

OVERSIGHT OF THE FEDERAL BUREAU OF  
INVESTIGATION: THE JANUARY 6  
INSURRECTION, DOMESTIC TERRORISM,  
AND OTHER THREATS

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HEARING  
BEFORE THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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# CONTENTS

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## OPENING STATEMENTS

|                                | Page |
|--------------------------------|------|
| Durbin, Hon. Richard J. ....   | 1    |
| Grassley, Hon. Charles E. .... | 4    |

## WITNESSES

|                                     |    |
|-------------------------------------|----|
| Wray, Hon. Christopher A. ....      | 6  |
| Prepared statement ....             | 65 |
| Responses to written questions .... | 76 |



# **OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION: THE JANUARY 6 INSURRECTION, DOMESTIC TERRORISM, AND OTHER THREATS**

**TUESDAY, MARCH 2, 2021**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:01 a.m., in Room 216, Hart Senate Office Building, Hon. Richard J. Durbin, Chairman of the Committee, presiding.

Present: Senators Durbin [presiding], Leahy, Feinstein, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono, Booker, Padilla, Ossoff, Grassley, Graham, Cornyn, Lee, Cruz, Sasse, Hawley, Cotton, Kennedy, Tillis, and Blackburn.

## **OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS**

Chair DURBIN. The hearing will come to order.

Today the Senate is holding its first Oversight hearing of the Federal Bureau of Investigation, the first since July 2019. This is also FBI Director Wray's first appearance on Capitol Hill since the January 6 insurrection. Director Wray, welcome back.

At the outset, I want to extend my condolences for the loss of FBI Special Agents Daniel Alfin and Laura Schwartzenberger, who were killed last month in the line of duty in South Florida.

Tomorrow marks the 8 weeks that have passed since an armed mob stormed the U.S. Capitol, incited, I am sorry to say, by the President Trump administration, and determined to subvert our democracy by disrupting the Electoral College count. As Senate Minority Leader Mitch McConnell said, quote, "There is no question, none, that President Trump is practically and morally responsible for provoking the event of that day."

While this—these efforts to overturn a free and fair election were ultimately unsuccessful, the trauma of that tragic, harrowing day lingers on. This timeless symbol of our democracy still bears the scars of that attack. The attack caused the senseless deaths of Capitol Police Officers Brian Sicknick and Howard Liebengood and D.C. Police Officer Jeffrey Smith.

Countless police officers, staff, journalists, and Members of Congress remain haunted by the sights and sounds of that day: the neo-Nazi symbols and Confederate flags paraded through the hallowed halls of the United States Capitol; a noose and gallows con-

structed on the grounds outside the Capitol; the sinister shouts of “Hang Mike Pence” and “Where is Nancy?”; the extremists carrying zip ties and clad in tactical gear; worst of all, the violent assaults on the U.S. Capitol Police and D.C. Metropolitan Police Department officers who bravely sought to protect us from the siege. The FBI has warned us that the insurrection could be, quote, “a significant driver of violence,” end quote, in the future, along with, quote, “the shared false narrative of a stolen election”, close quote. We must not forget the horrors of January 6 or allow revisionists to re-write what happened that day.

I would like to turn to a video to demonstrate the scale of the violence and the hate that we witnessed.

[Videotape played.]

Chair DURBIN. The hate on display that terrible day is not a new phenomenon in our country. America’s first domestic terror organization, the Ku Klux Klan, was born in the aftermath of the Civil War to terrorize formerly enslaved African Americans. As Judge Merrick Garland noted at his nomination hearing, the Department of Justice was founded during Reconstruction to, quote, “secure the civil rights promised by the 13th, 14th, and 15th Amendments.” He went on to note that the first Attorney General, appointed by President Grant, led, quote, “a concerted battle to protect Black voting rights from the violence of white supremacists, successfully prosecuting hundreds of cases against members of the Ku Klux Klan.”

The insurrectionists who stormed the Capitol on January 6 did not wear white robes and hoods. They might as well have. They are the latest incarnation of violent white supremacist movements that has terrorized fellow Americans on the basis of their race, religion, and national origin for more than 150 years.

Let me be clear at the outset. I have said this on many occasions, and it bears repeating. I condemn all violence, regardless of ideology. I hope my Republican colleagues will join me today in acknowledging, as the Department of Homeland Security found last October, that violent white supremacy is, quote, “the most persistent and lethal threat in the homeland.” I hope they will also join me in unequivocally—unequivocally—condemning the big lie that the November 3 election was stolen, a falsehood which the former President continues to spread, which helped provoke the January 6 insurrection and threatens to incite future attacks.

As the January 6 attack on the Capitol demonstrated, for too long, our Federal Government has failed to address the growing terrorist menace in our own backyard. I have been sounding this alarm for some time. In 2012, I held a hearing in this Committee on hate crimes and domestic extremism following the horrific massacre of six worshipers at a Sikh Gurdwara in Oak Creek, Wisconsin, perpetrated by a white supremacist.

In early 2017, I introduced the Domestic Terrorism Prevention Act with Congressman Brad Schneider, a bill that would enhance the Federal Government’s efforts to prevent domestic terrorism.

During the Trump administration, I led multiple letters to Attorney General Barr—and to you—asking the steps that were taken by the Department of Justice and the FBI to combat the growing threat of white supremacist violence. I asked why the Bureau made the inexplicable decision to stop tracking white supremacist inci-

dents as a separate category of domestic terrorism. I am still awaiting the response.

Meanwhile, the threat posed by domestic terrorists and, in particular, white supremacists and other far-right extremists has only continued to grow: the 2015 mass shooting at Mother Emanuel AME Church in Charleston, South Carolina, where a white supremacist killed nine members of the church; the 2018 mass shooting at the Tree of Life Synagogue in Pittsburgh, Pennsylvania, where a white supremacist killed 11 members of that Jewish congregation; the 2019 mass shooting at the Walmart in El Paso, Texas, where a white supremacist targeted Latinos, killing 23 people; and many, many more.

Far too many Americans, particularly people of color and religious minorities, worry whether their community will be next to be devastated by tragedy. Despite the scope of the violent white supremacist threat, former President Trump and his administration unfortunately downplayed the threat posed by white supremacists. The Trump administration never set up a task force to combat the numerous incidents of deadly terrorist violence by white supremacists and other extremists. It was only after the Black Lives Matter activists protested last summer against police misconduct that the administration found the need to establish a task force to address, and I quote, “anti-government extremists.” A recent report in the New York Times details how the Trump administration’s baseless efforts to paint the far left as the real domestic terrorism threat, quote, “diverted key portions of the Federal law enforcement and domestic security agencies at a time when the threat from the far right was building ominously.”

To put this challenge in context, even conservative writers believe we are now facing a constitutional crisis. For the first time ever, we have failed to have a peaceful transfer of power, and many are questioning the legitimacy of the current administration. The fact that this divisive political force is hateful and violent challenges all of us to redouble our efforts.

I join my Republican colleagues unequivocally in condemning left-wing violence, but let us stop pretending that the threat of Antifa is equivalent to the white supremacist threat. Vandalizing a Federal courthouse in Portland is a crime. It should be prosecuted to the full extent of the law. But it is not equivalent to a violent attempt to overturn the results of elections, nor is it equivalent to mass shootings targeting minority communities. This false equivalency is an insult to the brave police officers who were injured or lost their lives on January 6, as well as dozens of others who have been murdered in white supremacist attacks.

We need to be abundantly clear that the white supremacists and other extremists are the most significant domestic terrorism threat facing the United States today. I hope everyone in this room can look at the facts and acknowledge this and we can come together on a bipartisan basis to defeat this threat.

I would like to turn to Ranking Member Grassley.

**STATEMENT OF HON. CHARLES E. GRASSLEY,  
A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman. Thank you, Director Wray, for being here as opposed to being virtual like we have some people testifying.

We all agree that what happened at the Capitol, January 6, was a desecration of our shared values. It was an attack on the seat of democracy. Those who engaged in violence disgraced our country.

We know the statistics. At least seven people, including one U.S. Capitol Police officer, died as a result of that day. We also know that two officers committed suicide, and we know that hundreds were injured. And, of course, we expect that God watches over them and their families.

Those who broke the law must be prosecuted, and Congress needs answers, especially about one officer, Brian Sicknick, what happened to him.

In pursuit of the facts relating to January 6, Senator Durbin and I have sent Oversight letters to the FBI and other agencies. To date, we have not received any productions. It is difficult to hold a hearing today without records, so the FBI must fully respond to Congress.

However, I am pleased to see that many investigative cases are progressing around the country. As I have noted before, the ultimate responsibility for this attack rests on the shoulders of those who unlawfully entered the Capitol. I have also made very clear that everyone involved must take responsibility for their actions that day, including our former President.

In the wake of January 6, we must seriously examine the threats of domestic extremism. Unfortunately, this threat is not limited to the events of that terrible day. To fully address it, we must examine the forms of domestic extremism that span the ideological spectrum. I hope this does not put me opposite Senator Durbin on this issue because I just heard him, and I do not think I disagree with anything that he has said.

But a narrow review of these matters would be intellectually dishonest. We are not serious about tackling—tackling domestic extremism if we tolerate mobs that attack some police officers but not all police officers.

We are not serious about tackling domestic extremism if we care about some Government buildings being attacked but not others.

We are not serious about tackling domestic extremism if we only focus on white supremacy movements, which is not the only ideology that is responsible for murders and violence.

Yes, white supremacy movements may be considered the most dangerous at a given time, but somehow it was not last summer or won't be when the next foreign attack is attempted. We must call extremism, wherever it happens, across the board, left or right, every time. We must focus our resources to try to see as much of it coming as we possibly can, wherever it comes from.

It hardly registered in the media when Marshals and Secret Service officers defended courthouses and the White House. That is not Senator Durbin's fault. That is the media's fault. They were called "stormtroopers" by the Speaker of the House, like they were not even human beings. Vice President Harris, when she was a

Senator, supported the Minnesota Freedom Fund, an organization that helped bail out violent rioters in Minnesota. Thirteen staffers of a candidate for President at that time boasted on Twitter that they donated to the group. According to one news report, the group paid \$75,000 to get one man out of jail when he was charged with attempted murder for allegedly shooting at a police officer during the May protests.

One of the most upsetting aspects of the violence this summer has been the targeting of innocent law enforcement officers, just like innocent law enforcement officers were targeted during January 6. We had more than 700 officers being injured between May 27, last year, and June 8, last year.

Officers have been assaulted, slashed, struck with hammers and baseball bats, and blinded by lasers. Sixty-seven Secret Service officers were injured during a 3-day siege on the White House, which caused then-President Trump to be brought into a secure bunker. We also remember on television seeing our colleague from Kentucky having a hard time getting to the White House when he wanted to go there sometime last summer. We also had the church across the street—was lit on fire, across the street from the White House, as a part of that continued left-wing assault.

