You can make -- you can institute penalties for them pulling this monkey business like that.

THOMAS MASSIE:

Mr. Turley -- Professor Turley, I know we don't have a lot of time, but do you think -- and obviously private companies don't infringe the First Amendment until the government tells them to do it. And do you think that Section 230 gave them some comfort that if they did that -- if that these private companies, if they did, sort of when the government suggested to do something that they did it, that they would have a safe harbor?

JONATHAN TURLEY:

Well, I do think that Section 230 is becoming increasingly untenable. It was -- it was really designed on the premise that these social media companies and other platforms were not in an editing function that they were simply a forum, a publisher. That's clearly not the case. We -

- we obviously have an extensive censorship system here that is in place.

And so the premise of 230, I think, has largely been discarded. But the implications of what has been created cannot be really overstated. I -- we're talking about a censorship system that affects billions of people. And we also have a confirmation in the Twitter files of the United States government pinpointing people who should be censored or suspended.

That should trouble people regardless of your party affiliation, whether you want the government in that business. And I think that's worthy of a debate.

THOMAS MASSIE:

I thank you and I yield back.

JIM JORDAN:

Thank the gentleman. The chair now recognizes the gentleman from Texas, Mr. Allred.

COLIN ALLRED:

Thank you, Mr. Chairman. You know, I've worked hard now in my five years -- as going my fifth year in this body to develop a reputation and a record of bipartisanship, of working on issues like veterans health care and benefits, on infrastructure, on paid leave, trying to improve folks lives. To me, this subcommittee and this hearing is a disgrace.

It has nothing to do with helping Americans struggling, nothing to do with helping families like mine growing up. I was raised by a single mother. It's just been an airing of grievances, of debunked claims and

conspiracy theories. I think most folks watching back home are having a hard time following some of what you all are saying because it seemed to go so far down the rabbit hole.

Before I was elected to Congress, I was a civil rights lawyer. I served as an appointed -- an appointed lawyer in the Obama administration and I believe in Congress's Article 1 duties to conduct oversight and the executive branch's responsibilities to enforce the law and work with us. That nexus is governed by the accommodation process, which ensures that there's trust and prevents politicians from meddling in the Department of Justice and into investigations.

On January 20th, the department -- the Justice Department sent a letter to the chairman saying that we share your belief that congressional oversight is vital to our functioning democracy and we're committed to cooperating with legitimate efforts to seek information consistent with our obligation to protect executive branch confidentiality interests.

Said the department's mission is to independently and impartially uphold the rule of law, requires us to maintain the integrity of our investigations, prosecutions and civil actions and to avoid even a perception that our efforts are being influenced by anything but the law and the facts. Despite that, the chairman of this committee is sought to seek numerous documents related to the FBI's ongoing investigations into the January 6th Capitol insurrection cases and other domestic terrorist cases, many of which are open investigations and are ongoing.

Mr. Baker, just to set a tone here, do you agree that the attack on the Capitol on January 6 was an act of domestic terrorism?

THOMAS BAKER:

I'm sorry, could you repeat the question?

COLIN ALLRED:

Do you agree the attack on the Capitol on January 6 was an act of domestic terrorism?

THOMAS BAKER:

I don't think I'm in a position to judge that. It was an act of lawlessness. There was a lot of property destroyed --

COLIN ALLRED:

You're here as an expert, sir. There were crimes committed -- Based on your experience --

THOMAS BAKER:

By trespassing, I don't know if that rises to the level of terrorism quite frankly. It might.

COLIN ALLRED:

What would constitute domestic terrorism to you, sir?

THOMAS BAKER:

Domestic terrorism is acts of violence to influence political decisions. That's the what we --

COLIN ALLRED:

Know what we do on January 6th every four years?

THOMAS BAKER:

Well, January 6th to me looked like a riot.

UNKNOWN:

Seditious conspiracy.

COLIN ALLRED:

It was a seditious conspiracy.

THOMAS BAKER:

Lawless. It was lawless. There was property destroyed. There was trespassing. There were people injured. Those are all crimes.

COLIN ALLRED:

Thankfully, numerous courts and juries have disagreed with you and have found many of those insurrectionists guilty. It was an act of domestic terrorism. And I thank you for clarifying for all of us here that you can't decide whether it was or not. Want to go to you, Mr. Williams, because I think that we need to be very careful here.

Nobody really wants members of Congress or politicians jumping into ongoing criminal investigations for many good reasons that I think you lay out in your testimony. Can you give us just a few reasons of why it would be a major problem for criminal investigations to suddenly be subject to the whim of a politician?

