

THE STATE OF INTELLECTUAL FREEDOM IN
AMERICA

HEARING
BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION
AND CIVIL JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

SEPTMBER 27, 2018

Serial No. 115-68

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://judiciary.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2018

33-122

COMMITTEE ON THE JUDICIARY

BOB GOODLATTE, Virginia, *Chairman*

F. JAMES SENSENBRENNER, Jr., Wisconsin	JERROLD NADLER, New York
LAMAR SMITH, Texas	ZOE LOFGREN, California
STEVE CHABOT, Ohio	SHEILA JACKSON LEE, Texas
DARRELL E. ISSA, California	STEVE COHEN, Tennessee
STEVE KING, Iowa	HENRY C. "HANK" JOHNSON, JR., Georgia
LOUIE GOHMERT, Texas	THEODORE E. DEUTCH, Florida
JIM JORDAN, Ohio	LUIS V. GUTIERREZ, Illinois
TED POE, Texas	KAREN BASS, California
TOM MARINO, Pennsylvania	CEDRIC L. RICHMOND, Louisiana
TREY GOWDY, South Carolina	HAKEEM S. JEFFRIES, New York
RAUL LABRADOR, Idaho	DAVID CICILLINE, Rhode Island
BLAKE FARENTHOLD, Texas	ERIC SWALWELL, California
DOUG COLLINS, Georgia	TED LIEU, California
KEN BUCK, Colorado	JAMIE RASKIN, Maryland
JOHN RATCLIFFE, Texas	PRAMILA JAYAPAL, Washington
MARTHA ROBY, Alabama	BRAD SCHNEIDER, Illinois
MATT GAETZ, Florida	VALDEZ VENITA "VAL" DEMINGS, Florida
MIKE JOHNSON, Louisiana	
ANDY BIGGS, Arizona	
JOHN RUTHERFORD, Florida	
KAREN HANDEL, Georgia	
KEITH ROTHFUS, Pennsylvania	

SHELLEY HUSBAND, *Chief of Staff and General Counsel*
PERRY APELBAUM, *Minority Staff Director and Chief Counsel*

SUBCOMMITTEE ON THE CONSTITUTION AND CIVIL JUSTICE

STEVE KING, Iowa, *Chairman*

LOUIE GOHMERT, Texas	STEVE COHEN, Tennessee
KAREN HANDEL, Georgia	JAMIE RASKIN, Maryland
	THEODORE E. DEUTCH, Florida

CONTENTS

SEPTEMBER 27, 2018

OPENING STATEMENTS

	Page
The Honorable Steve King, Iowa, Chairman, Subcommittee on the Constitution and Civil Justice	00
The Honorable Steve Cohen, Tennessee, Ranking Member, Subcommittee on the Constitution and Civil	00
The Honorable Bob Goodlatte, Virginia, Chairman, Committee on the Judiciary	00
The Honorable Jerry Nadlar, New York, Ranking Member, Committee on the Judiciary	00

WITNESSES

Dr. Mike Adams, Professor, University of North Carolina at Wilmington Oral Statement	00
Dr. Peter Wood, President, National Association of Scholars Oral Statement	00
Mike Simkovic, Professor of Law and Accounting, USC Gould School of Law Oral Statement	00
Dr. Tim Groseclose, Professor, George Mason University Oral Statement	00
Jim Hoft, Founder and Editor, The Gateway Pundit Oral Statement	00
Adriana Cohen, Syndicated Columnist, Boston Herald Radio Host Oral Statement	00
Jeremy Tedesco, Vice President of U.S. Advocacy, Alliance Defending Freedom Oral Statement	00
Ari Waldman, Professor of Law, New York Law School Oral Statement	00
Harmeet K. Dhillon, Esq., Partner, Dhillon Law Group Inc Oral Statement	00

QUESTIONS FOR THE RECORD

The Honorable Steve King, Iowa, Chairman, Subcommittee on the Constitution and Civil Justice, Questions for the Record. This material is available at the Committee and can be accessed on the committee repository at:

<https://docs.house.gov/meetings/JU/JU10/20180927/108458/HHRG-115-JU10-20180927-SD004.pdf>

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Letters Submitted by the Honorable Steve King, Iowa, Chairman, Subcommittee on the Constitution and Civil Justice. This material is available at the Committee and can be accessed on the committee repository at:

<https://docs.house.gov/meetings/JU/JU10/20180927/108458/HHRG-115-JU10-20180927-SD003.pdf>

THE STATE OF INTELLECTUAL FREEDOM IN AMERICA

THURSDAY, SEPTEMBER 27, 2018

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON THE CONSTITUTION AND CIVIL JUSTICE
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Subcommittee met, pursuant to call, at 11:38 a.m., in Room 2141, Rayburn House Office Building, Hon. Steve King [Chairman of the Subcommittee] presiding.

Present: Representatives King, Goodlatte; Cohen, Nadler, and Raskin.

Staff present: Joe Graupensperger, Minority Chief Counsel, Subcommittee on Crime; James Park, Minority Chief Counsel, Subcommittee on the Constitution; David Greengrass, Minority Senior Counsel; Matthew Morgan, Minority Professional Staff Member; Veronica Eligan, Minority Professional Staff Member; Akhil Thodari, Minority Intern.

Mr. KING. The Subcommittee on the Constitution and Civil Justice will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

We welcome everyone to today's hearing on, "The State of Intellectual Freedom in America," and I now recognize myself for an opening statement.

When anyone is silenced, the result is censorship. That is plain and simple. But it takes a more sinister form, particularly in settings that claim to champion open discourse, and when it is performed quietly behind closed doors, it also—in many cases, only the person who is censored knows what's happened. And even then, the person often doesn't know how or why it has happened.

Fortunately, Americans are beginning to recognize this quiet trend in our society in which one group or another systemically silences another's beliefs with which they disagree. On college campuses, the academic freedom at an institution is threatened when professors feel retaliation or administrative sway for what they choose to research or teach or even discuss in a casual setting.

Fear in turn results in exclusion, which can produce a chilling effect in academia that affects the credibility of entire bodies of research. And that would include scientific research once thought immune to political influence.

For example, in an April 2018 report issued by the National Association of Scholars titled “The Irreproducibility Crisis of Modern Science,” political groupthink in a scientific culture biased towards producing positive results are among the factors contributing to a shocking number of scientific results in fields ranging from medicine to social psychology that additional research can’t reliably reproduce.

The report states, and I quote, “Groupthink inhibits attempts to check results since replication studies can undermine comfortable beliefs. An entire academic discipline can succumb to groupthink and create a professional consensus with a strong tendency to dismiss results that question its foundations. The overwhelming political homogeneity of academics has also created a culture of groupthink that distorts academic research since researchers may readily accept results that confirm a liberal worldview while rejecting conservative conclusions out of hand.”

Without objection, the report will be made a part of the record. The focus of today’s hearing, however, isn’t limited to college campuses. Indeed, this committee continues to hear from Americans who are being discriminated against on the basis of their politics, and also on the basis of their interests and their beliefs on social media platforms.

In some cases, tech companies claim that they act with good intentions. Silicon Valley’s censoring of hate speech, for example, has ostensibly become their latest effort to combat terrorism. But as pointed out in a National Review article published earlier this year, “Moderate Muslims and critics of Islam as political ideology found themselves subject to bans and restrictions on social media for articulating reasonable ideas and criticisms that deserve debate rather than restriction.”

YouTube, for example, restricted video presentations by people such as Kasim Hafeez, Ayaan Hirsi Ali, and Quram Dara. In 2017, Facebook restricted posts by an organization called Ex-Muslims of North America. They oppose radical Islam and they seek to comfort apostates. How Facebook and Google actions are intended to combat radicalization defies reason.

As we continue to explore this issue, I find it significant that the problems occurring on the platforms are also occurring inside the social media companies themselves. Testimony submitted by one of our witnesses today indicates that these companies are targeting employees with opposing views, even extending its bias beyond just political beliefs. Indeed, according to today’s testimony, men, whites, Asians, Christians, those with conservative family values, are daily punished for who they are and for what they believe.

And I would add to this statement an observation that was made to me over in Western Europe as I was seated with a number of their leaders. And I pointed out to them that they need American-style First Amendment freedom of speech rights all across that continent. That open dialogue is not taking place there, and it is inhibiting their ability to move their society forward because of this groupthink.

And they looked at me and said, “We have more freedom of speech in Europe than you have in America.” A pretty stunning statement, and I did my best to rebut that, and pointed out that

they are locking people up for violating freedom of speech—or for exercising freedom of speech. And they said, we seldom lock anyone up. But you have deposed founders of companies, CEOs of companies, for making a political donation that is disagreed with by the groupthink here in this country.

When they made that point, I have got to rethink mine. Our constitutional rights need to be protected. They need to be expanded. They need to be respected, not only in law but in our culture.

And so with that, today's hearing will expose—explore some of these problems, among others, and in greater detail. With that, I would like to thank all the witnesses for being here today. I look forward to your testimony, and I now recognize the ranking member, Mr. Cohen of Tennessee, for his opening statement.

[The statement of Mr. King follows:]

*****COMMITTEE INSERT*****

Mr. COHEN. Thank you, Mr. Chair. As we are here today, and I am sure no one is watching because everybody is watching Dr. Blasey Ford's testimony, which I was able to watch some of, and what a heroic, brilliant, and honest woman that is, who has gone through unbelievable attacks for coming forward and talking about a sexual assault that she suffered that has suffered—made her suffer for years.

Some have suggested she is doing it for fame, possibly for getting in—a movie contract, or some future benefit. That is despicable. She is doing it because she is a victim who knows she needs to come forward and let the American people know the type of person who is being nominated for the Supreme Court of the United States.

Meanwhile, we are here. And what is the purpose of this hearing? It is the last week before midterms, and the last opportunity Republicans have to waste precious subcommittee time, which is limited, and which we have spent no time looking into the problems that we have seen about the last election and the fault of—the lack of—the attacks on elections and voting rights, and the Emoluments Clause violations, et cetera.

It is a longstanding tactic of Republican political strategy to relentlessly push the narrative that conservatives are the victims of an oppressive cultural elite that tries to suppress conservative views, almost making a fetish out of their own supposed victimhood. And in the statement of the chairman, he said something about stopping people from speaking who have family values. Well, there are a lot of people who have family values who are not conservative. That is not something conservatives have to themselves. Mr. Greengrass back here has a son, Ben. I guarantee that David Greengrass has family values.

This argument is belied by the fact that Republicans currently control all of the elected components of our national Government as well as a majority of State governments. That is hardly evidence that conservative views do not get a fair opportunity to shape public opinion. Indeed, conservatives enjoy the support of a vast and thriving right-wing media machine ranging from talk radio, to where the only thing you can get on AM these days is talk radio of the right, conservative ilk or sports talk, to Fox News, to a host

of conservative websites and social media outlets like Breitbart, Daily Caller—I don't know what their names are. I don't read them or listen to them. But I see their tweets, oftentimes making awful pejorative statements, some of which have questioned my religion, or some of their followers have, and said, yes, we are not surprised his name is Cohen.

One of our witnesses later is going to be Cohen. She doesn't think anything like I think. But a lot of those people say, we are not surprised his name is Cohen, suggesting I have some kind of dual alliance with Israel, which of course I don't, or other nefarious thoughts.

And notable conservatives have held and continue to hold prestigious positions in academia. Just one prominent example is Judge Anton Scalia, who prior to being appointed to the Federal bench was a law professor at the University of Chicago.

Stanford University is home to the Hoover Institution, a respected conservative think tank that has served as a place of scholarship for such prominent Republicans as Condoleezza Rice, Donald Rumsfeld, and George Shultz, as well as conservative scholars like Thomas Sowell and Niall Ferguson.

As was clearly established during two prior full committee hearings on social media content and moderation practices, there is no credible evidence that social media companies intentionally target conservative content for censorship. Indeed, similar complaints have been raised by certain liberal activists about the way social media companies apply their content moderation policies.