More than 300 people were charged federally for their roles in those months of violence. Eighty of those charges related to the use of arson and explosives. At least 14,000 people were arrested in 49 cities. At least 25 people died in violence related to the riots.

There has been 280 arrests as a result of the January 6 attack compared to more than 1,000 arrests as a result of riots just in Portland last year. It has been estimated that the insurance losses of the summer's civil unrest possibly exceeded \$2 billion dollars.

It has been a relatively frequent sight at the summer's violent events to see individuals acting in coordination, holding the "A" symbol for Antifa. As I said before, I do not disagree with anything I heard Senator Durbin say this morning. But we did have an admitted Antifa adherent in Portland murder a conservative protester. Supporters of that group have been charged federally for violence—promoting riots and using Molotov cocktails. Even after President Biden's electoral victory—can you believe this? Antifa rioters attacked the Oregon Democratic Party headquarters, and they did that on Inauguration Day. You would think the results of the election ought to satisfy them, if that is what they wanted to accomplish in an anti-Trump manner of getting rid of President as Trump—Trump as President.

Let us not forget about the left-wing activist who opened fire on 24 Republican Congressmen and hit a Capitol Police officer, a Congressional aide, a lobbyist, and Representative Steve Scalise at a baseball field in Alexandria, Virginia. And, of course, our colleague on the other side of the aisle had life-threatening injuries at that time.

In light of these ever-present left-wing threats, I am concerned about "resource shifting" talk among our colleagues across the aisle.

Let me say this clearly: We are not going to defund the anarchist extremism program or any other domestic terrorism program. It

cannot be that the FBI needs a fully funded art theft program but cannot afford to fight both right-wing and left-wing extremism.

We must examine the issue of domestic terrorism broadly, very broadly, to include all forms of political extremism, domestic terrorism, wherever it falls on the political spectrum. No serious oversight activity and no other policy decisions can be made without doing both.

As we move forward, I encourage both Houses of Congress to review not just the events of January 6, but also domestic violent extremism across the board and the threat it brings to our families and communities. Let me emphasize three times now, nothing I heard Senator Durbin say do I disagree with. But we need real answers on extremist involvement, on pre-planning and coordination, and we also need to know what happened to Officer Sicknick.

In closing, I want to express my sincere thanks and appreciation for law enforcement and, in particular, the Capitol Police for their efforts on the job and during the terrible events of January 6. They are truly heroes.

I yield. Thank you.

Chair DURBIN. Thank you, Senator Grassley.

Director Wray, would you please stand to be sworn. Do you affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Director WRAY. I do.

[Witness is sworn in.]

Chair DURBIN. Thank you. Let the record reflect that the Director answered in the affirmative, and now, Director, you may proceed with your testimony.

**STATEMENT OF HON. CHRISTOPHER A. WRAY, DIRECTOR,  
FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC.**

Director WRAY. There we go. So, good morning, Chairman Durbin, Ranking Member Grassley, and Members of the Committee. I appreciate the opportunity to be here today to talk about the great work of the men and women of the FBI. Let me start with a quick update on the investigation into the January 6 attack here at the Capitol.

I was appalled, like you, at the violence and destruction that we saw that day. I was appalled that you, our country's elected leaders, were victimized right here in these very halls. That attack, that siege, was criminal behavior, plain and simple, and it is behavior that we, the FBI, view as domestic terrorism. It has got no place in our democracy, and tolerating it would make a mockery of our Nation's rule of law.

The rule of law, of course, is our country's bedrock, and it is our guiding principle at the FBI. That is why the FBI has been working day and night across the country to track down those responsible for the events of January 6 and to hold them accountable. We are chasing down leads, we are reviewing evidence, combing through digital media to identify, investigate, and arrest anyone who broke the law that day. Our greatest partner in this investigation has been the American people themselves, your constituents.

Citizens from around the country have sent us more than 270,000 digital media tips. Some have even taken the painful step

of turning in their friends or their family members. But with their help, we have identified hundreds of suspects and opened hundreds of investigations in all but 1 of our 56 field offices. Of those identified, we have arrested already more than 270 individuals to date, over 300 when you include the ones of our partners, with more subjects being identified and charged just about every single day.

The FBI is committed to seeing this through no matter how many people it takes or how long or the resources we need to get it done, because as citizens, in a sense, we are all victims of the January 6 assault, and the American people deserve nothing less.

Unfortunately, as you noted, Mr. Chairman, January 6 was not an isolated event. The problem of domestic terrorism has been metastasizing across the country for a long time now, and it is not going away anytime soon. At the FBI, we have been sounding the alarm on it for a number of years now. I have been sounding the alarm about domestic terrorism since, I think, just about my first month on the job when I first started appearing up on the Hill, and I have spoken about it in maybe a dozen different Congressional hearings. Whenever we have had the chance, we have tried to emphasize that this is a top concern and remains so for the FBI.

In fact—in fact, we viewed it as such a critical threat that back in June 2019, under my leadership, we elevated racially and ethnically motivated violent extremism to our highest threat priority, on the same level with ISIS and homegrown violent extremists, where it remains to this day.

Now, I am sure we are going to cover a lot of ground today, but let me make one thing clear. The FBI will not tolerate agitators and extremists who plan or commit violence, period. That goes for violent extremists of any stripe.

As I have said many times, we do not investigate ideology, but we focus on acts of violence and violations of Federal law. When we see those—when we see those—we will bring to bear the full weight of our resources, our experience, and our partnerships. When domestic violent extremists use explosive devices, when they attack Government facilities and businesses, when they assault law enforcement officers, when they use violence to interfere with the lawful operation of our Government, they should expect the FBI to come knocking on their door, no matter where they try to run.

Now, of course, these are not the only issues the FBI is focused on every day, and as I hope we will discuss in more detail this morning, we confront a wide variety of threats in countless other forms, like the SolarWinds intrusions, which we are working to investigate and counter with our intelligence, law enforcement, and private sector partners, both here and abroad, not to mention a huge range of other cyber threats from nation-states, criminals, and toxic combinations of the two.

Like the vast, unrelenting counterintelligence threat from China and, of course, the alarming threat of violence toward law enforcement officers—a threat that is especially close to home here in the Capitol. The attack on January 6 not only resulted in the injuries of over 100 law enforcement officers but also the tragic death of U.S. Capitol Police Officer Brian Sicknick in the line of duty.

The threat of violence to law enforcement is also deeply personal for us at the FBI. Just 1 month ago today, two of our special

agents, Laura Schwartzenberger and Dan Alfin, were tragically killed in the line of duty, and four more of our agents shot or wounded, all while serving a search warrant. I can tell you that there is nothing—nothing—more devastating, more heartbreaking, than the loss of our own, the loss of two special agents who not only bravely did what I consider one of the hardest jobs in the FBI, investigating crimes against children, but who were also each parents of young children themselves, of their own—a wife, a husband, and cherished members of their communities. I know a number of Members of Congress, including a number on this Committee, reached out and offered their condolences and offerings of support, and I want you to know how much that means to the FBI and how much it means to me personally.

Special Agents Laura Schwartzenberger and Dan Alfin sacrificed their lives that day like far too many of our law enforcement brethren also killed in the line of duty. Their ultimate sacrifice was not in vain. It was to protect the American people. It was to protect each of us. It is why no matter what comes our way, our work to safeguard the rule of law, to protect the American people, and to uphold the Constitution goes on and will never stop.

Thank you for the opportunity to speak with you today. I look forward to answering your questions.

[The prepared statement of Director Wray appears in the appendix.]

Chair DURBIN. Thanks, Director.

We will have 7-minute rounds for Members to ask questions. Let me start, and as you said at the outset, we could spend the better part of a day or beyond that with all the topics of importance involved in the FBI, but I really have to stay with the January 6 situation.

There is a lot of confusion about the planning and coordination by Federal, State, and local law enforcement agencies in the days leading up to the attack on the Capitol. I was surprised to learn the FBI did not issue a threat assessment before January 6, especially because the FBI's Norfolk, Virginia, Field Office had uncovered specific threats against Members of Congress, maps of the tunnel system under the Capitol Complex, and places to meet before traveling together to Washington.

I was also surprised to hear Acting D.C. Metropolitan Police Department Chief Robert Contee say that his information was only conveyed to the MPD in an email at 7 p.m. the night before January 6. Chief Contee acknowledged that the information was raw intelligence but said he would think, quote, "something as violent as an insurrection at the Capitol would warrant a phone call or something," close quote.

So, it comes down to the basic question of what the FBI knew, when they knew it, whether they shared it, why it did not rise to the level of a threat assessment.

Director WRAY. Mr. Chairman, I welcome the question. You touched on a number of points there.

First, let me say that we were, in the period leading up to January 6, tracking a large amount of information about large numbers of people coming to participate in protests and about the potential for violence. The one specific piece of information that you referred

to, the information from our Norfolk Field Office, has gotten a lot of attention. This was what is called a "Situational Information Report." It was prepared by our Norfolk Field Office specifically for dissemination. It was, as you noted, raw, unverified, uncorroborated information that had been posted online. My understanding was that that information was quickly, as in within an hour, disseminated and communicated with our partners, including the U.S. Capitol Police, including Metro PD, in not one, not two, but three different ways.

Chair DURBIN. When? Can you be more specific about time?

Director WRAY. Sure. Yes, three different ways. So, first, there was an email, as you said, to our Joint Terrorism Task Force, which includes—the Joint Terrorism Task Force includes task force officers specifically selected by their chiefs who participate on the Joint Terrorism Task Forces for the very reason to be that chiefs, that department's, eyes and ears so that they get the information real time—their departments do. That is the first piece.

Second, in addition to the email, verbally, through the command post briefing that we had, because we had stood up command posts both in the Washington Field Office and at Headquarters, and those command posts included, again, representatives of the relevant agencies—Capitol Police, MPD, et cetera—verbally the same information was walked through again.

Third, in addition to the email, in addition to the verbal briefing at the command post, there was—the information was posted on what we call "LEEP," which is a law enforcement portal, which is made available to law enforcement not just here in the National Capital Region but all around the country.

Now, again, the information was raw. It was unverified. In a perfect world, we would have taken longer to be able to figure out whether it was reliable, but we made the judgment; our folks made the judgment to get that information to the relevant people as quickly as possible, like I said, three different ways, in order to leave as little as possible to chance.

Now, I did not see the report myself even until after the 6th, but the way in which it was handled, at least as I understand it, strikes me as consistent with our normal process.

Chair DURBIN. Director Wray, I was surprised to see the reporting that dozens of individuals on the terrorist screening data base, also known as the "terrorist watchlist," traveled to DC in the days leading up to the attack. I would have expected the FBI's Terrorist Screening Center to be aware of air travel by watchlisted individuals to the Washington, DC, area.

Did the TSC notice an uptick in travel by watchlisted individuals before January 6? If yes, what steps did they take, or did the FBI take, in more general terms, to make sure other departments and agencies knew these dangerous individuals were on their way to the Capitol?