ELLIOT WILLIAMS:

I'd say three reasons, Congressman Allred. And thank you for that question. One, as articulated in the letter by the deputy attorney

general that was quoted by, I believe as Congressman Raskin earlier, you do not want the public to get a roadmap for how investigations are going to play out. That involves tipping off witnesses or defendants who might be brought into the system.

So that's point one. You just don't want to give the roadmap and that's the word used by the Justice Department. Number two, and this is a big one. The fear of influence or the appearance of influence if -- if a prosecution continues right after a member of Congress or someone speaks out, it -- the public is left with the perception that Congress in effect had its thumb on the scale of a federal prosecution.

And that's problematic. And finally, everyone is entitled to a presumption of innocence. The Justice Department takes very seriously the idea that naming or outing people who are not themselves yet criminal defendants is incredibly problematic, dangerous in a profound manner.

COLIN ALLRED:

Thank you, Mr. Williams. I yield back.

JIM JORDAN:

I thank the gentleman. Gentleman yields back. Chair now recognizes the gentleman from North Carolina, Mr. Bishop.

DAN BISHOP:

Thank you, Mr. Chairman. Mr. Turley, I saw the effort to discredit you by a member on the other side sort of go down in flames. I don't think much else needs to be said about that, but, you know, I think what is interesting about the -- what you've written and then in your

testimony about the Twitter files and your tentative conclusion about what they may indicate is -- is a -- is a product, first, it bears repeating.

I mean, you said there that it quote, "could well constitute the largest censorship program ever run by the government of the United States." And I think what attracts you is there is a body of evidence. It is not accusations. It is evidence that we would not have but for the voluntary -- maybe extraordinarily unlikely -- voluntary act of a very wealthy American who had the will and interest to purchase that company and then disclose what its files hold.

Here's what's notable. We didn't get any information about what the FBI and the CIA and the ODNI and GEC and all these other agencies are engaged in from those agencies. The American people wouldn't know, but for Elon Musk's disclosures and the independent journalists who then use them. You've talked a little bit in response to earlier questions about how there might be enough evidence there or in other evidence we might be able to get of like kind to suggest an agency relationship between the United States government agencies, the FBI, and these social media platforms that would cross the First Amendment line and violate the rights of Americans whose content was flagged for, taken down.

And that may well be. But there's seems to me there's another angle to this. Everybody knows in the debate over Big Tech that these social media platforms have content moderation policies that are narrower than the First Amendment. They take down speech as a matter of practice that the First Amendment would protect if it were a government.

In fact, a lot of people say, well, they can do that, they're private businesses. Question that gets at me is this, How could the FBI, which

is sworn to protect the Constitution, ever justify using intense application of its resources, agents, et cetera to urge social media platforms to use those standards to take down speech that the Constitution protects?

JONATHAN TURLEY:

Yeah. This goes to the -- the sort of bifurcated issue here legally. That is you have on one hand the question of the agency relationship which actually some courts like the eighth circuit in Dawson, the sixth circuit in Page, of -- hits analogous cases where they said that there was an agency when a government official made a call and negative actions were taken.

But there's also the direct action. Obviously, federal agents are government actors. And in these cases, you have the agency identifying American citizens and others for their viewpoints and saying we think these people should be suspended or removed. And as I say in my testimony, it's a particularly ominous thing to have the chief law enforcement agency performing this role, an agency with incredible powers.

I -- but this wasn't the normal situation of a public affairs office where someone says, look, the FBI did this and the public affairs office says, you know what, that was a state raid that was -- we weren't even in that issue.

DAN BISHOP:

Did it in private.

JONATHAN TURLEY:

Right here you had the government itself looking for citizens who should be silenced and targeted. That's a problem in and of itself, whether it also triggers an agency relationship. Do we want to go back to the day when governments created those types of lists?

DAN BISHOP:

Let me come -- get you to comment on something else that I believe is ominous, is on the charts behind me. One of the Twitter file disclosures is that Elvis Chan at the FBI San Francisco wrote to a Twitter executive and said, my colleagues at the Fort had a query for you. Turns out they had to tell me that means Fort Meade, the National Security Agency, NSA, probably.

A few years ago, Twitter -- Twitter said they would no longer provide their data feed to members of the IC, that means intelligence community, and then goes on to ask whether they -- colleagues at the NSA want to know if they'd reconsider that. Because the NSA would like to vacuum up every word mentioned on Twitter by American Citizens to be analyzed by computers to figure out what they would make of it. What about that?

You don't comment on that in your column, but I'm curious what your impression is of that.

JONATHAN TURLEY:

Well, that's another troubling aspect of this -- this interstitial relationship between the government and social media companies. And on some occasions the social media companies said we're not going to do that. But all these different layers of interaction that the Twitter files referred to make it harder and harder to discern where the government ends and the social media company begins.