Moreover, even if social media companies were actually intentionally discriminating against conservative viewpoints, it would be so well within their rights to do so, just as Fox News and Breitbart and Sinclair do.

In short, there is no merit to the majority's principal argument underlying the hearing. What we should be dealing with are the fact that we are living in a time when the rule of law is under grave threat by the actions of Trump, who appears to have little respect for constitutional or democratic norms, whether the issue is the separation of powers, respect for the judiciary, respect for women, and a free press or a government free of conflicts of interest and ethical lapses.

We are living in a time when the right to vote is being undermined by voter suppression tactics ranging from voter identification laws to elimination of same-day registration and prohibitions on nonviolent ex-offender voting, tactics that disproportionately affect African Americans and other minority groups. We are living in a time when the truth itself is under attack.

We are living in a time when hostile foreign powers like Russia continue their efforts to meddle in our electoral system to discredit and erode confidence in democracy itself. We are living also in the time of the Me Too movement, where women who have been victims of sexual harassment and sexual assault are bravely stepping forward, as Dr. Christine Blasey Ford is doing now, and confronting their victimizers. They are just a few of the many other issues that are far more worthy of the subcommittee's time than today's political gimmick of a hearing. The American people deserve better.

[The statement of Mr. Cohen follows:]

*******COMMITTEE INSERT*******

Mr. KING. The gentleman's time has expired, and the chair would now recognize the ranking member of the full committee, Mr. Nadler of New York.

Mr. NADLER. Thank you, Mr. Chairman. The purported subject of today's hearing is the state of intellectual freedom in America. Despite this lofty title, however, the hearing's actual purpose is to reinforce the bogus narrative that cultural institutions and those that run them are arrayed against conservative people and ideas.

We start with an old favorite of the right-wing media sphere, which is the assertion that colleges and universities are dedicated to persecuting conservative scholars while brainwashing students into becoming liberal activists. Simply put, however, there are plenty of conservative academics teaching at colleges and universities, including at least three sitting before us today.

And as if a hearing on the topic of liberal academics alone was not already a waste of taxpayers' dollars, today's hearing will also feature a panel on a right-wing conspiracy theory of more recent vintage, namely, that social media companies are intentionally suppressing conservative viewpoints.

This would now be the third hearing that the House Judiciary Committee has held this year on so-called anti-conservative media bias, anti-conservative social media bias. At no point in the previous two hearings have we been presented with any credible evidence that social media companies are censoring conservatives for ideological reasons.

But even if they were, so what? They are private companies. They are entitled, if they want, to propagate or favor whatever views they—they favor, liberal, conservative, or whatever; as do Fox, right-wing talk radio, and Sinclair. They are unabashedly right-wing. They have a right to be.

Or are the people who are running this committee and the people on the right-wing who are propagating this nonsense, do they favor bringing back the fairness doctrine abolished by Ronald Reagan's FCC? If they do, maybe we can talk about that, and then Fox will be forced to broadcast liberal viewpoints for every conservative viewpoint they broadcast. So will Sinclair. So will right-wing talk radio. Right-wing talk radio probably wouldn't exist. We'll be able to kiss Glenn Beck and Rush Limbaugh goodbye. And maybe some people think that's a good idea, and maybe not, but in the absence of bringing back the fairness doctrine, what are we even talking about?

Instead of indulging in conservative talking points, the subcommittee could be holding a substantive hearing about the use of social media. For instance, we could be holding a hearing on the undisputed fact that the Russian Government used social media to wage a disinformation campaign to attack our democracy during the 2016 election. Indeed, in light of the upcoming midterm election, such a hearing would be timely.

The Wall Street Journal, a publication not exactly known for its liberal bias, reported just last month that U.S. intelligence officials warned of a "pervasive" effort by Russia to disrupt the 2018 elec-

tion. Yet rather than focus on a real topic of critical concern, protecting the integrity of our elections against foreign interference, the majority has now wasted three hearings on meritless claims of anti-conservative social media bias by private companies that have every right, if they wish, to favor liberals' or conservatives' views or anything else they want to.

This hearing is remarkable in one sense. The majority seems to have reached a new low in terms of who it has chosen to invite as witnesses. Many of the majority witnesses here today are not just notable for their fringe ideological positions, but for their extreme conduct, their peddling of false conspiracy theories that hurt innocent people, their outright—and their outright animus and bigotry toward the cries of gays, lesbians, and transgender people.

For example, Jim Hoft of Gateway Pundit website, in an attempt to discredit the courageous efforts of the survivors of the horrific shooting at Parkland High School in Florida in support of reasonable gun regulations, helped to propagate the false story that these shooting survivors were not real victims but were instead trained “crisis actors.”

After Mr. Hoft's website published that story, sponsors of a panel on the topic of suppression of conservative views on social media at the Conservative Political Action Conference, an annual gathering of leading conservative activists, demanded that Mr. Hoft be removed from the panel, and ultimately the panel was cancelled as a result.

In short, Mr. Hoft's association with the “crisis actor” conspiracy theory was too much even for CPAC, which describes itself as the birthplace of conservatism. Yet Mr. Hoft has been invited here today to testify before this subcommittee, to disgrace the subcommittee by his presence. Apparently, this subcommittee is less scrupulous than the organizers of CPAC.

As if this were not enough of an embarrassment to our committee, Professor Mike Adams, another majority witness, a professor, has a history of harassing students and making remarks disparaging LGBTQ persons. When challenged about his behavior, Professor Adams tried to hide behind the claim that his statements were mere “satire” or exaggerations meant to anger liberals.

We should, however, listen to just some of Professor Adams' statements. He mockingly asked whether a 19-year-old student was on a “queer Muslim jihad” and wrote, “Her claims to be a queer Muslim are probably part of an act designed to fit into as many victim categories as possible.” This by a professor against a student. He referred to transgender people as “mentally ill,” and he said that “Gay couples do not deserve equal benefits because they do not equally benefit society.” Political correctness run amuck? No. Simple bigotry.

Also invited to testify here today is Alliance Defending Freedom, an organization that represented Professor Adams in his free speech claim against his university, and which continues to advance the outrageous argument that the Constitution's free exercise clause permits business owners to discriminate against LGBTQ persons or other people they choose to discriminate against. I must note that their willingness to represent Professor Adams calls into question the integrity of the argument that they

are simply defending religious liberty rather than invidious discrimination.

Finally, the majority's argument that conservative views are being suppressed is undermined by the fact that the witnesses appear to have a wide audience for their views. For instance, both Mr. Hoft and Professor Adams have had no problem leveraging the internet, and in Professor Adams' case his taxpayer-funded perch at a public university, to connect with like-minded followers.

The very fact that we are holding this hearing today refutes the claim that conservative viewpoints are not being adequately heard by society or reflected by American political institutions. Today's hearing is being held because conservative Republicans currently control the House of Representatives, not to mention the Senate, the presidency, and the majority of State legislatures and governorships. This is hardly evidence of the suppression and victimization of conservatives or their views.

But many conservatives conveniently ignore these facts. The truth is that despite conservatives' dominance of our Government, they continue cultivating the notion that they are the true victims, and honing resentment of "cultural elites" among their base, a cynical tactic that has undergirded conservative political strategy for decades. In the process, they are only too happy to lob insults and criticism at students, universities, or technology companies, and to complain about the fact that members of historically marginalized groups seek redress for their real victimhood.

And so here we are today, at what must—at what must be the most expensive taxpayer-funded safe space ever to listen yet again to conservative complaints about their purported victimhood. This hearing is truly a disgrace as well as a waste of time.

I yield back.

[The statement of Mr. Nadler follows:]

*****COMMITTEE INSERT*****

Mr. KING. The gentleman's time has expired. And now we'll look forward to the cost-benefit analysis at the conclusion of this topic.

I recognize the chairman of the full committee, Mr. Goodlatte, for his opening statement.

Chairman GOODLATTE. Well, thank you, Mr. Chairman. And before I give my prepared remarks, I just want to say that I am pleased that here in this hearing today we're going to have the kind of open discussion of differing points of view that it seems that some on the other side of the aisle would like to suppress even here.

At one time there was likely no other place in the United States that had at one time or another received more praise than Silicon Valley or an American college campus for being bastions of free and open expression. Some time in our recent past, however, this praise has faded, and today there are few settings in America that can identify as being more homogeneous in political thought and belief.

According to data cited by the Heterodox Academy, college professors went from leaning left to being almost entirely on the left some time in the years between 1995 and 2010. Likewise, according to a working paper based on a survey by political scientists at

Stamford University, Silicon Valley, in terms of voting, is one of the most strongly Democratic-leaning areas in the Nation.

However, I would be less concerned about which party is most represented in these settings if there wasn't also a glaring absence of competing viewpoints. Indeed, in their present state, these settings appear to be examples of what happens when homogeneous groups of people begin to purposefully root out people who challenge their beliefs.

Silicon Valley, for example, has been called a self-made echo chamber. Greg Lukianoff, who has testified before this committee, and professor Jonathan Haidt, have both identified a movement on college campuses to scrub campuses clean of words, ideas, and subjects that might cause discomfort or give offense.

The trend towards uniformity in thought and belief, and the means to enforce it, should be alarming to all of us as individuals and collectively to us as a Nation. College is a time for students to learn, to appreciate viewpoints that may be different from their own, and we as a society will suffer if colleges are allowed to filter the views of their professor, proffer and relegate student expression to obscure designated areas on campus. Likewise, if social media platforms are allowed to filter content that does not comply with the company's beliefs, society will suffer from a less tolerant and misinformed populace.

Today's hearing will offer insight into this problem and will certainly bear on how Congress addresses these issues.

With that, I want to thank all of our witnesses in attendance today, and I look forward to their testimony.

Thank you, Mr. Chairman.

[The statement of Chairman Goodlatte follows:]

*******COMMITTEE INSERT*******

Mr. KING. I thank the chairman of the full committee, Mr. Goodlatte, and the other members of the committee for their opening statements. Without objection, other members' opening statements will be made part of the record.

I will now introduce our first panel of witnesses. Our first witness is Dr. Mike Adams, a professor at the University of North Carolina at Wilmington. Our second witness is Dr. Peter Wood, the president of the National Association of Scholars. Our third witness is Mike Simkovic, a professor of law and accounting at the University of Southern California Gould School of Law. And then our fourth witness is Dr. Tim Groseclose, who is a professor at George Mason University. So all doctors and I think all professors.

The light switch will turn from green to yellow. It will indicate that you have a minute left in your five minutes of testimony. And it is the tradition of this committee to ask the witnesses to stand and be sworn in. So if you would please stand, our four witnesses, and raise your right hand.

Do you swear that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Let the record show that the witnesses answered in the affirmative. You may be seated. Thank you, gentlemen.

And I now recognize our first witness, Dr. Adams, for five minutes.

Dr. Adams, you may start with your rebuttal, if you prefer.

TESTIMONY OF MIKE ADAMS, PROFESSOR, UNIVERSITY OF NORTH CAROLINA AT WILMINGTON; PETER WOOD, PRESIDENT, NATIONAL ASSOCIATION OF SCHOLARS; MIKE SIMKOVIC, PROFESSOR OF LAW AND ACCOUNTING, USC GOULD SCHOOL OF LAW; AND TIM GROSECLOSE, PROFESSOR, GEORGE MASON UNIVERSITY

TESTIMONY OF MIKE ADAMS

Dr. ADAMS. Well, thank you. It is an honor to testify before you here today.

The reason I am here before you is that I am a veteran of a 7½-year First Amendment lawsuit in which I ultimately prevailed against my university.

In 1993 I was hired as a leftist and an atheist by a liberal Department of Sociology and Criminology at the University of North Carolina at Wilmington. I won my first teaching award in 1996. I won Professor of the Year in 1998, and I was easily awarded tenure later that year.