Director WRAY. When it comes to the watchlist, I think there are a couple things I could say here today. One is I do know that in a number of instances, there were individuals on whom we had previously predicated investigations that we saw getting ready to potentially travel. These are not large numbers, but a handful of people. In those instances, and in a—in a number of instances, we

had agents in their home States or home cities approach those individuals, interview them. Even if we did not have a basis to charge somebody, it dissuaded a number of those people from traveling.

I guess the second thing I would say is that sometimes there is a little confusion on the whole watchlisting concept. There is the true no-fly list, which is what applies to individuals who, under the rules, provide a threat to aviation itself. Then there is what we sometimes refer to as “selectees,” which are individuals that cannot necessarily be barred in the same way from traveling, but in which there is notice given to the agents investigating those individuals, and that information is then passed on. So, in a number of instances, that—that happened in the period leading up to the 6th. I do not have numbers for you, though.

Chair DURBIN. I just have a minute left, but I want to address what I consider the next big lie after the lie that the President really won on November 3, President Trump. The next big lie appears to be the argument that somehow or another those were not Trump supporters who invaded the Capitol. It made the rounds on the internet right before they came into the building, and it has been gaining momentum ever since.

I would like to ask you, Director Wray, do you agree that the Capitol attack involved white supremacists and other violent extremists?

Director WRAY. Certainly, the Capitol attack involved violent extremists. As I said, we, the FBI, consider this a form of domestic terrorism. It included a variety of backgrounds. Certainly, there were quite a number—we are seeing quite a number as we are building out the cases on individuals we have arrested for the violence—quite a number who are what we would call sort of “militia violent extremists.” So, we have got a number who self-identify with the Proud Boys or the Oath Keepers, things like that.

We also have a couple of instances where we have already identified individuals involved in the criminal behavior who we would put in the racially motivated violent extremists, who advocate for what you would call “white supremacy.” There have been some of those individuals as well.

One of the things that is happening as part of this is that as we build out the cases on the individuals when we arrest them for the violence, we are getting a richer and richer understanding of different people’s motivations. But certainly, as I said, militia violent extremism, some instances of racially motivated violent extremism, specifically advocating for the superiority of the white race.

Chair DURBIN. Based on your investigation so far, do you have any evidence that the Capitol attack was organized by, quote, “fake Trump protesters?”

Director WRAY. We have not seen evidence of that, at this stage certainly.

Chair DURBIN. Thank you. Senator Grassley.

Senator GRASSLEY. We all want to know what happened to Officer Brian Sicknick, a tragic death as a result of that January 6 assault. There have been conflicting reports about his cause of death. Have you determined the exact cause of death? And is there a homicide investigation?

Director WRAY. I will take the last part of your question first. There is an ongoing investigation into his death. I have to be careful at this stage, because it is ongoing, not to get out in front of it, but I certainly understand and respect and appreciate the keen interest in what happened to him. After all, he was here protecting all of you, and as soon as there is information that we can appropriately share, we want to be able to do that. But at the moment the investigation is still ongoing.

Senator GRASSLEY. So, does that mean since the investigation is going on, you have not determined the exact cause of the death?

Director WRAY. That means we cannot yet disclose a cause of death at this stage.

Senator GRASSLEY. But you have determined the cause of death.

Director WRAY. I did not say that. We are not at a point where we can disclose or confirm the cause of death.

Senator GRASSLEY. Okay. It is important for the Committee to fully understand the FBI's caseload regarding domestic extremism cases. I have a series of data-driven and data-centered questions for you that I will give a list of these in sequence. I would prefer the answers now, but if you do not have them, I will accept those answers after the hearing, as long as you commit to do so. This is the series of questions.

What percentage of your investigation regarding January 6 are predicated as racially motivated violent extremist or white supremacist-originated individuals? Second, what percentage are other extremist ideologies, domestic violent extremists, homegrown violent extremists, and international extremists? How many total FBI investigations are ongoing? Of that figure, one, how many are motivated by jihadist ideology? How many are motivated by white supremacy ideology? And how many are motivated by left-wing anarchist ideology? We need data, and I hope you see our need for this data. Can you answer those now, or do you want to get back in writing?

Director WRAY. Well, I will certainly get back to you. I am aware that we have gotten a letter that goes through, in quite detail, a number of specific data requests, and we are working on that response as we speak. There are probably some things I could say sitting here right now.

As I said to the Chairman, although I do not have the percentage for you, the attackers on January 6 included a number—and the number keeps growing as we build out our investigations—of what we would call “militia violent extremism.” We have had some already arrested who we would put in the category of racially motivated violent extremism, white, as well. Those would be the categories so far that we are seeing as far as January 6.

Now, looking back bigger picture, because I think the rest of your question goes more to our caseload overall, I can say a number of things on that. In terms of domestic violent extremism, domestic terrorism, that number is now—has grown steadily on my watch, so we have increased the number of domestic terrorism investigations from around 1,000 or so when I got here to up to about 1,400 at the end of last year to about 2,000 now. That is domestic terrorism overall.

When it comes to racially motivated violent extremism, that number, again, number of investigations and number of arrests, has grown significantly on my watch. The number of arrests, for example, of racially motivated violent extremists who are what you would categorize as white supremacists last year was almost triple the number it was in my first year as Director.

Senator GRASSLEY. Okay.

Director WRAY. When it comes to anarchist violent extremists, which is another category that you asked about, that number has also grown over the course of my tenure. Last year, I think, we had more arrests of anarchist violent extremists than in the prior 3 years combined.

Senator GRASSLEY. Can I stop you there?

Director WRAY. Yes.

Senator GRASSLEY. Because you have done a good job of giving an overall view, and I assume in writing we can get specific answers, and the numbers are very important, data is very important.

Former Acting DHS Secretary Wolf has stated, quote—not quote, that the lack of visibility into the anarchist extremist movement may have caused the Federal Government to be underprepared for the riots this summer. Former Attorney General Barr stated that the FBI has robust programs for white supremacy and militia extremism, but a significantly weaker anarchist extremism program. So, unless you disagree with Wolf or Barr, how do you plan to make your left-wing anarchist extremism program as robust as your white supremacy and militia extremism program?

Director WRAY. Well, I think that is a long and complicated question to answer in a sentence, but I will give you a few things for right now. One is, I think, as with any domestic terrorism threat or, frankly, any counterterrorism threat more broadly, we are always looking to develop more and better sources so we get more visibility and insight into the plans and intentions, tactics, procedures, et cetera, of any group of violent extremists.

Another is to get better at learning how to navigate around some of the operational trade craft that they use. So, the more times, the more arrests we see—and this is relevant both for the anarchist violent extremists and for the racially motivated violent extremists, for example. The more arrests that you see, while that is obviously good news for everybody, that we are arresting people who need to be arrested, there is a whole other part of that that is really important that I want to emphasize, which is the more arrests we make, the more from those cases we learn about who else their contacts are, what their tactics are, what their strategies are, et cetera, and that makes us smarter and better able to get in front of the threat going forward.

Senator GRASSLEY. Mr. Chairman, can I ask one very short question that I think will give a short answer? Then I will submit questions in writing if we do not have a second round.

Why hasn't the FBI produced the January 5, 2021, Norfolk memo to Congress?

Director WRAY. That information is law enforcement-sensitive. I am aware of the interest, and I think part of the reason it had been withheld in consultation with the Department had been the ongoing

ing investigations that we have. But I certainly understand the interest, and I can commit to you that I will get with my staff and see if we can make that available.

Senator GRASSLEY. Thank you.

Chair DURBIN. Senator Leahy, by remote.

Senator LEAHY. Am I unmuted now, Mr. Chairman?

Chair DURBIN. Yes, you are.

Senator LEAHY. Thank you.

Director Wray, thank you for being here. I do not envy you, your job at all. It—for those of us who have been here a long time, we have seen the changes, dramatic changes that go on in what you face.

You have always spoken the truth about the threat of domestic terrorism, and I know that sometimes it has been politically difficult to do so. You have to deal with reality. You cannot deal with politics. I will ask you a few quick questions, beginning with: Do you stand by your previous testimony that white supremacist extremism is the dominant, most persistent source of domestic terrorism threats we face today?

Director WRAY. Sorry, I could not hear the last part of the question, which I think may be the key parts. I just want to make sure—

Senator LEAHY. Yes, let me—do you stand—do you stand by your previous testimony, that white supremacist extremism is the dominant, most persistent source of domestic terrorism threats we face today?

Director WRAY. I would certainly say, as I think I have said consistently in the past, that racially motivated violent extremism, specifically of the sort that advocates for the superiority of the white race, is a persistent, evolving threat. It is the biggest chunk of our racially motivated violent extremism cases for sure, and racially motivated violent extremism is the biggest chunk of our domestic terrorism portfolio, if you will, overall.

I will also say that the same group of people we are talking about have been responsible for the most lethal attacks over the last, say, decade.

Senator LEAHY. When I look at what happened on January 6, it appears that right-wing white supremacist groups played an instrumental role in the violent assault. Is that your conclusion also?

Director WRAY. Well, let me answer that this way—I think we are basically saying the same thing. We don't tend to think—we at the FBI do not tend to think of violent extremism in terms of right-left; you know, that is not a spectrum that we look at. What I would say is that it is clear, as I think I said to Chairman Durbin, that a large and a growing number of the people that we have arrested so far in connection with the 6th are what we would call "militia violent extremists"—"militia violent extremists," and then there have been some already that have emerged who I would have put in the racially motivated violent extremist bucket—again, advocating for the superiority of the white race.

Senator LEAHY. I understand from your testimony previously that you did not see Antifa or left-wing groups playing a significant role in the January 6 insurrection.

Director WRAY. Certainly, while we are equal opportunity in looking for violent extremism of any—of any ideology, we have not to date seen any evidence of anarchist violent extremists or people subscribing to Antifa in connection with the 6th. That does not mean we are not looking, and we will continue to look, but at the moment we have not seen that.

Senator LEAHY. What you do is you look, as somebody in law enforcement should, you look at where the crime was and who committed it and you go after that, not from some kind of political vendetta, but you committed the crime, we will go after you. Is that too simplistic a way of stating it?

Director WRAY. No, no, not simplistic at all. I think a very, very important point that you are making there and something that is very important to us at the FBI, we focus on the violence, and the violations of Federal law. Then the ideology comes into it as a further piece of the puzzle as we build out the case. But our focus on the violence, we do not care what ideology motivates somebody. As Judge Garland, I think, himself said just last week, we do not care whether it is left, right, up, down, diagonal, or any other way; if the ideology is motivating violence and it violates Federal law, we are coming after it.

Senator LEAHY. Well, I know you are going to come before our Appropriations Committee—Senator Durbin and I are on that, and others—for a classified briefing, and so I will not go into some of the classified parts. But we are going to talk to you, and I am certainly, as Chair of that Committee, very interested in resources. You have got a finite number of resources, and you have an infinite number of problems. You have to prioritize them.