And I want to emphasize that when I talk about the largest censorship system in history, that is really unquestionable, right. Even Twitter alone is a massive censorship system. And you combine the other companies. Now it is privately run and now we're looking at how much of that was being directed or influenced by the United States government.

But we are, without question, talking about the world's largest censorship system. And when you add elements like the one that you talked about of this sort of interstitial relationship or cross-pollination between agencies and social media, it becomes a very menacing prospect. These companies are enormously powerful.

They control much of our political speech. And as we talk about the dangers to democracy and I agree with many of the Democratic members and the Republican members about the need to protect our democracy, that's a threat to democracy. When you have the ability of people to speak in control of companies that are using standards that are really indiscernible.

Yesterday, when we heard the testimony of one of the Twitter executives, she gave a standard for which they would decide what could be censored. I wrote about it today on the blog. That standard defies definition. And I will simply say that the greatest danger of the First Amendment is the chilling effect, the unknown of when you will be targeted.

DAN BISHOP:

I regret my time's expired. Mr. Chair.

JIM JORDAN:

Thank the gentleman. Gentleman yields back. We now recognize the gentlelady from Texas, Ms. Garcia.

SYLVIA GARCIA:

Thank you, Mr. Speaker -- Mr. Speaker -- Chairman, I just promoted you this afternoon. [laughter]

JIM JORDAN:

Been called worse.

SYLVIA GARCIA:

And it did not -- and it did not take 15 rounds of voting to do it. [laughter] Thank you, Mr. Chairman and thank you to our ranking member for her steadfast leadership in pursuing truth and protecting our democracy. The federal government has a long history of weaponizing its power against minorities like communities of color, religious minorities, and immigrant communities.

Women, Latinos, people of color, and religious minorities are the actual victims of a weaponized government, not billionaires or politicians with frail egos. House Democrats spent four years fighting to enhance civil rights and liberties and stop the weaponization of government against our most vulnerable communities.

Now my colleagues on the other side of the aisle have assembled this misnamed and misguided committee to grandstand and to try to lecture us all on the weaponization of government. But the American people know that this committee and MAGA Republicans are all about all show and no substance, or as we say in Texas, all hat and no cattle.

This committee is designed to inject extremist politics into the justice system and to shield the MAGA movement from the legal consequences of their actions. These political stunts undermine our every agent, officer, prosecutor, law enforcement, and the entire justice system. We should instead dedicate some time to oversee direct interference in prosecutions and investigations.

We should instead dedicate our efforts to investigate into abuse of power -- the president is pardon power by the former twice impeached President. We should instead dedicate time and effort to investigate the weaponization of the federal government to undermine and overturn the 2020 Presidential election.

I hope, Mr. Chairman, that we will have follow up hearings to do some of that. Now I ask for unanimous consent to enter a letter from Citizens for Responsibility and Ethics in Washington outlining these and other recommendations for this committee into the record.

JIM JORDAN:

Without objection.

SYLVIA GARCIA:

Thank you, Mr. Chairman. During the assault on the Capitol, which we've already discussed, many of us including myself were removed from the floor and evacuated. A lot of things happened and I for one consider it more than just a riot. Some have suggested that this committee may try to erase the truth about the horrible days of that event.

The idea of denying the truth about January 6th is horribly offensive to me and I'm sure that it's even more offensive to the law enforcement

officers who were on duty that day. Mr. Williams, I know you're familiar with that day and you're familiar with the halls of Congress. You worked on the Hill, correct?

ELLIOT WILLIAMS:

I did, Congresswoman. Thanks.

SYLVIA GARCIA:

Were you there on the Hill on January 6th?

ELLIOT WILLIAMS:

I was not present on the Hill on January.

SYLVIA GARCIA:

Do you know others who were?

ELLIOT WILLIAMS:

I certainly do.

SYLVIA GARCIA:

Can you understand why it would be offensive to the people who were there, many like me who were on the floor and got pulled out and put - - trying to put on a gas mask and told to hit the floor. And of course the many law enforcement officers who had to rise to the duty. Can you -- can you figure any way that we can defend this if anyone tries to rewrite what happened that day?

ELLIOT WILLIAMS:

It's the second part of your sentence that I want to pick up on, Congresswoman, because it's not just former colleagues and friends of mine that were here, it is law enforcement officers that I know. And there simply is no place for threats against law enforcement in a civil society. So, you know. I will echo everything you said.

It was real. A thousand people have been charged with crimes. Several have been convicted of very serious crimes. It was a real event.

SYLVIA GARCIA:

So what is your reaction to the [inaudible] of January the 6th?