But later things changed. In 1999, I became a registered Republican, and I also returned to Christianity in the year 2000 after winning my second Faculty Member of the Year award.

After 9/11, I was involved in a free speech battle that drew some national media attention. That controversy began when I was accused of violating one of our numerous unconstitutional speech policies at the university.

And pursuant to that complaint, the university searched through some private emails looking for evidence related to the alleged violation. After the Foundation for Individual Rights in Education intervened, the university lied about the inspection of those private emails, and that's when I decided to start fighting back.

In 2003, I started writing a column for TownHall.com that focused on exposing threats to free speech on college campuses. In 2005, I started speaking for the Young Americas Foundation. The speeches often encourage students to make legal challenges to unconstitutional speech policies on their campus.

In 2006, I applied for and was denied promotion to full professor. When I requested an explanation for the denial, I was told that I was deficient in each and every single area of evaluation—teaching, research, and service. In a nutshell, before my change in worldview and the decision to criticize unlawful university policies, I was showered with awards; afterwards, I was considered deficient in every possible way.

Thus, with the encouragement of the Alliance Defending Freedom, I sued for First Amendment retaliation. After discovery was completed, we had direct evidence of viewpoint discrimination. For example, the university chancellor actually attempted to change the criteria for promotion in order to penalize me for criticizing university policies and practices. Secret investigations were launched in order to determine whether I was engaged in transphobic speech in the classroom. And my avowed Marxist femi-

nist department chair actually tampered with faculty evaluations of my fitness for promotion.

In the face of direct evidence of viewpoint discrimination, not to mention evidence-tampering, the university should have settled the case. Instead, they argued that they had the right to engage in viewpoint discrimination.

The university claimed that my speeches for YAF and my articles for TownHall.com were transformed from protected speech into official duties as soon as I mentioned them on my promotion application. Thus, they argued that it was permissible for them to engage in viewpoint discrimination.

Initially, unfortunately, the district court agreed and the judge dismissed my case. But next we decided to appeal our case to the Fourth Circuit Court of Appeals in Richmond, and there we won a unanimous opinion stating that my columns and speeches retained the full protection of the First Amendment. So 7 years into the conflict, we finally had a jury trial. And it took the jury less than 2 hours of deliberation to rule in my favor. I was awarded promotion to full professor and \$50,000 in back pay. My attorneys were awarded \$710,000 in legal fees.

As bad as my ordeal was, students on the campuses that I visit have it much worse. They are routinely confined to unconstitutional speech zones, and within them they are routinely punished under unconstitutional speech codes. Generally speaking, they don't know that the university is violating their rights. And to make matters worse, administrators routinely deceive the students about the scope of their constitutional rights.

And this brings me to my central point in the testimony, which is the need for accountability for universities that knowingly violate the Constitution. During the Obama administration, we saw something that was absolutely unprecedented. Under the guise of enforcing Title 9, the Department of Education actually made the receipt of Federal funding contingent upon depriving students accused of sexual assault of basic constitutional protections.

Now I believe it is time for us to reverse course and make the receipt of Federal funding contingent upon honoring the constitution rather than violating the constitution. And I hope that the discussion on specifically how to do that will begin today. That is why I am here.

I look forward to your questions.

[The written statement of Dr. Adams follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Dr. Adams. We appreciate your testimony. The Chair will now recognize Dr. Wood for your five minutes.
Dr. Wood.

TESTIMONY OF PETER WOOD

Dr. WOOD. Thank you. Intellectual freedom is the bedrock of our republic. Now, as someone who uses words carefully, or at least tries to, let me say right away that that is a metaphor. Intellectual freedom is not literally bedrock or any kind of stone.

What I really mean is that intellectual freedom is the foundation of other essential freedoms: freedom of the press, freedom of reli-

gion, freedom of assembly, freedom of having our own opinions, and freedom of inquiry. Without intellectual freedom, voting makes no sense. If we can't think for ourselves, we are just engaged in making empty gestures. And without intellectual freedom, education is just indoctrination.

Bedrock, a metaphor. But the name foundation doesn't much advance things. Foundation is a metaphor, too. In fact, it is very difficult, maybe impossible, to talk about intellectual freedom without metaphors. Now, why is that?

I am an anthropologist, not a philosopher, so I have only a guess. Intellectual freedom means the ability to step outside your village, or in your imagination to separate yourself at least a little from your own tribe long enough to ask whether the things you have always been told are true are actually true.

Now, those things might actually be true. But if you step far enough outside the village to meet people who believe something else, the world suddenly becomes a more complicated place. In 1776, a handful of British colonists stepped far enough outside the village of England to question whether they really needed a king. The rest is, as they say, history.

America has been born in skepticism as well as idealism, and intellectual freedom is the combination of those two things: skepticism that all the important questions have already been answered adequately; idealism that people of good will and determination could ask the questions for themselves and seek better and perhaps more truthful answers. That is why intellectual freedom is the bedrock or the foundation of other freedoms of our republic as a whole.

We have even developed a specialized institution to advance intellectual freedom on behalf of the rest of society. That is the university. Intellectual freedom, however, like any other powerful force, has to be used wisely. You don't step outside your village to plunge off a cliff or into quicksand.

Now, one of the biggest dangers that comes with intellectual freedom is that it implies the freedom to turn against itself. It rejects an old doctrine as mere bigotry or idol worship, and the next minute it has a brand-new bigotry and a shiny new idol. That, I fear, is where we are right now. It is where we have landed today, especially in our universities.

In my written testimony I reviewed 15 recent cases of college professors and other prominent intellectuals who were shut down on campus because they ran into this new bigotry and idol worship. Some of 15 have prevailed, as has Professor Adams. I am pleased that professor John McAdams, his namesake at Marquette University, is back on the job after the Wisconsin Supreme Court reprimanded Marquette for suppressing McAdams' academic freedom.

But in most of the other cases that I've mentioned, the new academic tyranny continues to dominate. It's a tyranny with many weapons at its disposal. Some have already been mentioned, but let's say speech codes; bias response teams; labeling free speech as micro-aggression or as hate speech; imposing trigger warnings on teachers; waving the flag of cultural appropriation; attacking people for implicit bias; free speech zones; and beyond that; disinvitations or noninvitations; deselection of conservatives from faculty searches; forced withdrawals of published papers—we've

had several of those recently; negative tenure and promotion decisions.

Beyond that, groupthink; trial by accusation, which might sound familiar; labeling as racist any opinion with which you disagree. And beyond that, treating intellectual freedom itself as a form of illegitimate privilege that favors whites or the majority or the powerful or somebody other than me.

The new tyranny or the new tribalism has been on college campuses and nurtured there. It is its home ground, but it hasn't stayed there. The claims of victimhood and the rule by accusation that are its chief characteristics have spread to the wider culture and, it is now all too clear, become part of our politics. They drive the polarization of our culture.

The answer to this, I will concur with Professor Adams, is a new constitutionalism. Thank you.

[The statement of Dr. Wood follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Dr. Wood.

The Chair will now recognize Professor Simkovic for his testimony.

Professor Simkovic.

TESTIMONY OF MIKE SIMKOVIC

Mr. SIMKOVIC. Thank you for the opportunity to share my thoughts on intellectual freedom and the role of universities in civil society. I am expressing my individual views and not those of my employer, the University of Southern California.

Albert Einstein once described universities as “temples of—of science,” where a finely tempered nature longs to escape from the painful crudity of everyday life into the world of objective perception and thought. This may be compared to the silence of high mountains, where the eye ranges freely through the still, pure air and finally traces out the restful contours apparently built for eternity.

There is no such thing as right-wing or left-wing physics or chemistry or mathematics. Universities do not and should not strive to track the shifting median policy positions between competing political parties or kowtow to the preferences of donors or political leaders.

Universities instead must strive to promote rigorous, objective research using the best data, the most qualified personnel, and the best analytic tools available. To help protect researchers' independence and insulate them from undue pressure, universities grant academic tenure. Nothing comparable is available to think tank researchers or journalists, who can be and have been fired for their views. To help academics correct our own mistakes, we use peer review, replication, internal debate, and other checks.

Universities' efforts to expand human knowledge have contributed to innovation and economic growth, and to rising levels of prosperity and longevity. Education boosts earnings in employment, reduces burdens on public services, and helps fund the government by increasing payroll and income tax revenues.

Ideology and political representativeness are not part of academic institutions' mission. Academia is inherently skeptical of dogma or party platforms. Scientists believe in the pursuit of objective knowledge and truth in adherence to standards of rigor and fairness, and in the elevation of facts above ideological or political priors.

There is no such thing as liberal or conservative science. Universities seek to foster critical thinking, communication and problem-solving skills, not to indoctrinate students into a particular set of political beliefs.

Disagreement between knowledgeable scientific experts and median political views often do not suggest political bias on the part of scientists, but rather an effort by think tanks, media organizations, interest groups, and politicians to inappropriately politicize science and scientific issues.

For example, the causes and consequences of climate change are scientific issues. The likely economic harm from such changes and the costs of preventing or mitigating them are also scientific issues. So are the adverse health consequences from air and water pollution, or the health effects of smoking. So is the question of whether tax cuts can generate enough economic growth to reduce the debt to GDP ratio.

While scientific questions can have political and policy implications, scientific inquiry should not be politicized. The best evidence should be analyzed with the best methods, and the implications and degree of uncertainty honestly convey to policy-makers and the public. But according to scientific experts, many scientific issues have been inappropriately politicized when scientific evidence threatens private sector profits or government budgets. This includes the causes and effects of climate change, the health risks of pollen, and the dangers of tobacco use.

According to a Pew survey, nearly 80 percent of scientists believe that previous Federal administrations suppressed government scientists' findings for political reasons. Many scientists worry that to sustain scientific findings for political reasons is becoming more common.

Note that the Pew sample consists overwhelmingly of natural or hard scientists in fields such the medical sciences, chemistry, physics, and geosciences. Pew's sample included those who work in private industry as well as those who work in government and universities.

Recently there have been systemic efforts by some Members of Congress to weaken the role of science in informing agency rule-making, and increase the role of political actors. Some politicians have also sought to prevent government agencies from collecting basic data about demographics, the environment, health and safety, and the economy, even if de-identified to protect individual privacy.

Today threats to academic freedom can come from powerful donors, political leaders, and outside pressure groups, who sometimes seek to subtly, or not so subtly, influence ostensible neutral and unbiased academic research to further their own business interests or other political preferences.

The best way to protect universities from undue influence may be to secure and expand revenue sources that are indifferent to or cannot sway the conclusions of academic research. This is analogous to the approach we take to try to protect independence of members of the Federal judiciary or the Federal Reserve. Thank you.

[The statement of Professor Simkovic follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Professor Simkovic.

And the Chair will now recognize Dr. Groseclose—Groseclose—for his testimony.

Doctor.

TESTIMONY OF TIM GROSECLOSE

Dr. GROSECLOSE. Thank you. Good afternoon. My name is Tim Groseclose. Since 2014, I have been a professor of economics at George Mason University. Before that, for 11 and a half years, I was a professor of political science at UCLA.

Two research projects that I have conducted are especially relevant to the problems within academia that I plan to discuss today. One of those projects examines media bias and tries to measure it quantitatively. The main conclusion of my research basically was that conservatives have been largely correct on this issue. According to many findings, almost all mainstream media outlets really do have a left-of-center bias.

The second research project sprang from some administrative work that I did at UCLA. From 2005 to 2008, I was a member of the university's Faculty Oversight Committee for Undergraduate Admissions. I saw some suspicious and possibly illegal activity while on the committee. I asked members of the admissions staff to give me data so I could test my suspicions. They refused.

I consequently resigned from the committee in protest, and eventually I wrote a book which is now entitled, "Cheating: An Insider's Report on the Use of Race in Admissions at UCLA." My written statement lists eight anecdotes. Let me give, in the interest of time, quick summaries of just three of those anecdotes.