I had heard reports that the previous administration diverted FBI resources away from countering white supremacist violence toward an objectively lesser threat of left-wing violence. Were you directed at all to shift resources away from right-wing extremists?

Director WRAY. We did not receive direction to nor did we separate or divert resources away from tackling racially motivated violent extremism, white, over to anarchist violent extremism or anything along those lines. In fact, as I have said, we—I—elevated racially motivated violent extremism, the vast majority of which is of what you would call “white supremacist violence,” to our highest threat priority where it has stayed, and that drives resources, that drives the collection requirements for all of our field offices. I think the results speak for themselves. We have significantly grown the number of investigations and arrests in the category that you are asking about. It was up to about 1,400 by the end of last year, and it is up to about 2,000 now, which is double where it was at the place when I started this job.

Senator LEAHY. Well, that is what I would expect you to do, go where the crimes are and go after it. But we have seen a lot of hate crime, certainly concerns of the hate crimes against Asian Americans. I was the lead cosponsor of the Matthew Shepard Hate Crimes Prevention Act. But now when we see the increases—a recent FBI report indicates that 87 percent of law enforcement agencies participating in the FBI’s hate crime data collection have reported zero hate crime incidents within their jurisdiction. Do you think that is accurate?

Director WRAY. Well, certainly, we are constantly trying to improve the quality and quantity of reporting on hate crimes. I think we know that historically hate crimes are underreported. Having said that, it is not necessarily the case that every department out there in the country is going to have had a hate crime in its jurisdiction in the course of any given year. We have focused a little bit less on whether—the percentage of departments that report it. We do want the percentage of departments who are cooperating and voluntarily responding to go up, and we focus more on whether or not the growth in the number of hate crimes reported overall seems to be building or not.

Senator LEAHY. Certainly, I will have other questions for the record, but you have testified before about a fusion cell developed to address both hate crimes and domestic terrorism. Has that been helpful?

Director WRAY. It has. What you are referring to is something that I put in place, I guess, about 18 months, maybe 2 years ago. I created a Domestic Terrorism Hate Crimes Fusion Cell which brought together—because a lot of these crimes could fit either into a domestic terrorism bucket or a hate crimes bucket. What I was worried about was making sure that within the FBI we did not have a left hand, right hand problem. So, we brought together people focusing on both into a single fusion cell with the goal of trying to be proactive against some of the threats that are coming.

One example that I will cite that we are particularly pleased with, which I think is an indication of the success the cell is having, is we were able to get in front of and prevent an attempted, I think, explosives attack on a synagogue in Colorado. That, I think, is largely a credit to the fusion cell, which was able to kind of help us figure out how to get in front of those kinds of attacks.

Chair DURBIN. Thank you, Senator Leahy.

Senator LEAHY. Thank you. Thank you, Mr. Chairman.

Chair DURBIN. Senator Graham.

Senator GRAHAM. Thank you. Director Wray, I am going to try to look forward. Then we will talk a little bit about January 6.

Do you think the National Guard presence at the Capitol at the level we have today should continue? If so, for how long?

Director WRAY. You know, Senator, I am not sure that I am really the best equipped to evaluate the National Guard presence.

Senator GRAHAM. Okay. Fair enough. Fair enough. You are the best equipped to talk about the capability of the FBI. Do you have enough people and resources to deal with all the threats we have been talking about this morning?

Director WRAY. Well, needless to say, Senator, I welcome and appreciate the question. Everywhere I go someone has really good ideas about things they think the FBI should be doing more of. But, I have not found very many people with great ideas, at least responsible ideas, of things the FBI could be doing less of, and so our folks are busting their you-know-what's to try to deal with all these threats. We need more agents. We need more analysts. We need more data analytics, et cetera.

Senator GRAHAM. Let us just stop there because we need to learn as much as we can from January 6. This is the 20th anniversary

of 9/11. Are you concerned about international terrorists paying us a visit?

Director WRAY. Absolutely.

Senator GRAHAM. Okay. Are you concerned about the interaction between international terrorists and domestic terrorists?

Director WRAY. That is a growing phenomenon, certainly something we are watching with concern.

Senator GRAHAM. One of my great concerns was that as people float into the Capitol with backpacks on, you had no idea who they were and what they were carrying. So, it would have been very easy for some international terrorist group to infiltrate this crowd. Do you agree with that?

Director WRAY. I do think it would have been easy for that to happen. I do not know that we have seen evidence that it did happen, but that is certainly one of the specific things we are looking for.

Senator GRAHAM. After the attack, don't you think international groups are seeing this as a vulnerability in our system?

Director WRAY. I am sorry. I could not hear that.

Senator GRAHAM. International terrorist groups may have found a way to get closer to the Capitol by integrating themselves into domestic political movements?

Director WRAY. Well, certainly, we think the events on January 6 have been at a minimum an inspiration to a number of terrorist extremists out there and may even have been worse than that.

Senator GRAHAM. So, here is my challenge to you: Sit down and put pen to paper and think big, not small. What do you need that you do not have in terms of agents and resources? And put it to paper. I am on the Appropriations Committee with Senator Durbin. Many of us here are. I think we have got an opportunity here to plus you up.

Is it fair to say that since 9/11, domestic terrorism has exploded as a threat?

Director WRAY. Well, it has certainly grown dramatically.

Senator GRAHAM. Okay. Grown dramatically, which takes resources to combat. Is that correct?

Director WRAY. Yes.

Senator GRAHAM. Has the FBI grown dramatically since 9/11?

Director WRAY. Not as dramatically as the threat.

Senator GRAHAM. Okay. So, what I want you to do is take the number of agents and resources you had on 9/11 and tell us where you are at today and make sure that we understand that the threats you are facing are much greater than they were 20 years ago and challenge us to give you the resources to meet those threats.

Back to January 6. Is it fair to say as Director of the FBI you were not informed of the raw intelligence coming from the Norfolk office? Is that correct?

Director WRAY. Not before January 6.

Senator GRAHAM. Okay. So, this was an internet posting that somebody captured?

Director WRAY. My understanding is that this was information posted online under a moniker or a pseudonym. It was unvetted, uncorroborated information, but it was—and it was somewhat aspi-

rational in nature. But it was concerning. It was concerning and was specific enough that our folks in Norfolk thought the need to get it out, even if we had not had a chance to corroborate it or vet it.

Senator GRAHAM. Okay. Looking back, what would you have done differently with this information? Because this is a hard one. You get something on the internet that is concerning. You do not know if it is true or not. You capture it. What are the lessons learned in terms of how we could have acted better on that information?

Director WRAY. I think we are—the truthful answer is we are still looking at that. You know, I look at intelligence, both collection, analysis, dissemination. We need to get better at collecting, obviously, but the key part here was we often do not have the luxury of time to analyze this information before it gets disseminated. In this instance, our folks in Norfolk and Washington field made the judgment that—and I think it was a reasonable judgment—to get the information, like I said, in three different ways to their partners, even though they did not know whether it was going to turn out to be accurate.

Senator GRAHAM. Let us play that out a bit. Let us say it made it up to the top levels of the Capitol Police intelligence units to the head of the Capitol Police force. Given that raw intelligence, what would you expect them to have done differently?

Director WRAY. You know, I really want to be careful not to be an armchair quarterback here.

Senator GRAHAM. See, that is the problem, because I do not know how to answer that question myself, because you can capture stuff today that may foretell an attack tomorrow, but how much—this is a problem. I just do not want people to run down the road, “There is an intel screenshot—”, I mean, “There is a screenshot on some computer somewhere, we need to turn the whole Government upside down.” It is just a tough situation.

Is the Proud Boys—are they a domestic terrorist group?

Director WRAY. Well, I do not think we have treated the Proud Boys itself as a domestic terrorism group, but we certainly have individuals—

Senator GRAHAM. What does it take to make the list?

Director WRAY. Well, there is, as you may know, Senator, under Federal law, under U.S. law, there is no list of domestic terrorist organizations the same way there is for foreign terrorist organizations.

Senator GRAHAM. Well, let us think about that for the next 47 seconds. Oath Keepers, are they a domestic terrorist organization?

Director WRAY. Again, as with Proud Boys, we have individuals who associate themselves with that group who are—

Senator GRAHAM. Is Antifa a domestic terrorist organization? Same thing, same answer?

Director WRAY. Same answer.

Senator GRAHAM. So, why don’t we think about how to gather better information and expose some of these groups? If they were on a list, would it make it easier for you?

Director WRAY. I think the issue of whether or not to designate or have a formal mechanism for designating domestic terror groups

the same way we do with, say, al Qaeda or ISIS, I think there is reasonable debate about whether or not it would really advance the——

Senator GRAHAM. Is the KKK a domestic terrorist group?

Director WRAY. There is no legal designation for domestic terrorist——

Senator GRAHAM. Okay. My point is I do not know if we should have one or not, but I think it is time to think about it.

Chair DURBIN. Thank you, Senator Graham. Senator Feinstein.

Senator FEINSTEIN. Thanks very much, Mr. Chairman. And welcome.

Last November, the Associated Press reported that hate crimes rose to the highest level in more than a decade. The AP also reported that the United States recorded the most hate-related killings since the FBI began collecting data in the 1980's. Despite this finding, only about 14 percent of the agencies in the FBI hate crimes report indicated that hate crimes occurred in their jurisdictions.

Here is the question: What actions are you taking to make it easier for local agencies to collect and report this data to the FBI?

Director WRAY. So, I appreciate the question. As your question references, we do know that there is a phenomenon that I think is fairly widely accepted of underreporting of hate crimes. And so, even though the number of hate crimes reported continues to grow, we do not know whether that means the number of hate crimes is growing or whether the number of reports of it is now starting to grow. We are trying to do a lot—and we do hundreds of these—of outreach, training, et cetera, of State and local law enforcement to help them understand better how to identify and report hate crimes. We also have a manual that we put out that helps explain better how to identify that.

Of course, a lot of times the offenses that they are looking at under State and local laws do not necessarily come with a neat label that says, "This is a hate crime," on it, and so that is part of the challenge. But we are working with them to try to improve awareness so that we can get better reporting on the subject.

Senator FEINSTEIN. Well, that is certainly appreciated. I want to ask about the threat of domestic terrorism by white supremacists. It is not new, but it has gained a lot of attention within intelligence circles in recent years, and it is the biggest domestic terrorism threat, I understand.

Last year you testified before the House—House Homeland Security Committee that, quote, "The most lethal of all domestic extremists, since 2001, have been racially and ethnically motivated."

Similarly, the former Acting DHS Secretary testified before the Senate that, quote, "White supremacist extremists from a lethality standpoint over the last 2 years, particularly when you look at 2018 and 2019, are the most persistent and lethal threat when we talk about domestic extremists."

Why is the threat of white supremacist terrorism so prevalent in this country?