ELLIOT WILLIAMS:

I -- I think as a general matter, Congress works at its best when working in a bipartisan manner. And I think that becomes even more acute when talking about violent crime or threats or terrorism as the word was used here or even acts of insurrection.

SYLVIA GARCIA:

So you do agree that it is domestic terrorism?

ELLIOT WILLIAMS:

My former federal prosecutor friend at the end, we share this. There's no domestic federal terrorism statute. I got to be careful in how I talk about that. Now certainly, there are acts that comprise what would constitute terrorism, violent crimes, and so on that might fit under that definition. But another thing for Congress to consider if it wishes to was to pass a domestic terrorism statute.

SYLVIA GARCIA:

All right. Are any of the investigations contemplated by this subcommittee comparable to the scale to the investigation of the attack on the Capitol?

ELLIOT WILLIAMS:

I'm sorry. I don't -- I didn't quite catch the question, Congresswoman.

SYLVIA GARCIA:

Are any of the investigations contemplated by this subcommittee comparable in scale to the investigation into the attack of the Capitol?

ELLIOT WILLIAMS:

You know, I'm not certain as to what the committee's full mandate is, but to be clear, what happened on the day of the Capitol was a historic event that ought never happen again. And perhaps it's in Congress's interest to -- to work toward that.

SYLVIA GARCIA:

All right. Thank you, Mr. Chairman. I yield back.

JIM JORDAN:

Gentlelady yields back. Chair now recognizes the gentlelady from Florida, Ms. Cammack.

KAT CAMMACK:

Thank you, Mr. Chairman. And I can actually answer that question. This committee is different in the sense that we allowed our minority party to appoint their representatives to the panel. So we'll start there. Examining the ways that the federal government abuses its power

when dealing with everyday citizens it sees as threatening is some of the most powerful and consequential work that a member of Congress can do. During this federal government's very first Congress, the Representatives in the House began granting authorities to federal agencies.

These members were well experienced in the growth and abuses of a tyrannical government. The inherent quality of all governments is to collect more power and authority, but there is an inverse relationship to the power of government and the freedom of the individual. That is why James Madison, along with other likeminded members of the House, as well as President Washington, encouraged the passage of a Bill of Rights.

Defined enumerated rights that citizens of our new nation could point to when governments began to trifle with their lives, their businesses, or their faith. They passed the Bill of Rights in the first session of the first Congress. Arguably the most important action ever done by this body for the American people.

Their actions were revolutionary. No government on earth has a founding document that has aged as well as ours. It is the oldest and least amended constitution in the world. And what we are charged to do on this committee is defend it against all enemies, foreign and domestic, to ensure that our citizens' life, liberty, and property are protected from the warrantless abuses of federal bureaus and their agents.

Today, we are calling -- answering the call to investigate and ultimately stop the litany of dangerous and unconstitutional actions. Truthfully, the list is exhausting and I'm sure that there is far more that we can address here today or even in the two years that we have.

So while Washington, Madison, and Jefferson are no longer here to help guide us in this body, their spirit lives on. It is absolutely crucial that we today take up this mantle.

It is the work that will be done by this committee, not as Republicans, not as Democrats, but as Americans, that is important and will live on. Mr. Williams, you just told this committee to be cute, quote, you get more flies with honey than vinegar. On your Twitter feed, you called the January 6th Select Committee to publicly hammer and shame former Deputy Attorney General Jeff Clark on everything that he attempts to plead the Fifth about.

Is that your version of honey or vinegar?

ELLIOT WILLIAMS:

That's my version of stating when an individual has proven --

KAT CAMMACK:

No, no. Just honey or vinegar.

ELLIOT WILLIAMS:

I don't think it's a binary. If look at the context of all my tweets --

KAT CAMMACK:

You just told Representative Sanchez a few minutes ago that one of the hallmarks of good oversight is bipartisan and it's designed to quote, improve government process, end quote. You went on to say that threats are not protected speech. You yourself were extraordinarily critical of Justice Brett Kavanaugh going so far as to say publicly on your Twitter feed -- and you were not shadow banned however, but when you said this -- that the FBI dropped the ball when vetting him.

When there was an assassination attempt on his life, you were unusually quiet. Up to that point, you had tweeted about him 17 times. I hope you along with our Democratic colleagues would agree that violence in political discourse is unacceptable and I would encourage you to do better. That's a statement, not a question.

Moving on. Professor Turley, the Constitution was written to limit the power of the federal government and to protect the rights of citizens. Yes or no?

JONATHAN TURLEY:

Yes.

KAT CAMMACK:

You've written extensively about the abuses of the federal government. Would you say that these abuses occur within a variety of different agencies. Yes or no?