Anecdote 1: A young professor from another university gave a seminar at UCLA. Afterward, I told them, "You know who would love your results? Ann Coulter. I kind of know her. Would you mind if I send her an email? I bet she might write about your research." The young researcher quickly replied, "Oh, please don't do that. That could only hurt my career."

Anecdote 2: At UCLA, I was denied what I thought would be an automatic promotion. I am convinced that the reason was due to my research on media bias and UCLA admissions, specifically, because the results of those research projects displeased—because they displeased progressives. If the data just would have produced the opposite results, ones that would have pleased progressives, I am certain that I would have been granted the promotion. Because of that promotion denial, my wife and I decided it would be best if I left UCLA. We could see that I would not be treated fairly if I remained at UCLA.

Anecdote 3—however, it is listed as Anecdote 4 in my written statement: Two friends who are political science professors examined the extent to which Barack Obama's skin color affected voters' decisions. They found, perhaps surprisingly, that his skin color had a net positive effect. That is, although some people voted against Obama because he is black, more people voted for him because he is black.

The two professors presented the research at a conference of political scientists where they received an extremely hostile reaction. They eventually abandoned the research. They never published it, and they no longer list the working paper on their websites. Although one should always be careful in trying to assess motives, I strongly suspect that the professors abandoned the research because they knew it could hurt their careers.

Conclusion: I believe that these anecdotes illustrate some general principles of academic reason. First, if you are bold enough to report results that displease progressives, there is a good chance that that will jeopardize your career. Second, many professors, understanding that principle, wisely squelch or fail to report results if they know that the results will displease progressives.

Third and perhaps most disturbing, all this means that the results that we, the public, get to see are not a representative sample of all the results of academic research. Instead, the sample that we get to see has been distorted and cherry-picked. Thank you.

[The statement of Dr. Groseclose follows:]

*****COMMITTEE INSERT*****

Mr. KING. Thank you, Dr. Groseclose.

The chair would now proceed to questioning, and I will now recognize myself for opening five minutes. And I would like to turn first to Dr. Adams.

Dr. ADAMS. Yes.

Mr. KING. And Dr. Adams, you won a lawsuit, and I guess I am struck by the attorney fees versus the settlement that you received, \$50,000.

Dr. ADAMS. Yes.

Mr. KING. Was that adequate compensation for what you went through?

Dr. ADAMS. Actually, it was. It was back pay, basically, for the—well, what is interesting about the situation was that the promotion was only—to full professor, was \$5,000 per year, which makes it all the more interesting that the university insisted upon spending the time, kind of effort and time, that they did in fighting it, which I think was a poor use of taxpayer money.

Mr. KING. Well, thank you. And I always say, who gets to decide, then, what is hate speech or what is inhibitionist speech on a college campus? That is what this is about, and apparently the court decided that you had more freedom than the university thought you should have.

But who should get to decide, and how does the society sort it out? You are looking for a solution, is why you are here, and I am looking for your advice.

Dr. ADAMS. We reject the concept of hate speech altogether, just as the Supreme Court did last year in the "Slants" decision. That

is what we do. And when universities come along and try to paper over the Constitution, we hold them accountable for doing that.

And that is a very serious concern that I have about my university and about universities—universities in general, that they will fight these kinds of lawsuits and they will—because they are playing with other people’s money, they will run up six- and even seven-digit legal bills and not really worry about it. And there is no consequence whatsoever.

I think we need to attach a consequence to this kind of violation of—would you like me to elaborate on that just a little bit? I was taking a look, for example, at the 424B form that the Department of Education requires every single university president to sign off every single time that there is a non-construction grant for research or for academic programs.

There are probably 15 different promises that the university president had to sign off on. “We are not engaged in human trafficking. We are not engaged in violating environmental laws.” It is high time that we added a sixteenth category, which says that the university has to promise that they are not engaged in violations of the First Amendment in order to receive any grant money whatsoever.

And if they sign off on that, and if at the end of the year there’s a judgment against them and they receive federal funding saying they weren’t violating people’s First Amendment rights, when they were, turn them over to the Department of Justice for fraud. That is my view.

Mr. KING. That is a proposal worthy of consideration.

I would say is there anything there was said here on this panel that you would like to have an opportunity to rebut?

Dr. ADAMS. You mean in the introductory statements?

Mr. KING. Yes.

Dr. ADAMS. Congressman Nadler made some statements. I would like to rebut them, but he has fled. So I didn’t have the opportunity. I am sorry he didn’t have more courage.

Mr. KING. Okay. Well, thank you, Dr. Adams.

Then I would turn, then, to Dr. Wood. And you made a statement that surprised me when you said that if we don’t have freedom of speech, that there really isn’t a point in having elections. Would you care to expand on that thought a bit?

Dr. WOOD. Sure. Intellectual freedom means making decisions based on as much evidence and reason as you can. Without the ability to hear what the other side has to say in any dispute where there is more than one side, one is reduced to just making a reflexive gesture. There is no thought content to it at all.

Party loyalty might be a nice thing in some circumstances, but I prefer to see party loyalty mixed up with a little bit of careful thought about what the alternatives are. So I don’t think we should have elections essentially conducted by robots. We need human beings who encounter ideas and think about them and decide, what is the best course for the country?

Mr. KING. And you mentioned, I believe, that you are an anthropologist?

Dr. WOOD. Yes, I am.

Mr. KING. And so I would ask you this question. This is more about our society. But there are trends that come for different reasons. And that would be this then: I mean, from my perspective, I think we have reasonable people that are generally on the right side of the aisle that will take data and facts and the exact sciences that Professor Simkovic mentioned, and use that as the foundation for their process.

And it looks to me like the other side is pushing emotion and feelings against facts and data. Have you examined that in any way that you could help illuminate the knowledge of this panel with?

Dr. WOOD. I wrote a book titled, "A Bee in the Mouth: Anger in America Now," a few years ago which I think bears on this. Our willingness to find a kind of illusory strength in feeling, how it registers "angry all the time" a sort of drug in the American mind. I don't think it is limited to people on the left, but right now it appears to have become a sort of fixed thing on campus that students and quite a few faculty members take their reason for being in expression of anger. So yes, emotion is getting the upper hand of serious inquiry.

Mr. KING. Thank you, Dr. Wood. I see it that my time has expired.

And the chair would now recognize the gentleman from Maryland, Mr. Raskin, a professor in his own right, for his five minutes.

Mr. RASKIN. Thank you very much, Mr. Chairman. I just want to start by saying I do not think our colleague fled for lack of courage. Everybody has got a bunch of committee and subcommittee meetings going on, and he is the ranking member of Judiciary. I am sure he would love to pursue the debate with you later, Dr. Adams, and certainly I would like to do it.

Let me start with this. There is a complaint that is often made by those on the right that certain groups indulge in whining and victimology. But now that complaint is being turned around on you guys, and the claim is being made you guys are victimologists. You are indulging in self-pity. You are constantly whining about how you are being silenced on campus and silenced in corporations and so on.

Do any of you identify as whiners, or do you feel like you are victimologists? And if not, then I want to talk about, concretely, what we can do to deal with the free speech.

Dr. Wood, what is with you? Do you feel like you are a whiner?

Dr. WOOD. No, I do not. I publish a quarterly journal called "Academic Questions," and one of the principles in it is, no whining.

Mr. RASKIN. Okay. Dr. Adams, are you a whiner? Or are you just whining about what happened—

Dr. ADAMS. No. I—No. I fight back.

Mr. RASKIN. Yes.

Dr. ADAMS. Quite successfully. So—

Mr. RASKIN. Okay. And are you a whiner?

Dr. GROSECLOSE. Somewhat.

Mr. RASKIN. Yeah?

Dr. GROSECLOSE. Let me explain. When I was at—at UCLA, I noticed some professors would get—they would become activists. And my wife and I, secretly, we would—we would call them losers. And

I found myself at the end of my tenure at UCLA, when I am complaining about some of these things, I am having to whine, and I am having to become somewhat of an activist.

I never intended that. When I went into academia, my plan was to be a teacher and a researcher.

Mr. RASKIN. Well, I appreciate your candor about that.

Dr. GROSECLOSE. And I had to tell my wife, "I am becoming one of those losers."

Mr. RASKIN. Well, why—well—

Dr. GROSECLOSE. It is part of the—it is part of the reason I left UCLA.

Mr. RASKIN. Because you felt like you were being discriminated against and, you felt, far too much.

Dr. GROSECLOSE. And it was causing me to be a whiner.

Mr. RASKIN. Okay. Well, let me—okay, so—

Dr. GROSECLOSE. I said, "No. I will just leave. I will do something about this."

Mr. RASKIN. All right. Forgive me for hurrying us along. I have only got five minutes.

Dr. GROSECLOSE. I understand. Yeah.

Mr. RASKIN. But if we could transform the whining into something concrete. I think Dr. Adams ventured a suggestion about how there should be a law which requires campuses to respect free speech. That is a concrete, tangible, legislative proposal.

Dr. ADAMS. Uh-huh.

Mr. RASKIN. Let's start with this. Should that apply just to public universities like the one that you were able successfully to sue, Dr. Adams, or should it apply across the board? As quickly as possible.

Dr. ADAMS. In my view, just to public universities.

Mr. RASKIN. Just to public.

Dr. WOOD, what do you think?

Dr. WOOD. I believe that every university that receives Federal funding should be subject to some degree of oversight on public—

Mr. RASKIN. Public and private, secular, religious, all of them together? Very good.

Dr. WOOD. Yes.

Mr. RASKIN. Professor Simkovic.

Mr. SIMKOVIC. I think that the best way to protect academic freedom is with tenure and insulation from outside pressure. I would like to see that extended from universities to think tanks and, frankly, media organizations. I think it is very important that institutions that help generate knowledge in our society have the ability to act with integrity and independence, and not be fearful of retaliation and having their budgets cut.

Mr. RASKIN. And you agree that that should apply to private universities and colleges as well? For example, in Washington, D.C., we have Catholic University and Georgetown University, which have banned pro-choice speakers or forbidden pro-choice or gay groups at different points in their history. Should they be required, as private entities, to respect the First Amendment rights of all of their students? Or should we say that the relevant First Amendment rights are those of the bureaucrats who run the universities?

Mr. SIMKOVIC. Yes. So I, again, do not believe that there is a need for Federal legislation dictating policy at universities.

Mr. RASKIN. Okay.

Mr. GARTEN: I think it is sufficient for universities to protect the tenure—

Mr. RASKIN. Professor Groseclose—okay. Where are you on this?

Dr. GROSECLOSE. Definitely I think with public universities. I think currently it would be constitutional to say, “You must protect free speech.” If you are not a public university, it is not clear. But I think—

Mr. RASKIN. No. But the question is, should we adopt a free speech policy? For example, I don’t know if you ever read William F. Buckley’s “God and Man at Yale.”

Mr. SIMKOVIC. I have.

Mr. RASKIN. But he took the position that Yale should be propounding Christianity, which would be much to Dr. Adams’ liking, undoubtedly. And it should be propounding certain conservative views, and it should simply eliminate the professors who don’t agree.

Should Yale have the right to do that as a private institution? Or should we be able to—or should we cut off money to the Yale research funds if they discriminate based on people’s politics?

Dr. GROSECLOSE. I think it would be constitutional and also reasonable if Congress passed a statute to that effect. And if I were a congressman, I would vote for such a statute.

Mr. RASKIN. Okay. And it should apply whether you call yourself religious or not. Because right now, what is happening is a lot of—

Dr. GROSECLOSE. As long as you get Federal funding. If you get Federal funding—

Mr. RASKIN. Yeah. As long as you get Federal funding.

Dr. GROSECLOSE. Yes.

Mr. RASKIN. And Dr. Adams, do you agree with that, too?

Dr. ADAMS. No, I don’t.

Mr. RASKIN. You don’t? Well, why not? I thought you were a big champion of free speech.