Director WRAY. You know, I think that is a—some of that is a sociological question that I am not sure that I am really the right person to address. Certainly, as you say, it has been the biggest

chunk of our racially motivated violent extremism cases and, itself, the biggest chunk of our domestic terrorism caseload overall, and the most lethality over the last decade has been from these same extremists.

The things that drive these people, you know, I think range. One of the things that we struggle with in particular is that more and more the ideologies, if you will, that are motivating some of the violent extremists are less and less coherent, less and less linear, less and less easy to kind of pin down. In some cases, it seems like people coming up with their own sort of customized belief systems, a little bit of this, a little bit of that, and they put it together, maybe combined with some personal grievance of something that has happened in their lives, and that drives them. So, trying to get your arms around that is a real challenge.

Senator FEINSTEIN. Let me move on. There has been a spike in gun sales during the pandemic. The New York Times reports that approximately 2 million guns were purchased in March 2020. That is the second-highest month ever.

According to a July Politico article, there were 823,273 NICS checks in March 2019 versus 1.4 million in March 2020. So, in March 2020, NICS blocked more than double the amount of the year before, a whopping 23,692 gun sales in 1 year. Simply put, there has been a dramatic rise in gun sales that is likely going to require some further action.

What have you seen and what will the FBI be doing and/or recommending?

Director WRAY. In terms of what we are seeing, because we all share the goal of trying to keep guns out of the hands of those who are legally prohibited from possessing them, which is, of course, the whole point of why NICS exists. Last year, as you say, we have seen a significant increase. I think—the last time I checked I think it was something like of the top ten highest number of NICS checks, you know, per day or per week, ever, were all last year—you know, maybe seven of the top ten ever last year. The numbers have been really significant during the course of 2020 and the pandemic.

We have been trying very hard and, I think, we have done a good job of staying on top of the required pace that we have to keep up with to be able to get that done, which has required being creative because of COVID and teleworking and all the things that we have had to kind of work around to keep up with that. But, it is a challenge, and I think the budget requests that we have had recently have asked for more resources for NICS because we need to try to keep up with that pace.

Senator FEINSTEIN. Thank you. As early as December 29, the FBI warned about the potential for armed demonstrators targeting legislatures. The former Chief of Capitol Police as well as the House and Senate Sergeants at Arms have testified that they did not see the FBI's warning on the eve of January 6 about potential violence in the Capitol.

When did you first receive intelligence about the possibility of an attack on the Capitol on January 6, and what happened to the process that people were not seeing the warnings?

Director WRAY. Well, Senator, I think the intelligence or the information that you are asking about is the much-discussed Norfolk SIR, or Situational Information Report. I did not see that report, which was raw, unverified intelligence, until some number of days after the 6th. But, again, that raw, unverified information was passed within, I think, 40 minutes to an hour to our partners, including the Capitol Police, including Metro PD, in not one, not two, but three different ways—one email, one verbal, and one through the law enforcement portal.

As to why the information did not flow to all the people within the various departments that they would prefer, I do not have a good answer for that. I will tell you the Capitol Police and Metro PD are terrific partners to the FBI, especially our Washington Field Office. I am grateful for their partnership and have nothing but admiration for the hard work and courage and professionalism of the men and women who work in both of those agencies.

Chair DURBIN. Thank you, Senator.

Senator FEINSTEIN. Thank you. Thank you for your good work. It is appreciated.

Chair DURBIN. Senator Cornyn.

Senator CORNYN. Director Wray, after the events of 9/11, I think it was Admiral Bobby Inman who coined the phrase, “a failure of imagination.” We just could not conceive of the idea that something like what happened on 9/11 would occur, but that was a failure to imagine it. It strikes me that the events of January 6 share something in common with 9/11, in the sense that it seemed like there was a failure of imagination. That is not to point the finger at anybody to blame, but merely to try to describe what I think may have occurred.

I think you have told us that these extremists are not monolithic. Is that correct?

Director WRAY. That is correct.

Senator CORNYN. Well, I have heard the expression that here in Washington, “Whoever has the best narrative wins,” and so sometimes I think the narrative is created, and then try to search for facts that might bolster that narrative. But as you said, the fact is these extremist groups are not monolithic, so that is, I think, an important part of understanding the threat.

I have heard them describe—some of these folks described as “white supremacists,” “domestic terrorists,” “insurrectionists,” “rioters,” “seditionists,” “anarchists.” The list goes on and on. But I note that you said there is no Federal crime described as domestic terrorism per se. Correct?

Director WRAY. That is correct.

Senator CORNYN. As I look at the range of charges that the FBI and the Department of Justice have made against the people that have been investigated for the events of January 6, I read a list of assaulting Federal officers, tampering with documents or proceedings, unlawful entry, disorderly conduct, conspiracy, theft of Government property.

Do you think the current laws are adequate to deal with this threat? It strikes me that these are a lot of different tools that are available but do not really get to the whole heart of domestic terrorism?

Director WRAY. Well, I guess I would say a couple things in response. It is, of course, a very good question. I think number one, our folks, which is one of the things I love about the men and women of the FBI, have proven time and again that they will work with the tools they have, and they are resourceful and entrepreneurial, and we have had remarkably good success at disrupting attacks using the tools that we have.

Sometimes those tools and some of the offenses that you listed off have the virtue of being quite simple and straightforward to prove, and so sometimes that is actually a blessing. But certainly I think you would be hard pressed to find any FBI Director that would not welcome more tools in the toolbox.

Senator CORNYN. Fair enough. Well, getting back to this narrative about who was involved on January 6, there was a helpful report from the George Washington University program on extremism that looked at about 257 Federal defendants as a result of the events of January 6. They noted that 142 of those 257 defendants they referred to as “inspired believers.” They said—they concluded they were neither participants in any violent extremist group nor connected with any individual who stormed the Capitol.

Again, I guess that bears out your conclusion, your statement that this is not a monolithic group again.

Director WRAY. So, I think you have touched on two very important points there. One is both with domestic violent extremists and, frankly, with what we call the “homegrown violent extremists,” which are the jihadist inspired; the difference between inspired terrorist attacks over here, and sort of directed or facilitated in a more structured, formal way, is something that I think a lot of Americans struggle with understanding. More and more, the threat that we face as a country is what I would call the “inspired attacks.” They do not have formal membership in an organization. They do not have clear command-and-control direction in the way that, say, an al Qaeda sleeper cell might have. That is that much more challenging to pursue, A, because there are fewer dots to connect—you know, the old expression about dots to connect—and, B, less time in which to connect whatever dots there are. Then you add into it, C, the sort of First Amendment dimensions of people’s inspirations and ideology. Then the last point I would make is that we have, as I said before, this increasingly blended ideologies.

For example, in Senator Klobuchar’s State, in Minnesota, we had two individuals who were—who identified themselves as so-called Boogaloo Boys, which people tend to put kind of in one bucket, and yet what they ultimately were charged with was trying to provide material support, as in weapons, to Hamas. These are not things that neatly fit together in anybody’s worldview. So, it just illustrates—one example, but it illustrates the challenge that we are dealing with.

Senator CORNYN. It is the FBI’s responsibility to deal with counterintelligence investigations, correct?

Director WRAY. Yes.

Senator CORNYN. These include things like active measures that we saw used, for example, in 2016, for example, advertising on Facebook, two competing groups to show up at the same time, and hoping that conflict and maybe even violence would break out. Is

it true that our foreign adversaries used the events of January 6 as a field day in terms of their attempt to establish false personas, fabricate stories on social media platforms with an intent to discredit the United States and its institutions?

Director WRAY. Certainly, we have seen—and I will keep it at an unclassified level in this setting, but foreign adversaries, a number of them, leveraging the events of January 6 to amplify their own narratives, to try to push out propaganda, misinformation, to try to, in their view, accelerate what they think of as the United States' decline.

Senator CORNYN. Thank you.

Chair DURBIN. Thank you, Senator Cornyn. Senator Whitehouse.

Senator WHITEHOUSE. Thank you. Director Wray, welcome.

Before we get to the business of this hearing, we have got some—in fact, a lot of unfinished business. Do you know how many questions for the record the FBI failed to answer in the last 4 years?

Director WRAY. I do not.

Senator WHITEHOUSE. Well, I will tell you. There were nine hearings in this Committee in which the FBI was a witness, and in seven of them, the Committee got exactly zero questions for the record. Seven. Zero questions. Can you explain that?

Director WRAY. I cannot. I will say—

Senator WHITEHOUSE. Are you going to do any better with the questions that we are getting right now? You have been asked questions for the record. Are they going to go into the same whatever it was—hole—where questions for the record go to die at the FBI?

Director WRAY. Well, Senator, the first thing I would say about questions for the record is that, as you may know, there is an elaborate interagency process that requires that answers that we provide have to be properly vetted—

Senator WHITEHOUSE. Yes, which is immensely convenient for the executive branch, but our questions do not direct that interagency process, do they? That interagency process does not respond to us in Congress, does it?

Director WRAY. We are required to comply with the interagency process to provide our responses to questions for the record. But having said that—

Senator WHITEHOUSE. By what are you required to comply with that interagency process?

Director WRAY. I cannot cite you the reg or the rule.

Senator WHITEHOUSE. Because it seems to me that when the FBI wanted to get information to this Committee, particularly when it wanted to get information to Republican Members of this Committee so they could investigate your investigation of the Trump-Russia connection, that information got right through to our Republican colleagues. It did not seem to go through any interagency process. It was not delayed. What we seem to have is for most of us—this was bipartisan, by the way. When I say we got zero questions for the record answered from those hearings, I mean zero questions of any Member of this Committee, not zero Democratic Members answered. Okay?

So, you have got this basic highway for responses to Congress. Let me ask you just a little sidebar. Do you think Congress de-

serves responses to questions from executive agencies as a part of our oversight responsibility?

Director WRAY. Yes, absolutely.

Senator WHITEHOUSE. Okay, good. So, we are at least over that hurdle. We have run this rigmarole with the interagency process in which we do not get answers. Some of these go back to 2017, by the way. That is years of not getting our questions answered.

Then, when it is a question that is suddenly of interest to one party and to President Trump, there seems to be a little side road that gets built around the traffic jam, and stuff just flies right through.

Please do not tell me about interagency process while I have been sitting in this Committee watching FBI information get straight to this Committee without interagency process.

What are we going to do about this? Is this a problem?

Director WRAY. Senator, let me say first, as I said, that I absolutely agree with you that Congress needs answers to its questions. I am frustrated as well at the process. I have added more staff, and my understanding is that when it comes to correspondence, for example, which does not require the same interagency process, that we have significantly reduced the backlog and the turnaround time. But there is no question in my mind—no question in my mind—

Senator WHITEHOUSE. We had eight letters go unanswered, the oldest one dated March 2017. So, if you think your process is working, we are not seeing it on our end.

Director WRAY. Well, I will commit to you that I will do what I can to improve the process. I am frustrated, as you are, and obviously we need to get better.