JONATHAN TURLEY:

Yes.

KAT CAMMACK:

Are there not massive national security implications as a result of the extensive amount of warrantless data collection by the federal government agencies, coupled with the disastrous track record that they have of leaks and breaches that Americans are not only being targeted domestically by the agencies, but also by bad actors and foreign actors.

JONATHAN TURLEY:

Well, there are massive constitutional concerns there with the collection of data. There's no question about that.

KAT CAMMACK:

But with all the breaches and leaks --

JONATHAN TURLEY:

Yes.

KAT CAMMACK:

There is a national security implication, is there not?

JONATHAN TURLEY:

There can be.

KAT CAMMACK:

Thank you. It is publicly documented the reference of use of force capabilities within a litany of different agencies including the Department of Education, the IRS, HHS, even the EPA. Can you detail why the capability coupled -- coupled with extensive warrantless data collection efforts of these agencies should concern everyday Americans?

And why agencies like the Department of Education and the EPA are purchasing millions of dollars' worth of ammunition and tactical ballistic gear?

JONATHAN TURLEY:

Well, I testified earlier on the use of national security letters and other means to get information below the warrant level and that covers a

huge amount of information that the government has -- has gathered. And I thought there was actually fairly bipartisan support on that -- that -- that Democratic and Republican members were equally concerned about the circumvention of -- of warrants in that sense.

I think it's a very serious problem. And to the credit of social media companies, they actually have pushed back on this. I mean, some -- one of the things in the Twitter files that I noted was that some of that dealt with these types of efforts to get access to social media companies. But most of the time, these companies are really hamstrung.

And when they get these letters and there's a lot of them to turn over this information and citizens are unaware of that. And a lot of what we have that we could hold most dearly in terms of private information is now on our cell phones. It's now on the cloud. And the government has really targeted the cloud.

I mean they're going after the cloud with non-warrants. And in the previous hearing, I was really glad because Democrats and Republicans joined together and said this is a problem. And I think it still is a problem.

KAT CAMMACK:

I appreciate it. My time has expired. I yield.

JIM JORDAN:

Gentlelady yields back. The gentleman from New York is recognized.

DAN GOLDMAN:

Thank you, Mr. Chairman. This is a committee menacingly called the weaponization of the federal government. Mr. Turley, have you ever worked for the federal government?

JONATHAN TURLEY:

Yes.

DAN GOLDMAN:

What -- what did you do?

JONATHAN TURLEY:

I did a couple of years off and on with the NSA as a lowly intern. I also worked in the legislative branch in various capacities. I represented Congress in -- in court --

DAN GOLDMAN:

But that's not -- that's not working for the federal government, you were an intern, right?

JONATHAN TURLEY:

No, I wasn't an intern, I was representing them.

DAN GOLDMAN:

I understand you were an intern at NSA. That's the extent of your federal government experience.

JONATHAN TURLEY:

No, I think Congress is part of the federal government. And --

DAN GOLDMAN:

You represented Congress. You didn't work for Congress?

JONATHAN TURLEY:

Well, they paid me. That's my standard, but also -- I also work for --

DAN GOLDMAN:

Right. I'm going to reclaim my time. Let's move on because I have a lot to cover. You've commented a lot on the First Amendment today. Do you think that Special Counsel Mueller's indictment of members of Russian intelligence for interfering with the 2016 election through social media was improperly charged?

JONATHAN TURLEY:

Well, I have to look at which case you're talking about, but I supported Mueller's appointment as special counsel.

DAN GOLDMAN:

I'm talking about the indictment.

JONATHAN TURLEY:

Yeah, I wouldn't say, I don't remember being upset with those indictments. I --

DAN GOLDMAN:

Well, they -- what they did and what they alleged is that Russia interfered in our election through using speech via social media. Now

do you think that the First Amendment protects people from making death threats against federal officials across state lines?

JONATHAN TURLEY:

No, if it's -- if it's --

DAN GOLDMAN:

Does the First Amendment protects someone from yelling fire in a movie theater?

JONATHAN TURLEY:

Well, unfortunately that one is not, yes or no, because that's become a mantra for people. It's the Holmes Schenk line. Holmes himself walked back on that --

DAN GOLDMAN:

All right. All right. And we don't need a law class here. So -- but -- but you do agree though, don't you, that the First Amendment does not protect all speech?

JONATHAN TURLEY:

No, there are limits to speech. All constitutional rights have limits.

DAN GOLDMAN:

Right. Mr. Baker, I want to turn to you. When did you retire from the FBI?

THOMAS BAKER:

I retired from FBI employment in two -- over about 20 years ago.