Dr. ADAMS. No, sir. No, the—no, the private institutions should just be honest about what they are. For example—

Mr. RASKIN. Well, leave aside honesty. Should they have the right to discriminate based on free speech: In other words, should they discriminate based on viewpoint? I mean, say you were at a private university. It would be fine for the university to fire you for what you wrote or to deny you a promotion?

Dr. ADAMS. Oh, religious schools, of course.

Mr. RASKIN. Well, forgetting religious—

Mr. KING. The gentleman’s time has expired.

Mr. RASKIN [continuing]. Just say a private school. I mean, Yale is a religious school.

Mr. KING. The gentleman will be—

Dr. ADAMS. Right.

Mr. KING. The gentleman’s time has expired.

Dr. ADAMS. Well, it used to be. It used to be.

Mr. KING. The witness will be allowed to answer the question.

Mr. RASKIN. Sorry?

Dr. ADAMS. It used to be, but it is not any more.

Mr. RASKIN. Well, in its eyes, it is. So should Yale have the right to deny you a promotion because it says it is a religious school and your attitudes or beliefs are out of keeping with its own particular religious views?

Dr. ADAMS. They should just be honest about what they advertise.

Mr. RASKIN. Forgetting being honest, should they have a right—

Dr. ADAMS. Forget being honest. Forget being honest.

Mr. KING. The gentleman's time has expired.

Dr. ADAMS. I can't forget being honest.

Mr. RASKIN. Well, you are not answering my question.

Dr. ADAMS. I am in the wrong hearing, I guess.

Mr. KING. The gentleman's time has expired.

And the chair now recognizes chairman of the full committee, Mr. Goodlatte of Virginia, for his five minutes.

Chairman GOODLATTE. Well, thank you, Mr. Chairman. Let me just ask the panelists—I will go right down the line—are you familiar with legislation introduced by Senator Hatch in the Senate, which would amend the Higher Education Act of 1965 to ensure the public institutions of higher education protect expressive activities in the outdoor areas on campus?

Not familiar with it? Well, I guess I don't need—well, I will just ask you whether you think that is a good idea or not, that basically would amend the Higher Education Act to make a provision that allows for the bringing of lawsuits and the preservation of those lawsuits, even after an individual graduates, when they are denied the right to engage in expressive activity in outdoor areas.

Yeah. Speech zones are a big problem on college campuses. But there's a disagreement about how that should be handled. In the State of North Carolina, we passed a law, H.B. 527, in which we got rid of, essentially in one fell swoop, those unconstitutional speech zones.

So I do agree with the legislative solutions. The question is whether that should be done on the State level or on the Federal level. I think probably on the State level.

Chairman GOODLATTE. Dr. Wood.

Dr. WOOD. The Higher Education Act already has in it as Title 1 a pretty strong affirmation of academic intellectual freedom. It is not backed up with any particular measures; it sounds like this Act would strengthen the provision that already exists.

The only issue about—

Chairman GOODLATTE. Lots of time, what happens is the student graduates. And therefore, the restriction is no longer applicable to them because they have left the institution before the lawsuit can ever mature and ripen. Would you—would you support legislation that would preserve that right of action so it can get to a conclusion and be heard?

Dr. WOOD. Yes.

Chairman GOODLATTE. Professor.

Mr. SIMKOVIC. Congressman, there are between 4,000 and 5,000 institutions of higher education in the United States. Many of them have internal policies governing freedom of speech, and they attempt to create an atmosphere which is conducive to research and

conducive to learning. And they come to different conclusions about what that means in terms of balancing robust debate with an environment which is—enables concentration and contemplation.

I don't believe that it would be appropriate to federalize this issue. I believe that universities are capable—

Chairman GOODLATTE. It is Federal. It is the First Amendment of the United States Constitution. Plus there is the Higher Education Act, which is a federal statute.

Mr. SIMKOVIC. Yes. I believe that it is important for the Government to fund education, to provide opportunities for people for advancement in their careers, to fund scientific research. But I do not feel that it is appropriate to politicize or centralize control over the production of knowledge.

Chairman GOODLATTE. Well, who is centralizing it? It—is it the institution that you are referring to that is centralizing control?

Mr. SIMKOVIC. There are between 4,000 and 5,000 institutions. It is not very centralized, Congressman.

Chairman GOODLATTE. No. And I am talking about each individual institution, particularly if they are a public institution; whether or not the administration there should be able to say, "You have got to go to this one little place if you want to freely express your ideas."

Mr. SIMKOVIC. So, Congressman, there is tenure to protect academic freedom, which means that administrators cannot control what the faculty are—

Dr. GROSECLOSE. Yeah. I get your tenure agreement. I am talking about students having the ability to freely express themselves in outdoor areas on college campuses?

Mr. SIMKOVIC. So again, Congressman, the University of California at Berkeley spent \$4 million on security costs to bring four speakers to campus. The Chancellor's Commission concluded that this was not an effective use of taxpayer dollars. That is money that could have been spent training engineers, training nurses, researching cures for life-threatening illness. And it was spent for security for four speakers.

Now, I believe that universities have a right to use their resources in the way which they believe best promotes their mission of promoting science and education.

Chairman GOODLATTE. Even—did the previous rights—

Mr. SIMKOVIC. And there are plenty—there are plenty of opportunities for the expression of different ideas. We have—and university campuses are not very large. Anyone who is not invited to campus has the opportunity to rent space just off-campus, and anyone who's interested can attend. Everyone has access to the internet. Everyone has access to—

Chairman GOODLATTE. Okay. These are—

Mr. SIMKOVIC [continuing]. Television. Everyone has access to books. Everyone has access to—

Chairman GOODLATTE. They are publicly financed institutions that don't have to respect free speech rights of groups of students on the campus or individual students on the campus.

Mr. SIMKOVIC. They do respect free speech rights. But universities are not public parks.

Chairman GOODLATTE. I think that's debatable.

Mr. SIMKOVIC. They are places of learning and places of education.

Chairman GOODLATTE. Let me go to Dr. Groseclose because I'm down to the last seconds of my—

Dr. GROSECLOSE. I think I completely agree. And I think that the Constitution already says if you are a public university, you cannot abridge freedom of speech. And I think it's—I'm not a lawyer—I think it is the 14th amendment that says these freedoms in the first—in the Bill of Rights are granted to the States; therefore, the States cannot make laws. And that would include public universities that would abridge freedom of speech.

So I think you are exactly right. If you only have a restricted space where you have freedom of speech, that would seem like that would violate the Constitution to me.

Chairman GOODLATTE. Thank you. Thank you, Mr. Chairman.

Mr. KING. The gentleman returns his time, and this concludes Panel 1 of our hearing here today. And I want to thank all the witnesses for your testimony. And I would like to then ask you that if we could be seated with the following four other witnesses that follow each of you. So thank you again, gentlemen. We appreciate your testimony.

[Pause]

Mr. KING. Well, as we—as we continue, I'm going to go ahead and introduce the four of the five witnesses that are here, and we will see if the fifth witness does arrive. And I am very pleased, first, to introduce our first witness, and it is Jim Hoft, who is the founder and editor of The Gateway Pundit.

And our second witness is Adriana Cohen, who is a syndicated columnist and a radio host for the Boston Herald Radio.

Our third witness is Jeremy Tedesco, the vice president of U.S. advocacy for the Alliance Defending Freedom. And then our fourth witness is Professor Ari Waldman, professor of law at the New York Law School. Professor Waldman.

And perfect timing on her arrival would be our fifth and final witness, which is Harmeet Dhillon, a partner of the Dhillon Law Group, Incorporated.

I would like to welcome all of you, and let you know that the green light that you will have at the beginning of your five-minute testimony will be four minutes long, and the amber light will be one minute long. And we would ask you to try to wrap up your testimony about that time. And we also want to give you enough latitude to complete the thought, or at least the sentence, depending on how intense our timing gets here today.

And so I would ask each of the witnesses if you would stand and raise your right hand to be sworn in.

Do you swear that the testimony you are about to give before this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Thank you. Let the record show that the witnesses all responded in the affirmative.

And I would now recognize our first witness. That would be Mr. Hoft of Gateway Pundit.

Mr. Hoft, you are recognized for five minutes.

TESTIMONY OF JIM HOFT, FOUNDER AND EDITOR, THE GATEWAY PUNDIT; ADRIANA COHEN, SYNDICATED COLUMNIST, BOSTON HERALD RADIO HOST; JEREMY TEDESCO, VICE PRESIDENT OF U.S. ADVOCACY, ALLIANCE DEFENDING FREEDOM; ARI WALDMAN, PROFESSOR OF LAW, NEW YORK LAW SCHOOL; AND HARMEET K. DHILLON, ESQ., PARTNER, DHILLON LAW GROUP, INC.

TESTIMONY OF JIM HOFT

Mr. HOFT. Thank you, Chairman King and subcommittee members, for organizing this important hearing today.

Your colleagues in Congress have provided a lot of air time recently to prominent CEOs of tech companies, who are trying to put me and others with my politics out of business. I thank you for allowing me to speak today instead of the perpetrators.

My testimony today is how the purification of thought has been accomplished by one company with a monopoly hold on the public comments in our internet error. My name is Jim Hoft. I am the owner and founder of The Gateway Pundit website, based in St. Louis, Missouri.

I am known in my business for making some good headlines. Here is today's headline I bring to you. In the runup of the 2016 election, Americans got to choose what they would read in Facebook. Today, Facebook chooses for them.

I grew up in Iowa, and I understand the pulse, the struggles, the hopes, and dreams of middle America. I came to find out that Facebook doesn't like my type. I launched Gateway Pundit in 2004 as a way to report on news that I didn't see in mainstream media. At first I had two or three daily readers, my twin brother Joe and a friend Chris. I was humbled and amazed to see our content grow in popularity over the years, thanks to promotions by Michelle Malkin, Glenn Reynolds, the Drudge Report, and several others.

We provide news coverage and opinion that Americans could not provide (sic) elsewhere. There is no way to account for the demand of our content. On a shoestring budget, we offered something the American people desired, real news. We were ranked by Harvard and Columbia Journalism Review as the fourth most influential conservative publisher in the 2016 election. Our readers, smart, patriotic, and diverse, have not given up on the promise of America. This is who I represent today in speaking to you.

2016 was a transformative year. This was the first election where Americans rejected en masse their legacy media options and turned to the freedom of choice and lack of filter on social media instead, through which they would share, comment on, and connect with websites like ours. The Gateway Pundit business cultivated its audience on Facebook, spending roughly \$70,000 in advertising in 2015, resulting in 600,000 likes for our page.

Over the past 19 months, The Gateway Pundit saw a decline in Facebook traffic from 24 percent of our total website traffic to 2 percent of our website traffic currently. That is an 80 percent decrease in traffic from Facebook.

Recently we analyzed traffic numbers for some of the top conservative publishers in America. What we found was simply shocking. Just as Gateway Pundit has been eliminated by Facebook from

being seen by its readers, Facebook eliminated 93 percent of combined referral traffic to these websites from January 2017 to May 2018. The site Western Journal, and other conservative websites under their umbrella, had more than a billion page views in 2016. Since then, the organization has lost 75 percent of its Facebook traffic. Likewise, Clicked Media, which hosts over 60 conservative websites, lost 400 million page views from Facebook in the last 6 months when compared to the prior year.

With just these two organizations, they have lost more than 1.5 billion page views in the past year from Facebook. After the election, Facebook began making algorithm changes to ensure that conservatives no longer had an option for their users.

Two studies released in March 2018 confirm this. The first study is by outline organization that found conservative publishers were hit the hardest by Facebook algorithm changes, and The Gateway Pundit was actually hit the hardest.

The second study by Western Journal revealed the same startling statistics. Further, this study found that liberal publishers actually increased by 2 percent in traffic during the same testimony frame. In fact, we found that every permanent conservative website from 2016 has either had their Facebook traffic diminished significantly or entirely eliminated. Again, we found that every prominent conservative website from 2016 has either had their Facebook traffic diminished significantly or entirely eliminated. If Facebook were to hold a book burning, they wouldn't have been half as successful as they have been eliminating contrary points of view from being accessed by the American people.