Senator WHITEHOUSE. Well, I will commit to you that I am going to make sure that this gets done. If it means stopping nominees, if it means doing whatever it takes to get through this problem, we are going to get through this problem, because it is just plain wrong for the executive branch of Government in a separation-of-powers country to refuse to answer questions of the elected representatives of the legislative branch. It is just wrong. However many excuses and however much rigmarole the executive branch may set up to slow down those answers, I do not care. That is your executive branch rigmarole. That is not a legitimate answer to a legislator's question. I have got stuff that is now backed up for years.

Now, the courts have said that they do not want to intervene in enforcing our subpoenas. I am not sure we can get subpoenas in a 50–50 Committee, but assume we could. The courts have said they do not want to enforce it. So, you guys can put our subpoenas in the same file with our letters and our QFRs and not answer them.

Then what happens is, the courts have said, the way we resolve this is we have got to pitch you legislatively. The court said we should hold up appropriations for the FBI and for executive agencies that are not responsive. That is our tool.

Your people do good work, Director Wray. I do not think you want that to be our tool. But you cannot be in a situation in which you do not answer our questions, you create rigmarole logjams, and when there is a political interest in getting information out to the

Committee, suddenly, none of that rigmarole pertains. Suddenly, everybody gets their hands on all the information that they need just as soon as they need it. By the way, I believe on a partisan basis, not shared with both sides of the Committee.

Before we get to clearing up whatever else we need to get cleared up, all the stuff that is backed up behind our questions, we have got to get through the problem of why you are not answering our questions, and we have got to clear that up. I do not know how we clear that up. I think we clear it up, Mr. Chairman, in a bipartisan fashion because I think both sides should get this. But this business of years going by of hearings in which zero QFRs get answered and letters that get thrown off into the "Do not care to answer that one" pile. Woodrow Wilson once said that the oversight function, the investigative function of Congress, is often to be preferred even to its legislative function. We have got to get that back, and I am going to find a way with this Committee, and with you, to clear the backlog. I do not think you think that I should give up on questions because I have been stonewalled for years. If I have asked them and they deserve answers, they should be answered. Is that correct?

Director WRAY. Yes.

Senator WHITEHOUSE. Okay. My time is up. We will leave it at that.

Director WRAY. Mr. Chairman, if I just may, with your indulgence, one point. Senator, I commit to working with you to try and see how we can improve our responsiveness and to getting you even more of the information you need. The one thing I will say is that I can assure you that in terms of my responsiveness to this Committee, to the Members of this Committee, or to Congress overall, it is absolutely not—speaking only for myself now—on a partisan basis.

Senator WHITEHOUSE. Well, you run an organization that seems to have operated under very different rules, and it was you running that organization. So, let us not make these distinctions right now.

Chair DURBIN. Thank you, Senator. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Thanks, Director Wray, for being here and for your service to our country.

Like literally every other person in this room, like literally every Member of the U.S. Senate, I am anxious to see those who committed unlawful, violent acts on January 6 brought to justice.

I also believe that with this circumstance, like every other circumstance, we have to make sure that the civil liberties of the American people are protected and that we watch over them.

I have heard a number of accounts of individuals who were present in Washington, DC, but never got anywhere near the Capitol or any violence on January 6, who have inexplicably been contacted by the FBI, by agents who apparently were aware of their presence in Washington, DC, that day, with no other explanation perhaps other than the use of geolocation data.

Are you geolocating people through the FBI based on where they were on January 6?

Director WRAY. I think there may be some instances in which geolocation has been an investigative tool, but I cannot speak to any specific situations.

Senator LEE. Well, what are you using to do that? What is your basis for authority? Are you using national security letters?

Director WRAY. I do not believe that in any instance we are using national security letters for investigation of the Capitol——

Senator LEE. Are you going to the FISA Court?

Director WRAY. I do not believe FISA is remotely implicated in our investigation.

Senator LEE. Are you using warrants predicated on probable cause?

Director WRAY. We certainly have executed a number of warrants in the course of the investigation of January 6. All of our investigative work in response to the Capitol has been under the legal authorities that we have in consultation with the Department and the prosecutors at the Department.

Senator LEE. I understand that. I am just trying to understand how you are getting it. So, is the FBI accessing cell phone tower meta data from telecommunications companies? Is that where it is coming from?

Director WRAY. Again, without knowing the specifics, without being able to drill into the specifics, it is hard for me to answer your question in a way that, I think, you would find satisfying.

Senator LEE. Are there instances in which you are interviewing people based solely on information derived from a telecommunications provider providing geolocation information indicating that they were on or near the National Mall on January 6?

Director WRAY. With respect, Senator, because this is a massive nationwide investigation involving thousands and thousands of interviews, it is very hard for me to speak with any absolute confidence as to whether there is any interview predicated on any one specific——

Senator LEE. I understand that. I understand that. I certainly would not expect you to be aware of every circumstance. I would, though, like to know whether you are doing that at all, whether that is ever the basis for it. I would appreciate if you could answer that. If you are not aware of it right now, that is great. But, if you could let me know sometime today or tomorrow, that would be great. I am sure there is someone who can provide a yes or no answer to that question.

Over the years, I have raised a number of questions, and it is one of the things that prompted my question here about FISA and related questions just about the collection of metadata from communications providers and so forth.

Over the years—and by “over the years,” I mean literally over the last 10 years, the entire 10 years I have served as a Member of this Committee and as a Member of the U.S. Senate, I have been told fairly consistent answers under different FBI Directors and different Presidential administrations run by different parties. But, the most consistent theme in those answers has been, “Just trust us. Do not worry. We have got good people, smart people, law-abiding people who are running this, and we have got procedural safeguards in place to prevent the type of abuse that you are concerned about.”

Now, Inspector General Horowitz issued a report in 2019 regarding Crossfire Hurricane and through a subsequent memorandum

dealing with Woods File issues that really help prove my point. At the time, in response to those concerns, you issued statements suggesting that you would take concrete actions to make sure that these things were changed. Could you tell me what some of those actions are? Have you taken the actions you referred to in response to Horowitz's report and his subsequent memo on the Woods File issues?

Director WRAY. Yes, Senator, I welcome the question. So, first off, as you may know, we accepted all of the findings and recommendations in the Inspector General's report. I ordered at the time over 40 corrective actions that go above and beyond the recommendations of the Inspector General's report, and those have been implemented. Those include everything from strengthening our procedures to ensure accuracy and completeness, to make sure the court gets all the information it is supposed to, changes in our protocols for CHSs—confidential human sources—training changes. We—I created a new Office of Internal Audit that is specifically focused on FISA auditing.

There is a whole number of things I would be happy to walk through, but I recognize that our time is limited, so, you tell me how much—

Senator LEE. I appreciate that. I appreciate anything that you have done within the agency to do that. I hope you can understand my concern, which is that we have been told over and over again we already have strong procedures in place internally. Those strong procedures apparently have not, over the last 10 years, proven enough.

My view is that, in addition to anything that you may be doing that may well be helpful, and I appreciate anything that you are doing that is helpful, but we probably ought to have some statutory restrictions as well so that it is not the FBI and the FBI alone acting solely upon the FBI's internal guidance documents from which the FBI could, of course, choose to depart at any moment. I would love to see reforms in this area and, in particular, to protect the civil liberties of the American people. I think we need some reforms to our domestic surveillance tools, including things like FISA, that would apply to strengthening the amicus provisions of the FISA Court, requiring the FBI to disclose all material, exculpatory evidence that is presented to the FISA Court, no less important here than in an Article III court sitting in its capacity of adjudicating criminal cases. In fact, if anything, it is more important here because in the FISA context it is not public. Increasing the standard for warrants under Section 215 to require probable cause and requiring a probable cause warrant to obtain internet search history, internet browsing history, and geolocation information.

Are those reforms that you would be willing to support?

Director WRAY. Well, Senator, I would be happy to work with you to provide sort of operational assessment of the impact of different legislative ideas. Certainly, we view our responsibility as not just to protect the American people but also to uphold the Constitution, and we say that every day in the FBI. Certainly, I would want to make sure that any legislative changes to FISA did not have unintended, very damaging impact on everything from our sharing of information with our foreign partners, our intelligence community

partners, that we did not elevate the standard in FISA above the level of what we could get, for example, in an ordinary criminal case, things like that. But, we would be happy to engage with you on the subject.

Senator LEE. Mr. Chairman, my time has expired. Can I add one sentence at the end just to complete the thought.

Thank you for your willingness there. We have been told over the last 10 years since I have been here, "We will work with you." "We will work with you," has translated into opposition from inside the FBI every single time we have tried to bring about one of those reforms. Every time. As sure as the sun will come up in the east tomorrow, we have been told by the FBI, "You cannot do that. Do not worry. We have got it with our own internal controls."

I hope you will be sympathetic to me this time around, recognizing that I have been told that over and over and over again, and we are not going to accept that answer anymore.

Thank you.

Chair DURBIN. Thank you, Senator Lee. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chair.

Welcome, Director Wray. You and I have talked many times, and I appreciate the work of your agents in Minnesota, whether it is investigating buildings that have been attacked and burned or whether it is the work that your agents did in investigating the bombing of a mosque in Minnesota, which resulted in indictments and convictions. So, I thank you for that.

Last week, I chaired a joint hearing of the Rules and Homeland Security Committees on what happened on January 6. We are having another joint hearing with Homeland Security tomorrow. Several Members of this Committee participated in that. I want to start out with something that became an issue in the hearing really because of one Member's questions.

Our witnesses all agreed that there is now clear evidence that supports a conclusion that this insurrection was a planned and a coordinated attack on the Capitol, that white supremacist and extremist groups were involved, and that what happened would have been much more dangerous if not for the brave actions of law enforcement. Would you agree with that?

Director WRAY. Certainly, there were aspects of it that were planned and coordinated, but yes.

Senator KLOBUCHAR. Well, there was, I just noted that just today, reporting in the Washington Post that on Monday a complaint was filed against a member of the Proud Boys in Washington State, where Federal prosecutors alleged that, in fact, there had—there were plans made for many different entries into the Capitol. Is that correct?

Director WRAY. Yes. There have been a growing number of charges as we continue to build out the investigation, either individuals who are now starting to get arrested involving charges that involve more things like planning and coordination, or, in some instances, individuals who were charged with more simple offenses, but now we are superseding as we build out more of an understanding of what people were involved in. There were clearly some individuals involved, which I would consider the most dangerous,

most serious cases among the group, who did have plans and intentions and some level of coordination.

Senator KLOBUCHAR. I think you have arrested now 20 members of that group. Is that right, the Proud Boys?

Director WRAY. I do not know the number off the top of my head.

Senator KLOBUCHAR. Well, so what I was thinking when Senator Graham was talking is that if—and they show up, we now know, in this complaint at encrypted two-way Chinese radios and military gear, that there must be moments where you think if we would have known, if we could have infiltrated this group or found out what they were doing. Do you have those moments?