DAN GOLDMAN:

1999, right? It's a year.

THOMAS BAKER:

Yeah. And I've continued to be engaged with the FBI in a number of levels since then.

DAN GOLDMAN:

OK. So you retired two years before 9/11, right.

THOMAS BAKER:

That's correct.

DAN GOLDMAN:

All right. And are you aware that one of the reasons that 9/11 occurred was that the FBI and the intelligence community -- community did not coordinate sufficiently? Do you agree with that?

THOMAS BAKER:

That's the conclusion of the September 11th Commission and it's very valid, I think.

DAN GOLDMAN:

And so you read that like I did and that's all the information that you had because you not were at the FBI. And as a result of 9/11 that the Department of Homeland Security was created, right?

THOMAS BAKER:

A year or two after that, yes.

DAN GOLDMAN:

So you never worked in conjunction with the Department of Homeland Security when you worked for the FBI, right?

THOMAS BAKER:

I was working as a consultant during most of those years.

DAN GOLDMAN:

When you worked for the FBI, when you were paid by the FBI as a -- as a special agent, did you work with Homeland Security?

THOMAS BAKER:

No, it didn't exist.

DAN GOLDMAN:

OK. And you never investigated foreign interference in our elections, did you?

THOMAS BAKER:

No, I personally did not.

DAN GOLDMAN:

And you have no experience investigating Russia's efforts to interfere in our elections through cyber-attacks and social media. Do you?

THOMAS BAKER:

Other than what I've studied and researched.

DAN GOLDMAN:

OK. And in 1999 when you left did smartphones exist?

THOMAS BAKER:

Of a sort.

DAN GOLDMAN:

Really?

THOMAS BAKER:

Yes.

DAN GOLDMAN:

What?

THOMAS BAKER:

Well we had -- we had phones. We had --

DAN GOLDMAN:

Smartphones. You know what a smartphone is? OK. Well, do you ever do any search warrants for emails?

THOMAS BAKER:

Search warrants for --

DAN GOLDMAN:

Emails.

THOMAS BAKER:

No, I did not.

DAN GOLDMAN:

Did you ever investigate domestic extremism?

THOMAS BAKER:

Actually, yes. I investigated the Klu Klux Klan on many occasions.

DAN GOLDMAN:

Good. Did you ever investigate any insurrections on the Capitol?

THOMAS BAKER:

No, there was none.

DAN GOLDMAN:

OK. And I appreciate that your service, sir, but you would agree that a lot has changed in the FBI in the 23 years since you left, correct?

THOMAS BAKER:

Good and bad. And I have stayed engaged on a number of levels --

DAN GOLDMAN:

One last question, sir for you, I read that your opening statement is actually an excerpt from your book, is that right?

THOMAS BAKER:

Well, it covers some of the same territory. Yes.

DAN GOLDMAN:

All right, Well next time make sure you give us a heads up and we can set up a table for you to have a book signing after this. Mr. Parker -- Ms. Parker, real quick. Do you think that you speak for -- you said that Americans are concerned about the FBI. Do you think you speak for every American?

NICOLE PARKER:

I do not speak for every American. But as a special agent who's been out in the field trying to conduct my job, it's very difficult when we don't have the buy in of the American people. And a lot of Americans do not trust the FBI anymore because --

DAN GOLDMAN:

Unfortunately, my time is about up. But I will also say to you that I worked in the Department of Justice for ten years alongside a lot of FBI special agents. And their biggest concern and the most damage to the morale of the FBI occurred after Donald Trump started attacking the FBI because he was being investigated by the FBI. And that is what this subcommittee is all about.

I yield back.

JIM JORDAN:

I thank the gentleman for yielding back. Disagree with his conclusion. And now recognize the gentleman from North Dakota, Mr. Armstrong.

KELLY ARMSTRONG:

Thank you, Mr. Chair. Shouting fire in a crowded theater was dicta in a 1919 case by Schenck. It was overruled in 1969 by Brandenburg and put in an incredible -- and put it in an imminence requirement. So if we're going to continue to use it in this setting, whether it's the Twitter hearing yesterday or the hearing here today, let's at least get the law right.

Secondly, as somebody who spent the ten years -- first ten years of my life defending criminal cases in both state and federal court, I think the genesis of the -- of the Garland memo was incredibly important. The point of the coordination between the -- between the DOJ, the Department of Education, and the National School Board Association was -- was designed to create a federal nexus.

Local school board incidents are prosecuted locally. We elect local sheriffs. We elect local prosecutors. We elect local judges. Only by fabricating a domestic terrorism nexus do you create a position where you can prosecute those cases in federal court. But I don't want to talk about that because I think we do have to talk about things more than the First Amendment.