In fact, book burning is benign when compared to what Facebook has silently done to restrict and eliminate diversity of thought. In book burnings, you can see the flames and watch the words disappear. In our case, we were silently and effectively disappeared.

Several top conservative sites are already out of business. If our Fourth Estate is to remain as an effective check, as our Founders intended, we must ensure that political purification of thoughts by one communication corporation, Facebook, is given ample competition. Today that competition is being eliminated. Tomorrow there will be only a few sanctioned voices for the American people. This is not America.

[The statement of Mr. Hoft follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Mr. Hoft.

And now the chair would recognize Ms. Adriana Cohen for her testimony.

TESTIMONY OF ADRIANA COHEN

Ms. COHEN. Members of the committee, thank you for inviting me here this morning to share my personal experience with social media censorship and discrimination. I am a conservative opinion columnist with the Boston Herald. My popular columns championing traditional Republican values and the Trump administration are nationally syndicated. I am also a Boston Herald radio host who interviews congressional lawmakers, leaders of government, including the President of the United States, who has been

a guest on my radio show. I am also a Fox News commentator who appears regularly on the network.

I am being discriminated against by social media networks who are censoring my conservative columns, radio interviews, and posts on its platform. This is a daily occurrence on Twitter, and has been happening for a long time. My well-received conservative column is often the front-page feature in the Boston Herald and gets heavy traction and readership—except on Twitter. Virtually every week, if not biweekly, when the Herald publishes my column, it becomes the number one most read and shared piece on the Herald’s website, or close to it.

But the same exact column isn’t hardly getting any traction on Twitter when I post it there because it is secretly being censored by Twitter, which is why many of my Twitter followers report they don’t see my columns and posts in their feeds.

For example, my Boston Herald column titled “Russia Truth Coming Out,” dated May 22, 2018 was the number one-trending piece on the Herald site. It got 62,300 Facebook shares on the Herald site, and hundreds of comments. But the same column on Twitter got virtually zero traction. To be exact, it got only 11 retweets, 26 likes, and 2 comments.

On April 5th, my column titled “Trump: Exactly Who We Need versus China” was the number one-trending piece again at the Boston Herald’s website, getting heavy traction and engagement. But on Twitter, the same exact column got 9 likes, 5 shares.

Last week, September 20th, my column titled “No Holds Barred in Democrats’ Attacks” was again the number one-trending piece on the Herald site. But on Twitter the same column got 15 likes and 6 retweets. This is just a small sample of the blatant censorship and egregious discrimination I am being subjected to on a regular basis on Twitter.

Please note that not only my popular column’s leading the Herald’s website and getting heavy traction and readership there, it is often picked up by other major media nationally, including the USA Today, the Washington Post, RealClear News, Fox News, and many other outlets, and getting significant traction virtually everywhere except Twitter.

I can provide scores of additional examples. But given the limited time I have for testimony, I am sharing just a tiny fraction of the censorship I am experiencing on Twitter. I am happy to provide additional corroborating evidence for the record upon request.

I have over 16,000 Twitter followers, and the vast majority of them aren’t seeing my columns and posts because they’re being blocked by Twitter. Here are a few examples.

On March 25, 2018, I asked Tony Shaffer—he is blue-check-mark verified—in a direct message if he is seeing my columns in his feed. Mr. Shaffer replied, “Nope. Not seeing them.” On March 25, 2018, I asked Dan Bongino, blue-check-mark verified, if he is seeing my columns in his feed. Mr. Bongino responded, “I have not been seeing the columns. They are messing with me, too. It is a cesspool.”

On September 5, 2018, I sent another message to Dan Bongino to see if he had seen just a tweet I posted about Nike. Mr. Bongino responded, “I didn’t see it, either.” On September 6, I asked Tom Borelli, blue-check-mark verified on Twitter, if he saw my column

I posted on Judge Kavanaugh on his Twitter feed. Mr. Borelli responded, “I did not see it, and I just looked at my feed since last night and didn’t see it, either.”

On June 4, another Twitter follower of mine, RightSideofReagan, told me, “I have been following you, but you never come up on my feed, FYI.” On March 26, Jeff Katz told me on—via direct message on Twitter, “No. Not seeing your stuff in my feed.”

On September 6, Steve Tomkowicz posted on Twitter, “Wow. I check my feed every day and scroll way down. I can’t remember the last time I have seen a tweet from you. This is the first on my feed in quite a while.”

On March 29th, Michael Santoro said, “I follow you, but never see your columns. This happens with other conservatives I follow.” On September 6, Susie Light posted on Twitter, “I NEVER”—“never” in capitalizations—“see your tweets unless you say something like this. I am sorry this happens to you.”

There are many other Twitter followers who tell me they don’t see my posts in their feeds. I am submitting additional evidence for the record. I could go on and on for an hour of screenshots and quotes of my Twitter followers who tell me that they did not see my tweets or columns in their feeds.

I ask the committee to consider this scenario. Imagine if the phone company refused to connect phone calls between two parties because they didn’t like the opinions expressed in the conversation. This is exactly what Twitter is doing to me and thousands of conservatives like me every single day throughout the Nation.

This type of egregious censorship is trampling on my constitutional rights, including my rights to free speech. It is also censoring lawmakers and heads of government agencies because I interview important members of our government, and often include excerpts from those radio interviews in my columns. That means when social media networks block distribution of my conservative columns and podcasts, they are also censoring Members of Congress. This discrimination is hurting the American people, who are being denied access to vital information from government officials, information that impacts their lives.

On Facebook, my posts are also being censored. Many of my Facebook followers tell me they don’t see my columns and posts in their forwards. I reached out to Twitter and Facebook for an explanation on multiple occasions, and have not received a response.

By censoring my columns, podcasts, and television appearances, these social networks are damaging my career as a female columnist, television commentator, and radio personality. They are also hurting other conservative voices, also being solicited. And they are hurting the business sector including my employer, the Boston Herald, the Creator Syndicate, and other outlets who are being denied clicks to its website every time my column and content gets censored by these social media networks.

But most importantly, social media networks are meddling in U.S. elections by allowing its users, who possess liberal viewpoints, unfettered access to its platforms and voters while silencing scores of conservatives. This rigs the electoral system because Twitter and Facebook are giving Democrats the ability to shape public opinion

and connect with millions of voters, while denying that same opportunity to scores of conservatives, including myself.

I have written several columns on this topic that I am happy to submit to the committee. Twitter and Facebook are deceiving the American people—

Mr. KING. Ms. Cohen, I would ask you to summarize your testimony, if you could, please. We're over a couple minutes.

Ms. COHEN. Oh, okay.

Mr. KING. Thanks.

Ms. COHEN. Excuse me. So I just want to say that I have never said anything that is hate speech or anything close to it. So there is no justification whatsoever for social media networks to be silencing a mainstream conservative like myself.

[The statement of Ms. Cohen follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Ms. Cohen.

The Chair would now recognize Mr. Tedesco for his five minutes.
Mr. Tedesco.

TESTIMONY OF JEREMY TEDESCO

Mr. TEDESCO. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you today.

My name is Jeremy Tedesco. I am senior counsel and vice president of U.S. Advocacy with Alliance Defending Freedom. ADF is one of the Nation's most respected legal organizations defending constitutionally protected free speech and free exercise rights for all Americans. Since 2011, ADF has won nine cases before the United States Supreme Court involving issues like legislative prayer, school choice, and the discriminatory treatment of churches.

Empirical SCOTUS recently ranked ADF first among the top-performing firms in its "Supreme Court All-Stars" 2013 to 2017 report because ADF won all four of its decisions before the Court during the five-year period. In addition to its Supreme Court work, ADF's Center for Academic Freedom has won over 400 vacancies for free speech, ensuring that the college campus remains a marketplace of ideas for millions of students and faculty.

We live in a time when the need for productive civil discourse has perhaps never been more urgent. Yet at the same time, the obstacles to achieving it have never seemed more insurmountable. We appreciate this committee's leadership in fostering a commitment to robust debate and dialogue.

ADF, too, is committed to cultivating a society typified by the free speech and free exchange of ideas and respect and tolerance for those with whom we disagree. These deeply-rooted constitutional principles are essential in a diverse country like ours. They enable us to peacefully coexist with each other.

Sadly, several of the most influential technology giants, many of which are integral to the daily lives of millions of Americans, are endangering the vitality of these core American principles. Silicon Valley's digital gatekeepers have frequently represented their platforms as committed to free expression and creating an open marketplace of ideas. But as my written testimony details and as we

have heard today, they have broken their promises by restricting conservative and religious speech over and over again.

The recent push to restrict what they call hate speech exacerbates this threat because, invariably, Silicon Valley and others apply the hate speech label to traditional, widely-held views they disagree with on a range of important topics like immigration, abortion, marriage and sexuality.

These companies further intensify the threat to conservative and religious speech by collaborating with far-left advocacy groups like the Southern Poverty Law Center to enforce their hate speech policies. Commentators across the political spectrum agree that SPLC is a biased, agenda-driven activist group.

Kimberley Strassel wrote, "SPLC exists to spear conservatives and tags you as a hater if it doesn't agree with your views." Left-of-center Politico published an article in which it noted the long-standing criticism that SPLC is becoming more of a partisan, progressive hit operation than a civil rights watchdog.

SPLC's credibility took another enormous hit recently when it issued a public apology and paid nearly \$3.5 million to settle a threatened defamation lawsuit by Muslim reformer Maajid Nawaz, who SPLC had falsely labeled an anti-Muslim extremist.

Yet despite knowing SPL's clear—SPLC's clear bias and partisanship, tech companies continue to collectively partner with SPLC and embrace its intentional smear campaign against mainstream conservative and religious views held by millions. These actions contradict these companies' promises to cultivate civil discourse and free exchange of ideas, and deceive the members of their online communities and consumers who rely on these promises.

ADF itself has already been the victim of this troubling arrangement. Earlier this year, Amazon excluded ADF from the Amazon Smile program, which promises customers that they can donate a small percentage of their purchases to the charitable organization of their choice. Solely because SPLC wrongly labels a hate group. Amazon likewise bars many other conservative and religious charities by relying on SPLC's biased labels.

This is only the tip of the iceberg on how these companies can impact the marketplace. We know from recent news that they sometimes act in concert, excluding disfavored speakers from multiple platforms all at once. The power they wield over free expression and information access is deeply troubling and has real-world consequences for those caught in the crosshairs.

We understand that there is no easy solution to these issues. But at a minimum, Congress should hold additional hearings and use its considerable influence to encourage Silicon Valley companies to abide by their representations. They shouldn't promise and open and robust marketplace of ideas, but then collaborate with biased and discredited groups like the SPLC to shut down one side of an ideological and intellectual debate.

Thank you, and I am happy to answer any questions.
[The statement of Mr. Tedesco follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Mr. Tedesco.

And now the Chair recognizes Professor Waldman for your testimony.

Professor.

TESTIMONY OF ARI WALDMAN

Mr. WALDMAN. Thank you, Mr. Chairman and distinguished members of the committee. Thank you for inviting me here to testify today. My name is Ari Waldman, and I am a law professor. I hold a J.D. from Harvard Law School and a Ph.D. in sociology from Columbia university.

For the last 8 years I have studied how technology mediates our daily lives. I study things like when and how we share personal information, how technology design manipulates our online behavior, and how we can make online spaces safe for everyone, and the legal and regulatory environments in which data collectors like Facebook operate. I also study content moderation and responsibilities of online platforms. Let me note here that although I research and write in this area, I stand on the shoulders of far smarter and more accomplished colleagues, many of whose work I will cite and rely on here today.

A recent article in the magazine *Wired* made an important observation. To communicate anything, the authors wrote, Facebook can't communicate everything. This has always been true of media platforms. Neither *Salon* nor the *National Review* can publish everything.