Director WRAY. Absolutely. I will tell you, Senator—and this is something I feel passionately about—anytime there is an attack, our standard at the FBI is we aim to bat a thousand—right?—and we aim to thwart every attack that is out there. So, anytime there is an attack, especially one that is this horrific, that strikes right at the heart of our system of Government, right at the time a transfer of power is being discussed, you can be darn tootin' that we are focused very, very hard on how can we get better sources, better information, better analysis so that we can make sure that something like what happened on January 6 never happens again.

Senator KLOBUCHAR. Okay. There has been a lot of discussion about this Norfolk memo that arrived, as you noted, with key people in the Capitol Police and others the night before. They testified last week, the Chief, that he did not even know about it until a few days before our hearing. In fact, while there may be some that downplay that intelligence, I will note—while we do not have the memo publicly—that in that memo were statements that, “Congress needs to hear the glass breaking, doors being kicked out, blood being spilled,” “we get our President or we die,” “go there ready for war,”—some of the specific calls for violence that we know were posted at that time. We know that President Trump had called on people to go there on January 6. We know that he told them to, “go wild.” We know that in that memo there were discussions of, as reported in the news, perimeter maps, “bringing back the wounded.” To me, it just seems like it is beyond aspirational in nature, that it seems like some of these reports that we now know exist out there were specific in terms of these plans that were going on.

I’m just—one of my questions that we will continue to be asking as part of this investigation we are doing with the Rules Committee and Homeland Security is: How can we change this so this never happens again, so these types of threats and these—this type of information gets to the right people? Do you have any response on that?

Director WRAY. Well, as I said, in connection with the particular report that you are referring to, the Norfolk SIR, as they call it, we did communicate that information in a timely fashion to the Capitol Police and MPD in not one, not two, but three different ways—

Senator KLOBUCHAR. Do you think it is enough just to send an email?

Director WRAY. It is more than just an email, right? So, first off, the email itself went to—I think there are maybe as many as five

Capitol Police task force officers on the Joint Terrorism Task Force, and the whole point of the Joint Terrorism Task Force is for the chosen representatives of the partner agency to be there in the loop real-time so that everybody has got the same information, so that each agency can use that information to do what it needs to do.

But, in addition to the email, so belt and suspenders, it was verbally briefed, and it is hard sometimes for Members of Congress to picture what these command post briefings are like, but picture the command post that we had stood up at the Washington Field Office, representatives of all these agencies in the room, people are coming up to the microphone one at a time saying, "Okay, now we are tracking this, we are seeing this; we do not know if it is real or not, but here is what we are seeing," and everybody is taking notes, and the whole idea is they are supposed to go back and pass it up their chain of command.

And then, third, in addition to that, it was put into the LEEP, the law enforcement portal, to make sure everybody got it.

Senator KLOBUCHAR. I know. Yes, you explained that.

Director WRAY. Having said that, I do not consider what happened on January 6 to be an acceptable result, and that is why we are looking at so hard at figuring out how can the process be improved.

Senator KLOBUCHAR. Right. Some of this, of course, is the whole structure we have with this Capitol Police Board, that somehow the Chief was still calling—while the insurrection was going on—these two Sergeant of Arms to try to get permission to get the National Guard, and clearly there have to be some major changes to what is going on here. I acknowledge that and am going to push for them.

But, there still, to me, seems like they rely on the FBI and other Federal agencies to get information, and we know that the New York Police Department sent intelligence reports to them, to the Capitol Police—that is on them—and the FBI's Washington Field Office in late December indicating there would be violence on January 6. Any comments on that?

Director WRAY. While I am not familiar with the specific NYPD product you are referring to, I will tell you that we, the FBI, over the course of 2020, put out a number of intelligence products specifically warning about domestic violent extremism, including specifically warning about it in connection with the election, including specifically warning about that threat in relation to the election, continuing past election day itself and up through the Inauguration, and including a product that I think we put out with DHS in December 2020.

We are trying to push out information. I am reluctant to arm-chair quarterback anyone else in their jobs. I can tell you we at the FBI are determined to do our part—our part—to make sure that what happened on January 6 does not happen again. We find it personally infuriating anytime we are not able, as I said, to bat a thousand, and we are going to keep working to get better.

Senator KLOBUCHAR. Thank you. I will say that the work you have done, your agents have done in investigating these cases. To me, that is very helpful to get those arrests out there and those

prosecutions, not only because people should be brought to justice, but it to me is a major deterrent for people doing this again.

Thank you.

Chair DURBIN. Thank you, Senator Klobuchar. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. Director Wray, welcome. Thank you for your service and thank you for the heroic service of the men and women at the FBI.

Congress has now heard from numerous law enforcement officials that there is significant evidence that the January 6 attack on the Capitol was premeditated, planned, and coordinated, and you just had an exchange with Senator Klobuchar where you, if I understood you correctly, expressed the FBI's view that it was indeed planned and coordinated.

I recognize this is an ongoing investigation and that you are still learning the details, but at this point what do we know about the planning and coordination that occurred surrounding the January 6 attack?

Director WRAY. I guess let me step back and say the first thing is there are sort of three groups of people involved in January 6. The first group, the largest group, the group we need to spend the least time talking about, is peaceful, maybe rowdy protesters, but who were not violating the law.

Then there is a second group—think of a reverse pyramid—a second group, that is people who may have come intending to just be part of a peaceful protest, but either swept up in the motive or emotion or whatever, engaged in kind of low-level criminal behavior: trespass, say, on the Capitol grounds, but not breaching the building. Still criminal conduct, still needs to be addressed, but more on the fly, in the moment, opportunistic.

The third group, the smallest group numerically but by far and away the most serious group, are those who breached the Capitol grounds, who engaged in violence against law enforcement, who attempted to disrupt the Members of Congress in the conduct of their constitutional responsibilities. And, of those, some of those people clearly came to Washington, we now know, with plans and intentions to engage in the worst kind of violence we would consider domestic terrorism. And so, some of that coordination appears to have been coordinated travel, coordinated meeting up, coordinated in terms of what kind of gear they might be wearing or bringing with them, that kind of thing. Again, ongoing—obviously ongoing, much more to come.

Senator CRUZ. Often in an investigation law enforcement follows the money. Is there evidence at this point of coordinated funding prior to January 6, providing military equipment, providing communications equipment, or the like?

Director WRAY. Certainly, that is a topic that we are looking at. I do not know that there is anything I can say right now in terms of funding or coordinated funding.

Senator CRUZ. There has been considerable discussion at this hearing also about the Norfolk report. At the time, how credible and reliable did the FBI consider the Norfolk report as an actionable piece of intelligence?

Director WRAY. Senator, my understanding is that our folks at the time viewed it as raw, unverified, and, therefore, of unknown

reliability information. But because of the level of detail that was in it—and some of this is art, not science, unfortunately, in the world of intelligence—the judgment was that, given the press of time, given the specificity in it, even though it sounded somewhat aspirational in nature and was unverified, the smartest thing to do, the most prudent thing to do was just to push it to the people who needed to get it, and as I said, that happened three different ways.

Senator CRUZ. You had a conversation with Senator Grassley about the death of Officer Sicknick, and there obviously is considerable interest and concern in the Senate and across the country as to the circumstances of Officer Sicknick's death. There have been conflicting reports about the circumstances of his death. You told Senator Grassley the FBI at this point is not in a position to confirm a cause of death.

Is there any information that the FBI can share with the American people about what we know about the circumstances surrounding his tragic death?

Director WRAY. Although I certainly understand and appreciate the keen interest in it, for all the reasons we have discussed, at the moment other than to say the Capitol Police has, of course, categorized it, I think appropriately, as a line-of-duty death, there is nothing really that I can share right now. Certainly, I understand why it is very much top of mind for people, and I think it speaks well of the Members of Congress that they are so interested in somebody who lost his life protecting all of you. So, as soon as we are in a position when the investigation has gotten to a stage where we can share information, we want to be able to do that.

Senator CRUZ. Now, let us talk more broadly about domestic terrorism because the riot on January 6 did not occur—come out of nowhere, and last year the Department of Justice created a task force to investigate and to understand the growth of political violence. The memo creating the task force states, “Amid peaceful demonstrations protected by the First Amendment, we have seen anti-government extremists engage in indefensible acts of violence designed to undermine public order. Among other lawless conduct, these extremists have violently attacked police officers and other Government officials, destroyed public and private property, and threatened innocent people.”

Is that task force still operating?

Director WRAY. I know the work that the task force began is still ongoing.

Senator CRUZ. In the past year, we have seen massive rioting and violence as extremists, many of them leftist extremists, took to the streets across the country. In just 2 weeks, at the end of May and early June, over 700 law enforcement officers were injured. Looking at all of 2020, over 14,000 people have been arrested in 49 cities and at least 25 people have died in the violence. It is estimated that the property damages from these riots could exceed \$2 billion.

What is the FBI doing to counter this ongoing pattern of domestic terrorism?

Director WRAY. Senator, certainly we tried to respond aggressively with our partners to the domestic violent extremism that we saw playing out in streets all across the country this summer. Most

of that activity, a lot of that activity, I would say, fell in what we would categorize as anti-government, anti-authority violent extremism. Some of it is anarchist violent extremism. Some of it is militia violent extremism. Some of it might even be sovereign citizen violent extremism. But we saw a huge uptick in violent extremism in that broad bucket over the course of last year, and so we are trying to be aggressive with the tools that we have in terms of the charges we are bringing. We are trying, as we talked about, frankly, in connection with January 6, same thing for the summer. We are trying to look at sources of funding, planning, coordination, trying to learn more about trade craft and tactics and things like that so we can be better prepared to prevent it and feed information to our State and local partners so they can be better prepared to prevent it.

As, I think, I said to Senator Grassley, last year we had three times the number of anarchist violent extremist arrests from, say, the prior year, I think it was, certainly more last year than the prior 3 years combined. We did see last year, as Senator Grassley noted in his opening comments, the first murder by an anarchist violent extremist last year in quite some time, certainly, which was the individual who in Portland killed a supporter of an opposing viewpoint, and then the individual in question, the violent extremist, was himself killed in a shoot-out as the Marshals were trying to apprehend him.

Senator CRUZ. Thank you.

Chair DURBIN. Senator Coons.

Senator COONS. Thank you, Chairman Durbin. Director Wray, welcome. Thank you for your service and your testimony today.

Let me join with my colleagues in conveying our condolences on the line-of-duty deaths of Special Agents Daniel Alfin and Laura Schwartzenberger. It has been a long time since there has been a Special Agent line-of-duty death, but every loss of life by those who are serving us and protecting us is too many, and we join in grieving their loss and hope you will convey that to their families.

Our purpose here today is to focus principally on what happened in this complex, in this building, in the Capitol: on January 6. Charleston, Charlottesville, Pittsburgh, El Paso, Kenosha, and right here in the U.S. Capitol: these are just some of the recent examples where far-right extremists and white supremacists have terrorized this country, their fellow citizens, and murdered individuals.