The timestamp data provides an intimate window into a person's life, revealing familial, political, professional, religious, and sexual associations. Only the few without cell phones can escape this tireless and absolute surveillance. Those are quotes from the Supreme Court's majority opinion in *US v Carpenter*.

And while *Carpenter* is a limited ruling addressing warrantless monitoring of cell site locations under the Fourth Amendment, the court began considering whether the law needs to adjust to a digital world with extensive data collection and the analytical tools to operate -- operationalize that data. The federal government has realized the

value of the massive amounts of commercial consumer data that is freely available on the open market.

The data is produced to inform on aggregate population levels, but it also generates leads that produce investigations into individuals. In 2020, the CDC purchased a cell phone location data from a data broker to monitor whether or not people went to church during quarantine. In 2020, the DOJ obtains consumer data from a Muslim prayer app.

In 2020, the Department of Homeland Security, purchased cell phone location data and make enforcement decisions on the US-Mexican border. In the summer of 2020, and the turn of the year in 2021, DOJ obtained cell phone location data on Black Lives Matter protests and every cell phone in and around the Capitol on January 6th. 2022, several law enforcement associations publicly opposed a bipartisan data privacy bill because it would disrupt the ability to easily obtain certain consumer data.

And in 2023, just this week, the IRS proposed comparing a waiter's reported income from tips to the tip data that's submitted by their employing restaurant. You may agree with some of these. You may disagree with some of these. But here's the -- here's the thing. None of these third party data acquisitions required a warrant.

The amount of data available either directly or through third parties is both astounding and terri -- terrifying. Combine that with the advance in technology like AI, facial recognition, and more that will allow aggregation analysis and identification And we are fast approaching a surveillance state with no assurances other than the promises of our government that it will not abuse this tremendous responsibility.

Pegasus Spyware. FISA abuses, alleged cov -- COVID vaccine databases, and even home temperature controls have already shown that the trust alone is not enough. Orin Kerr, a law professor and Fourth Amendment expert, has suggested that when technical -- technological change or societal practice significantly alters the balance of power in favor of the government, the law must change.

Kerr calls it an equilibrium adjustment [ph]. The Carpenter opinion referred to it as not mechanically applying to the third party doctrine. I would call it ensuring the Fourth Amendment can survive the 21st century. Mr. Turley, do you think we need legislative reforms in Congress suggesting this aggregate collection of data?

JONATHAN TURLEY:

I do. You know, Congress has struggled with this in the past. The courts have struggled with it. You know, in Carpenter, the court said that you couldn't get just cell phone locational data without a warrant. It kept alive the Smith v Maryland third party standard I -- with -- with that exception. But Roberts in that opinion said, look, this is a serious -- this is a serious amount of data that's highly personal for individuals and it triggers the warrant requirement.

You also have the court in Jones with -- with the GPS decision in 2012 where there was actually observable movement of a car. And the court still said, you know what, this needs to have a warrant. So the courts have been trying to get their hands around this thing, but it hasn't really materialized in protection.

So that falls to Congress as to what you can do about it. And I think there's a lot you can do about it. You can restrict these federal agencies. You can force them to satisfy a higher standard. And I

honestly think that there would be general agreement on both parties.

That it's right now it's sort of the cloud is the wild, wild West.

I mean they -- people are grabbing stuff from the -- from the cloud. And these companies have complained to you over and over again. I testified with a couple of these executives. And I was really sort of shocked by the desperation in their vote -- their voices. They were saying you we need your help. We need you to come in and give us something here so that we can say no.

KELLY ARMSTRONG:

Thank you. I yield back.

JIM JORDAN:

I thank the gentleman. Professor, censorship isn't just done willy nilly. There's -- there's always a purpose and objective, some kind of motive for why some people want other people to not be able to speak. Is that fair?

JONATHAN TURLEY:

Yes. I mean the government often says that it's neutral in targeting people, but it's still a content based decision. Yeah.

JIM JORDAN:

And I'm just saying, might sometimes that motive be political?

JONATHAN TURLEY:

It can be, yes.

JIM JORDAN:

It seems to me that's what -- that -- that's what happened. I want to go to -- I mean we saw this ten years ago, 12 years ago when the IRS was targeting people of one political persuasion, limiting their free speech rights. I think we've seen it now with what the Twitter files have exposed. I was -- I was -- I really like the term you used in your op ed. And I think you may have said it today or -- or someone said it earlier, when you're talking about this agency principle, this censorship by surrogate and how dangerous that can be. And I think you said in a -- maybe I'm -- maybe I got this from your op ed earlier, but you said it's one thing if Mrs. Smith calls up Twitter and says I don't like what Mr. Jones is saying about me or whatever.