Content moderation rules do not imply the First Amendment in the traditional sense. We may have—we all may have a First Amendment right, subject to some limitations, to say what we want, free of government's intervention or censorship. But we don't have a First Amendment right to a private company's amplification of our words, whatever James Woods recently said on Twitter or whatever media personalities might want. So let's discuss for a moment how and why platforms actually moderate content. So first, the how.

Content moderation is a complex ecosystem of technology and people. Moderation sometimes happens before content is published, in that time between when you upload and video and when it is actually published or available online. This process is automatic, using data transaction algorithms that screen out things like child pornography or copyrighted material.

After publication, moderators either proactively remove content that violates platform rules, either with extremist or terrorist speech, for example, and outsourced talent is supervised by more experienced content moderators, many of whom work outside the U.S. or at call centers. The top level moderation happens back at headquarters by lawyers directly responsible for content moderation policies and training.

These moderators work very much like judges would. They are trained to exercise judgment based on rules set out by the platforms. And because these rules were created and promulgated by lawyers steeped in the American legal tradition, they reflect the free speech norms many of us learned in law school.

Now, why do platforms do this? They are, as you know, under no legal obligation to do so. They have, however, normative and fi-

nancial incentives to. Every platform designs values into its code; some social spaces are meant to be overtly uninhibited, like 4chan.

One of Facebook’s central values is, for example, to bring people together. As a result, in responsibility—in response to manipulation of the platform by fake news sources, Facebook redesigned its news feed algorithm to privilege and prioritize posts from our friends rather than from media or business pages, resulting in loss of followers for some.

The result is that lots of content gets filtered out, but no moreso from the right than from the left. What I have heard here today on this panel and for the last panel are anecdotal evidence. So, if that is what you want, here is some more.

When victims of racist, homophobic, and sexist tweets and comments post those comments to call out the aggressors, it is often the victims that get banned or suspended. Activists associated with Black Lives Matter—the Black Lives Matter movement have reported just as many, if not more, takedowns of images discussing racism and police brutality than any of the anecdotal evidence of suspicions or takedowns on the right. Facebook has a long history of taking down photos of breastfeeding mothers. In 2014, the company suspended drag performers for using their drag names. An advertisement for a book featuring an LGBT vision of Jesus was also rejected. At a minimum, these kind of things happen, but they happen on the left and they happen on the right. If speakers, conservatives or progressive, would like to get blocked less, they should perhaps stop posting lies, defamatory statements, unfounded conspiracy theories, fake news, and so forth.

James Woods doesn’t have a right to a Twitter megaphone. Neither do racists, homophobes, bigots, misogynists, revenge pornographers, child molesters, sex traffickers, or any number of others. So I would ask some people who have—have the—have had this experience, is it really the case that the platform is discriminating against you because of your views or because of your behavior, which violate platform rules?

So why do platforms do this? Well, content moderation occurs algorithmically. It is subject to problems. Why do these mistakes happen? Why do people get blocked when they think they shouldn’t? Sometimes there are mistakes. Yes, absolutely. Sometimes algorithms make mistakes as well as people make mistakes.

Content moderation on Facebook, however, is part of a larger narrative about how even the lack of even reasonable regulation allows Facebook to take a cavalier approach to our privacy, safety, and civic discourse? But if you want to talk about bias, let’s talk about the real bias online.

Statistically sound social science research from scholars like Safiya Noble and LaTanya Sweeney and researchers at the MIT Media Lab have shown that Google and other platforms are biased. But it is not partisan bias; it is pervasive racial and gender bias, the kind of bias that leads to Google’s auto-complete searches for, “Why are black girls,” for example, with the completed phrase, “so angry” or “so loud,” or the kind of bias that returns pictures of black women when you search for the word “gorilla.”

In her book “Algorithms of Profession”—“Oppression,” Professor Noble culls many of these examples and shows with pinpoint accu-

racy and statistical significance that this happens often, and far more often than anecdotal evidence of this or that person losing followers, and many of those followers were probably board of trustees anyway.

This bias happens because Google isn't simply a machine. It is software. It is made by humans and enforced by humans. And its software sometimes can't even tell the difference between, say, an Asian woman's eyes and eyes that are closed. We know so little about how this works, and we do need to talk about bias. But not the kind of bias that this panel and this committee appears to be worried about.

We need answers to real bias, and those answers may either be readily available through an empowered Federal Trade Commission, or access to platform data and research so academics can investigate how a platform like Google biases and harms marginalized populations.

[The statement of Mr. Waldman follows:]

*******COMMITTEE INSERT*******

Mr. KING. Thank you, Professor Waldman.

The chair now recognizes Ms. Dhillon for your testimony. Ms. Dhillon, I would point to the panel and the members of the committee that we're expecting votes any minute. So it looks like we can actually conclude this hearing at an appropriate time today, and I hope we're able to do that.

Ms. Dhillon.

TESTIMONY OF HARMEET K. DHILLON

Ms. DHILLON. Yes. Thank you, Mr. Chairman and members of the committee and their staff.

I am a trial lawyer in private practice in California, with a focus on—

Mr. KING. Turn on your microphone, please.

Ms. DHILLON [continuing]. With a focus on business, technology, employment, and First Amendment litigation. In my 25-year career, I have represented numerous course subject to discrimination in academia, the workplace, consumer markets, and civil rights matters.

As a Silicon Valley employment lawyer, I have learned that big tech firms systemically and illegally engage in widespread discrimination against American workers on the basis of their gender, race, religion, values, and political affiliations, the latter of which is barred by California law.

Several of these companies employ hiring quotas and preferences to achieve diversity, but not diversity of viewpoint. Google employees who dare to dissent are not only fired but are also publicly shamed, humiliated, labeled, blacklisted, and sometimes pursued after firing with secretive arbitrations designed to punish and even bankrupt them, all with no right of appeal.

My client James Dumore was fired by Google last year because he dared to share, internally within Google, a memorandum he created in response to Google's request for feedback regarding their diversity indoctrination sessions. His memo reflects and discusses widely held views supported by published research regarding dif-

ferences between men and women, and his thoughts about how those differences might be relevant to making Google's workplace more attractive for women.

James fell victim to big tech's war of political correctness and social engineering. And for every James Dumore and his colleagues at Google who publicly and privately seek protection against these abusive practices, there are thousands more whose names will never be heard by this committee.

Indeed, shortly after I filed the lawsuit on behalf of James Dumore and his colleagues, Google moved swiftly for a protective order censoring what information might be publicly disclosed in court filings, and by demanding that James and two of his colleagues submit their claims to separate, individual, private arbitrations.

As a result, most of the employment issues implicated in these cases will never be heard in open court. And both the public and the government may never learn the truth of what occurred or be allowed to consider what actions should be taken to prevent these un-American practices in the future.

The employer's motivation across each of these cases appears to be the same. To impose upon their employees only those progressive values that dictate a redistribution of opportunities and benefits to certain defined classes at the expense of others, with no regard to the human carnage meted on innocent workers who have not themselves discriminated against anybody.

This problem is not restricted to Silicon Valley. I have spoken to or represented employees across the United States facing similar issues. I have shared with my—with the committee my written testimony, two dozen examples of some of the examples of political bias in the workplace I have learned about from the over 100 current and former big tech employees who have contacted my firm within the past year. I have many more examples.

To name but one, a Google employee was fired this year as a direct result of his cooperation with a Federal investigation into the company's illegal labor practices, including work rules that bar employees from discussing their work conditions, one or—one or another, or with third parties in violation of the National Labor Relations Act, as well as bullying and retaliation related to protected labor activities.

When Google found out that this employee was talking to the government, they printed out two years of his internal search history and interrogated him on search queries related to employee rights issues on multiple instances over the course of several months.

Google abruptly suspended and then fired this employee days after the NLRB announced that it was moving forward with his case after over two years of investigative and policy analysis.

The chilling effect of these witch hunts and these decisions cannot be overstated. Big tech's anti conservative bias extends far beyond the confines of labor and employment law, and you have heard some examples here today. In some markets such as digital advertising, big tech companies have near monopoly or duopoly power, such that the lack of competition means consumers are stuck with biased and even discriminatory product offerings.

To give but one recent example from the Wall Street Journal, following President Trump's implementation of a travel ban in January 2017, Google employees discussed internally how to leverage Google's search functions to counter undesirable political viewpoints while promoting pro-immigration organizations and advocacy. They did all of this without informing consumers that they were manipulating the results of the searches.

Google maintains at least nine different blacklists that impact our lives, generally without input or authority from any outside advisory group, industry association, or government agency: the auto-complete blacklist, the Google maps blacklist, the YouTube blacklist, the Google account blacklist, the Google news blacklist, the Google AdWords blacklist, the Google AdSense blacklist, the search engine blacklist, and the quarantine list.

Google advertising sales employees have gone out of their way to inform consumers of sites they should avoid advertising on because the content is "unsafe," such as Breitbart. Google has banned payday lender ads even though it invests in such companies.

Google has taken similar action with respect to bail bondsmen, blocking people from finding legal businesses that are part of our criminal justice system under the guise of banning users from seeing harmful products. Google is not alone.

We have previously heard here about Twitter censorship. Our client, True Pundit, a popular conservative blog which has approximately 270,000 followers on Twitter, has persistently suffered from Twitter's shadow banning, outright banning, and follower-deleting practices.

Mr. KING. Ms. Dhillon, could you summarize, please?

Ms. DHILLON. Yes, sir. Big tech has become an insular fortress of thought coercion and vindictive behavioral control. The culture and tactics of some companies would make Orwell's Big Brother proud, as they often surpass the cult-like thinking described in the book "1984."

These actions are broad-based attempts to completely reclassify or dispense with logic and reason and reshape our economy and our society in a progressive utopian form. Thank you for inviting me here, and I look forward to questions.

[The statement of Ms. Dhillon follows:]

*****COMMITTEE INSERT*****

Mr. KING. Thank you, Ms. Dhillon. I thank, I think, all the witnesses for your testimony.

Now I will recognize myself for five minutes of questions, and I would start with Mr. Hoft, and ask you, Mr. Hoft: Have you written about crisis actors?

Mr. HOFT. You know, that is a term that we get accused of quite frequently. I actually brought some evidence of that. I expected that this would come up. The Washington Post put out an article. I have a picture here with my picture on it, and I am saying it that the Gateway Pundit was behind the crisis actor type. It is a term we never used. We never used this.

And so this is an example of the fake news you would see in—not online, but in the—in the mainstream media, who repeat this.

And it's actually a term that was never published on our site. So—

Mr. KING. Okay. And—but it was in relation to the Parkland shooting. Can you just—can you summarize what you wrote about Parkland shootings?

Mr. HOFT. We wrote several articles about the Parkland shooting, of course. It was a big national story. We cover it extensively. And we were one of the first people to point out that this—one of the spokesmen for the anti-gun groups. His father was in the FBI.

And we said that this video, it looked a little strange. It looks like there was somebody coaching him or something. We just, you know, put it out there. You can decide for yourself. The feedback we got was about 90 percent said yeah, it looked like he is being coached.

So this got us in a lot of trouble with the mainstream media. They reported on this a lot, and Hillary—or Chelsea Clinton's retweeting it, attacking me. But I still stand by that article today. It was—it was a good article. It was good information.

And the fact that they are telling us that we can't even question things today is very distributing.

Mr. KING. Is there a distinction between being coached and being an actor?

Mr. HOFT. Absolutely. Yeah.

Mr. KING. And I am going to—I am going to make this statement. I am not going to ask you. I am going to guess that there is a witness over in the Senate today that is very, very well coached for the testimony that is being delivered as we have this hearing here today.

I am going to argue that that is an equivalent situation, or perhaps even much moreso coaching taking place today.

Mr. HOFT. We know that people get coached.

Mr. RASKIN. I think the President coached Judge Kavanaugh after his disastrous performance on TV that that—you were right.