It's an entirely different matter when it's the United States government telling Twitter we got concerns about these specific accounts. Which we know is what happened again based on the Twitter files.

JONATHAN TURLEY:

Yeah, it does irk me to see people say, well, you know, the United States government was just acting like any -- any citizen. The US government isn't any citizen. The FBI isn't -- your neighbor. The FBI has subpoena authority. They have search authority. They have weapons. They're the largest law enforcement agency in the United States.

So when they perform this task, it's different. There's lots of things that are more menacing when done by the government. That's one of the reasons the court has allowed for this type of agency relationship to trigger things like the First Amendment or the Fourth Amendment. And this is not a new problem.

In the Fourth Amendment area, it was an old technique for officers to get private security or to get campus police or others to conduct a search. And the court said, look, if they're doing that at your direction or your behest, those are agents as well.

JIM JORDAN:

Yeah. It's menacing when it's done by the government. It's even more menacing when it's done by the federal government. And that's what we have here. We have the FBI, I think -- I think Mr. Armstrong made a great point when he said, OK, if parents are doing some things wrong at the local level, then local law enforcement will handle that.

It's an entirely different matter when you set up a federal apparatus where neighbors can report their neighbor or people can report their -- someone in their community to the federal government. And we know again from whistleblowers, over two dozen parents had an FBI agent visit them, come see them, call them on the phone, investigate them based on that process that was put in place.

I want to go to the fundamental question. Why is the government -- in the case of the Twitter files, why is the FBI sending a list of accounts and names to Twitter telling Twitter we think these accounts violate your terms of service. That's sort of the fundamental question. Why in the world are they doing that?

That to me is when you use the term wrong in your opening statement, you've to use the term menacing a number of times in today's questioning. That to me is as scary as it kind of gets.

JONATHAN TURLEY:

Well, it is interesting in the Twitter files that was the same question that a Twitter executive said. At one point, he said what gives? I mean basically the FBI is telling us that our terms of service are violated by all of these people. What's their role? Essentially what is our role? And it was an honest moment.

And that same question I think is reflected where even Jim Baker yesterday has said, I think we might need legislation. That I think that there is a need given what has happened to -- to limit the FBI and other agency.

JIM JORDAN:

So when was someone at Twitter who worked for the FBI says that is -- would you -- would you describe that as -- as would you use the term targeting? Would use the term weaponization of that process we just -- we just talked about?

JONATHAN TURLEY:

Well, there's no question that they're targeting posters. They're sending the names and accounts for Twitter to take action on. And by the way, this idea that well, Twitter could say, no, that's not the standard under these test. I gave you the four tests that the courts use. You can say no and still be an agent overall in that relationship.

JIM JORDAN:

And as you point out in your testimony -- your written testimony, this not -- this -- this targeting is not just limited to what we've learned in the Twitter files, not just this direct attack on the First Amendment We've seen in different -- we saw it with the dossier. We've seen it with the treatment of classified documents.

You referenced that the -- the different standards. You referenced that in your statement. And of course we have seen it with the school board situation. I've got just 20 seconds. I'll maybe pose a quick question to -- to Mr. Williams. Mr. Williams, the opening statement, there's been a lot of talk about the memorandum from Attorney General Garland on October 21st, 2021. The opening statement, he says -- the very first sentence, in recent months, there's been a disturbing spike in harassment, intimidation threats of violence against school administrators.

And when he testified on October 21st, 2021, we asked him what was the basis, what was the evidence for that statement? You remember what the attorney general said?

ELLIOT WILLIAMS:

Sir, I don't. I don't work for the Justice Department anymore. Didn't advise him on it.

JIM JORDAN:

I'll remind you. He said it was the letter from the National School Boards Association. Now do you happen to know what the National School Boards Association did with their letter? What they said about their letter after Mr. -- after the Attorney General testified?

ELLIOT WILLIAMS:

Sir, I do not.

JIM JORDAN:

They rescinded it. They said we regret and apologize for the letter. So the basis for the targeting action involving the federal government and

local school board matters and local law enforcement matters, the basis was the letter. That's what the Attorney General cited. And that letter has been pulled back in the association and sent that letter said we apologize and regret that we sent it. Seems to me the Attorney General should rescind his memorandum, which we've called for now for a year and a half.

I want to thank our witnesses for being -- I know it was a long day and I -- I appreciate you staying the whole time. I was tempted to give you -- I was looking to give you a restroom break, but I thought we could get through it. So I appreciate your patience and your great testimony. With that, the first committee hearing -- subcommittee hearing is adjourned.

UNKNOWN:

Thank you.

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