Mr. KING. I control the time, Mr.—Mr. Raskin, that—I will recognize you in your time.

And then you have given, Mr.—Mr. Hoft, some significant data here, some dramatic reductions. One of them was 90-plus percent, 93 percent in the aggregate. These are Facebook posts altogether.

Mr. HOFT. These were top conservative sites. We looked at—we—there are tracking websites, like SimilarWeb, like—there are a few out there. We use their data. We paid for some data. And we saw that with the conservatives, they were getting completely pummeled since the election. A couple of the top conservative sites have been put out of business.

We looked at liberal sites. And like I said, the Western Journal study found that with liberal sites, their traffic numbers actually went up by 2 percent. SO that is the data we brought today.

Mr. KING. Are you aware of any Members of Congress that are having their communications suppressed?

Mr. HOFT. You know, the Western Journal, again, did a subsequent study. They found that, again, that conservatives were facing more of the backlash. Their—their articles were being hidden by Facebook compared to liberal politicians.

Mr. KING. And so if Members of Congress wanted to be familiar with the effect of that, and familiar with it, is there an outlet that they could access to learn those trendings?

Mr. HOFT. Certainly we put up those—those studies I have—I have brought some extra information today that will be put in the Congressional Record. Like I said, Western Journal did some tremendous reporting on this.

So the information is getting out there. But people don't understand how widespread this is, so thank you for inviting me today to testify.

Mr. KING. But we can't necessarily expect that if you post that information on Facebook, that we can find it there. We should go to your website instead?

Mr. HOFT. Right. You probably better go to the source.

Mr. KING. Ari. Thank you, Mr. Hoft.

I turn to Ms. Cohen, and I appreciate you coming down for your testimony today. And I know you didn't get to the conclusion of your testimony. But you had a lot of data that was stark to me to hear from multiple people that are your communications and friends (sic), and some people I know that can't access your material.

Ms. COHEN. That's right.

Mr. KING. And going from tens of thousands from the Boston Herald down to a mere handful on Twitter.

Ms. COHEN. Exactly.

Mr. KING. Would you please speak to that?

Ms. COHEN. Exactly. And I just highlighted three examples. But I am a prolific writer. I have published hundreds of columns and done hundreds of radio interviews with Members of Congress. I have interviewed Attorney general Jeff Sessions. You name it.

I mean, I am very hardworking. I publish at least two to three times a week. So I am just limiting three examples, but I am happy to provide the committee with rows of examples, how Twitter and Facebook are censoring me.

And I only gave you a small snippet of my Twitter followers who have told me exactly that they can't see my columns in their feeds. These are people who are following me for a reason. They want to read my content and see it, and they can't. And they're on Twitter all the time, so it's not like they missed it or they're only on Twitter once in a while. These are prolific people, my industry peers in television and radio and in print.

And if I could just make a comment. I would like to defend myself and all conservatives from something that Mr. Waldman has said. He is saying that the only reason why social media networks are censoring conservatives is because we make racist posts and we have hate speech. I have done, never, any of those things.

And number two, I would like to ask Mr. Walden if—Waldman if he believes the Declaration of Independence is hate speech because Facebook censored and took down the Declaration of Independence this summer from a community newspaper in Texas. So if that is what you consider hate speech, you don't belong in this country.

Mr. KING. Well, and Ms. Cohen, rather than start a debate, we are going to recognize that as a rhetorical question.

Ms. COHEN. Uh-huh. [Laughter.]

Mr. KING. And I am going to conclude my part of this questioning, and recognize the gentleman from Maryland for his—for his questioning.

Mr. RASKIN. Well, thank you, Mr. Chairman. I think all of our distinguished witnesses belong in America.

But Ms. COHEN, let me start with you. Your story tugs at my heartstrings because I used to read the Boston Herald when I was in college. And you were claiming discrimination against you as a conservative. But I am not even sure what that category means.

Certainly, to the people in this room, as a conservative, do you believe in the free market in communication? Or do you believe in government control of private media entities?

Ms. COHEN. I think it is a really great question that you have brought up.

Mr. RASKIN. You have got to answer succinctly, if you would.

Ms. COHEN. Okay. I want to say this, that normally conservatives do not support, you know, big government and over-regulation.

Mr. RASKIN. But I—yeah.

Ms. COHEN. But with respect to these social media companies, they are a monopoly, effectively.

Mr. RASKIN. Okay. So—

Ms. COHEN. Because this is where the majority of Americans get their news, including voters.

Mr. RASKIN. Okay. Sorry. Just cutting to the chase here—

Ms. COHEN. Yeah?

Mr. RASKIN [continuing]. So you think that Twitter, Facebook, and Google should be regulated by the government in terms of their—

Ms. COHEN. I do. Like a public utility. Because I know you wouldn't support public utilities cutting off their services—

Mr. RASKIN. Okay. I have got your positions. Thank you.

Ms. COHEN [continuing]. To certain individuals.

Mr. RASKIN. If you get the chair to give me 5 more minutes, I will pursue it with you.

But Mr. Hoft, let me—let me come to you. Now, you were allegedly discriminated against by the conservative political action committee, which banned you from the conference, or disinvited you, because of your putative alignment with those saying that the Parkland survivors were crisis actors, or were being coached, or whatever. For whatever reason, maybe they were wrong in doing that.

But did you have a First Amendment claim against them? And should you be able to sue them and get an injunction against them for excluding you from the conference?

Mr. HOFT. Well, they actually made a decision based on the information they had. And I—I believe that was inaccurate information.

Mr. RASKIN. Can you sue them? Should you have First Amendment rights in action against them?

Mr. HOFT. It is—that is not my intention at this point. I was asked not to speak there, and that is fine. That is—

Mr. RASKIN. Okay. So let's say you were banned from MSNBC for the same comments that you made or for your comments with Infowars or whatever. Would you have a right against MSNBC?

Mr. HOFT. If they don't want to have me on, I don't need to go on that channel.

Mr. RASKIN. And Fox News would have the right to exclude you or me or any liberal Democrat. Right?

Mr. HOFT. They have the right to choose who they want on there.

Mr. RASKIN. So why do you think that you have a right to make Facebook or Twitter carry you at all?

Mr. HOFT. That is—That is a great question. Thank you. I think, with Facebook, we see today people get up in the morning, they are looking at Facebook. It is much larger than one—you can choose the channel you want to watch on television.

Mr. RASKIN. A lot of people watch the Fox News.

Mr. HOFT. You can't choose—you can't choose the channel that you want with Facebook. There's no—there's no competition.

Mr. RASKIN. Okay, sir. So are you in agreement with Ms. Cohen—wait. Let me just get it straight.

Mr. HOFT. And by the way, they also—they also have—they also have Instagram.

Mr. RASKIN. Mr. Hoft, I control the time. I am going to ask you, are you agreeing with Ms. Cohen that these are public utilities that can be regulated by the government, and we should be regulating them in terms of their content?

Mr. HOFT. I think some—some laws need to be passed. I think regulation would be a good thing. I think they need to be transparent, too. If they are going to—if they are going to be against conservative thoughts and conservative websites, they need to be honest about that.

Mr. RASKIN. Okay. So Ms. Dhillon, let me come to you because you were actually complaining about employment action, as I understand it, for people working at—I think it was at Google who—

Ms. DHILLON. That was among the topics that I discussed.

Mr. RASKIN. Yeah. So do you believe, as a conservative, that people have a right not to be fired for political reasons by private corporations?

Ms. DHILLON. Well, as I stated in my testimony, that is actually California law.

Mr. RASKIN. Yeah. So in—

Ms. DHILLON. And yes, I believe California law should be applied to people who work in California. Absolutely.

Mr. RASKIN. Okay. And so do you—and you believe that is a general principle, that people should not be able to be fired for their right-wing views, their left-wing views, pro-union, anti-union, what have you?

Ms. DHILLON. I did not say that. You said that.

Mr. RASKIN. I am asking you.

Ms. DHILLON. I said California law—

Mr. RASKIN. I'm asking you. I'm asking. I'm asking you. What is your position? Look—

Ms. DHILLON. I am not here to fantasize about laws that aren't on the books.

Mr. RASKIN. Look. As I said—excuse me. A lot of my colleagues think you guys are just whining, and I am trying to torture out of this some theoretical coherence. So what I am trying to say is: What is the legal or what is the legislative remedy you are looking for? Do you think that workers in America should have a right not to be fired for their politics? Is that the position you are taking?

Ms. DHILLON. I am not taking a position on Federal legislation here. I am talking about the—

Mr. RASKIN. Okay. Well, we're not the California Assembly. Why are you talking to us, then? Go take it to the California court. I thought you had something to say to the Congress of the United States.

Ms. DHILLON. Oh, are you questioning why I was invited here?

Mr. RASKIN. I am asking what you have to say to us.

Ms. DHILLON. It feels like a personal attack.

Mr. RASKIN. Do you have any interest in Federal legislation relating to the rights of workers? Or you are just telling us about a case that you are dealing with in California?

Mr. WALDMAN. I covered a number of topics. But one of them, while we are on the subject of Federal legislation, is Communications Decency Act, Section 230, Immunity. That is something that a lot of the questions here on this panel seems to ignorantly confuse the fact that Fox News is not covered by the immunity (sic), whereas the social media networks are.

I do think that that law needs to be revised to strip that immunity from those companies—

Mr. RASKIN. Okay. So you have no comment as—

Ms. DHILLON [continuing]. Because they do not deserve it.

Mr. RASKIN. Excuse me. You have no comment as to whether or not workers should have a right not to be fired for their politics? You just don't think peer pressure should—

Ms. DHILLON. That is already the law where I practice law. So that is the law am operating under.

Mr. RASKIN. Okay. Mr. Chairman, I have had enough. Thank you.

Mr. KING. The gentleman's time is expired. And the chair once again thanks the witnesses, those on the panel and those on the first panel as well who monitor all of this because they have an intellectual curiosity about where this is going to go, as do I.

And—but this concludes today's hearing. And again, I thank all of our witnesses. Without objection, all members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

This hearing is now adjourned. Thank you.

[Whereupon, at 1:25 p.m., the Subcommittee hearing was adjourned.]

Questions for Professor Mike Adams

1. Professor Adams, in your experience, are some fields of research more hostile to conservative thinking than others?
2. Professor Adams, after your victory in court, do you have a clear picture of what your rights are as a professor under the First Amendment?

Questions for Jim Hoft

1. Mr. Hoft, have you been able to identify how Facebook has curbed traffic to your site?
2. Mr. Hoft, do you think you were targeted by one of Facebook's algorithms, by human review of your content, or by both?

Questions for Adriana Cohen

1. Ms. Cohen, the fact that you are a columnist for a traditional newspaper gives us insight into the traction that your columns receive when it is published by the newspaper versus when it is posted on social media. You state that there is a significant drop-off in traffic on social media despite your columns' popularity in print. Could there be any other explanation for this besides some form of censorship? Do other columns from the Boston Herald receive similar treatment on social media?
2. Ms. Cohen, how do you think you were identified by Twitter as someone to silence? Do you think someone reviewed your Tweets? Do you think an algorithm identified you according to what you were tweeting?

Questions for Jeremy Tedesco

1. Mr. Tedesco, is there a disconnect between what social media platforms promise versus what they deliver in terms of open discourse?
2. Mr. Tedesco, what role does the Southern Poverty Law Center have in the regulation of "hate speech" on social media platforms?

Questions for Harmeet Dhillon

1. Ms. Dhillon, in your written testimony, you describe the bias as being "institutionalized." Can you explain how?

2. Ms. Dhillon, can you explain Google's campaign to punish former employees? How are these ex-employees "publicly shamed, humiliated, labeled, and cast out?"
3. Ms. Dhillon, have employees been harassed and ostracized for how they voted in the 2016 presidential election?
4. Ms. Dhillon, is this bias in part coming from top executives within Google?
5. Ms. Dhillon, how do Google's employment practices reflect on Google products?