We all condemn violence by anyone of any political persuasion, but we have to be honest about the significant threats we face, and that is the only way we can work together to take steps to confront them.

I think it is critical to that process for us to uncover the real facts of what happened, and given some of the misinformation being spread by some colleagues, I just would appreciate your re-addressing a couple of questions.

Can you speak, with clarity, about what we know about the January 6 riot here at the Capitol? You have said there have been, I think, 280 arrests so far. Has there so far been any evidence that the January 6 riot here, the insurrection, was organized by people simply posing as supporters of President Trump?

Director WRAY. We have not seen any evidence of that, certainly at this point.

Senator COONS. Is there any evidence, at all, that it was organized or planned or carried out by groups like Antifa or Black Lives Matter?

Director WRAY. We have not seen any evidence to that effect thus far in the investigation.

Senator COONS. Is there any doubt that the people who stormed the Capitol included white supremacist and other far-right extremist organizations?

Director WRAY. There is no doubt that it included individuals that we would call “militia violent extremists” and then in some instances individuals that were racially motivated violent extremists who advocate for, you know, the superiority of the white race. But the militia violent extremist is probably at the moment trending the biggest bucket, if you will.

Senator COONS. Well, you face challenges—we as a Nation face challenges, with extremists of all stripes, types, backgrounds, motivations. As the new Chair of the Subcommittee on Privacy, Technology, and the Law, I am concerned about how extremists have used social media platforms to organize and incite violence and, in some ways, about how social media platforms work to accentuate or accelerate those who have extreme views and to potentially radicalize those who do not hold those views.

I led a letter with 14 colleagues last November to Facebook raising concerns about the adequacy of their enforcement of their own policies against violence and incitement.

Can you speak to the extent to which the January 6 attack on the Capitol was organized through social media platforms?

Director WRAY. Certainly, social media on January 6, as for the domestic violent extremist threat more broadly, has become a major factor, a catalyst, if you will. The increased speed, dissemination, efficiency, accessibility that it provides, it facilitates a greater interconnected nature in a more decentralized way, and so we—you know, I sometimes say terrorism today—and we saw it on the 6th—moves at the speed of social media. We tried to work with social media companies to get them to more aggressively use the tools that they have to police their own platforms under terms of service, et cetera, and in particular, to cooperate with us so that we can bring justice for those who hijack these companies’ platforms to engage in some of the conduct we are talking about.

That is where you heard a little bit about the encryption issue come up. That is an important part of this. We are moving in a direction—we saw it on the 6th, and we are seeing it more and more every day in this country—where violent extremists, just like other bad actors, are taking advantage of encrypted platforms to evade law enforcement. The social media companies and the technology companies are moving more and more in a direction where, if we do not come up collectively with some kind of solution, it is not going to matter how bulletproof the legal process is or how horrific the crime is or how heartbreaking the victims are; we will not be able to get access to the content and the evidence that we need to protect the American people. Then, I think, we will all rue the day.

Senator COONS. Well, Director, this area raises a lot of very complex questions of civil liberties, of individual rights, fundamental rights to free expression. But I am also concerned about ways in which online disinformation and conspiracy theories lead to radicalization and helped pave the way for this particularly tragic event in the history of our democracy and how some of the ways in which social platforms are structured—social media platforms are structured—accelerate the spread of disinformation. How policymakers and platforms confront these issues are going to be complex, and I look forward to working with you to get the facts as the FBI develops them about what happened on January 6.

Two last questions, if I might. My colleague Senator Whitehouse asked about responding to outstanding requests for information, and I agree, some of the stonewalling that we saw by a number of agencies over the previous administration is not acceptable. Can you just reassure me the FBI will be as responsive as possible to information requests from this Committee?

Director WRAY. Absolutely. You know, my strong view is that you all have an important key function to perform in terms of your oversight of the FBI, as with other agencies. It pains and frustrates me when we are not able to be as responsive as you need us to be. I commit to doing my best to see if we can work with you all to get better on that front.

Senator COONS. Thank you. Last, Senator Feinstein asked you a series of questions about the record number of NICS denials last year. This is when someone goes in, tries to buy a gun, gets run through the background check system, and is denied. They are a person prohibited, often because they are convicted felon. I am soon going to be introducing a bill with a colleague on this Committee that would simply require that when there is a—an attempt to buy that is denied because someone is a person prohibited, that notification be given to State law enforcement. That is the law in some States. It is not the law in a majority of States.

Does that seem to you something that would be a good additional tool in the toolkit to allow State and local law enforcement to act on the tip that someone who is a person prohibited has just lied and tried to procure a weapon?

Director WRAY. Certainly, I think the “lied and tried” information is often a valuable tool from an investigative perspective in preventing more serious conduct, and we would be happy to meet with you or engage with you to provide a little bit better sense of how all this works from an operational perspective. I know that the key consumer of the information here, as your question alludes, are State and local law enforcement, so I would want to make sure that we do it in a way where we work with them as to what they would find most useful.

Certainly, as I said in response to Senator Feinstein, the volume of NICS checks overall and, with it, the volume as a small subset of denials has exploded over the course of the last year, and so I am mindful of the resource burden that it puts on everybody in the law enforcement system. But I would be happy to talk with you more about it.

Senator COONS. Thanks. I look forward to working with you on that.

Thank you, Mr. Chairman.

Chair DUBIN. Senator Sasse.

Senator SASSE. Thank you, Chairman. Thank you, Director Wray, for being here, and thank you for the way you have been available to us on this Committee and on the Intel Committee. We have also been grateful for your work and availability.

We have talked a good bit about the intelligence failures around January 6, but some of it is how do we sort signal from noise and some of it is the hand-off from the FBI and other entities to the Capitol Police. As you do an after-action, how much of the problem is the challenge of navigating a social media world where any drunk guy in a bar now has amplification that he can be heard around the world, and lots of it is just drunk guy in a bar ranting, and some of it is more particular threats because people can find communities of kind of warped belief with other people if they are planning something wicked on social media? How much of it is the filtering through social media for you to make sense of it, and how much of the January 6 failure was the hand-off from the FBI to Capitol Police?

Director WRAY. Well, Senator, as I said, when it comes to the hand-off, a lot of the attention has really been about this Norfolk SIR, which I think I have talked about at some length, where we provided the information to our partners in three different ways. As it was, the information was raw, uncorroborated information at the time certainly.

I think the other part of your question, the filter, the social media piece of it, is a huge issue and is something that we and everybody in law enforcement struggles with right now. You know, you used the drunk guy example. I guess sometimes I refer to it—it used to be some angry, demented guy living in mom's basement—not that there is anything wrong with that—you know, in one part of the country is now able to communicate with a similarly angry guy in grandma's attic in another part of the country, and they get each other spun up now, and how to separate who is being aspirational versus who is being intentional.

It will not shock you to learn, and hopefully not other Members of the Committee, that the amount of angry, hateful, unspeakable, combative, violent even, rhetoric on social media exceeds what anybody in their worst imagination is out there. So, trying to figure out who is just saying, you know, what we ought to do is X, or everybody ought to do X, versus the person who is doing that and actually getting traction and then getting followers—and, of course, that is assuming they are not communicating through encrypted channels about all that stuff—is one of the hardest things there is to do in today's world with the nature of the violent extremism threat we face.

Social media companies play a huge role in helping us with that, but you often hear us say, "If you see something, say something." To me, the refinement here would be, "If Americans see something on social media that seems to have crossed that line, they need to say something," because that is going to be our best source of information to prevent this.

Senator SASSE. So, that is helpful. I have heard from Nebraska law enforcement before. At one level they do not really know what

to do with, “If you see something, say something,” because it is not clear exactly where they hand that information. Let us talk a little bit more about the hand-off between State and local law enforcement, as Senator Coons was, and the Bureau, but also between platform—technology platform content moderation and the Bureau.

But, first, just inside the Bureau, give us comfort that we are getting a lot better at this, because I do not think we are giving you enough resources to get the right kind of new human capital you are going to need. But I would love to be wrong. So go from 3 years ago to a year ago, a year ago to today, and today to a year from now. How are we getting better at filtering signal from noise? What kind of new human capital are you hiring that should give us confidence that we are going to get better in this world that is exploding with lots of online rant?

Director WRAY. Well, certainly, there is a number of things we are trying to do to get better, and I think we are making progress, but all of it, as you reference, requires resources. So, there is a data analytics piece because the volume is so significant that we need to get better at being able to analyze the data that we have to do it in a timely way, to separate the wheat from the chaff. That requires both tools, analytical tools—we have had requests for those in the budgets the last couple years—but also people, data analysts who can devote their time to that, who have the experience. So that is part of it.

I think a second part of it is, as I think I referenced in response to an earlier question, all these investigations that we do, all these arrests we make, are important not just from a disruption perspective, but putting my intelligence hat on, they allow us to learn more about where people communicate, how they communicate, what the magic words are, all that kind of stuff, so we get better and better at anticipating from that reason.

But, make no mistake, we have got a long way to go. This is an incredibly hard problem. I know from communicating with my foreign counterparts, especially the Five Eyes, that they are struggling with it, too.

As to your point about people knowing where to go, you know, I will tell you that our tip line, our public access tip line, both the email tips and the phone tips have exploded in volume, and we are doing things to kind of get that information out to State and local law enforcement much more quickly. Certainly, the social media companies—some of them have gotten better at providing us more real-time information when they see something because they have a lot of resources to devote to this problem in terms of policing their own platforms. The more we can incentivize them to do that, that is a big part of this, too.

Senator SASSE. Can I concretize the example? So, I am a high school teacher or a high school principal, and some kid comes to me and says, “Hey, these kids have always seemed to be online bullies, but now it seems like the things they are saying sound more violent,” what do you tell them to do?

Director WRAY. Contact your local FBI field office.

Senator SASSE. So, it is FBI; it is not your local police department?

Director WRAY. Well, I think they could also contact State and local law enforcement. We all now work so closely together that I think we view a call to one as a call to us all. If we get the information, we are, you know, 9 times out of 10 going to be pushing it to State and local law enforcement as quickly as we can.

We do a lot of outreach to the high schools like you are talking about, meeting with teachers, meeting with students, meeting with parents, to try to get them to understand better what to be on the lookout for, what might be that indicator, because the one thing we know—whether it is any kind of domestic violent extremism we have talked about here this morning, or, frankly, just the horrific active school shooter situation—is that when you look back on the path to the key moment, almost every single time there was a friend, a family member, a neighbor, a classmate, a co-worker, or something, somebody who knew the person well enough to know this is their baseline, they have now changed in a way that is scary to me, and no one knows better than the person who knows them well. That is the person we need to come forward. When they do—and they are doing it more and more—we are able to get in front of it.

Senator SASSE. I am basically at time, so I will not ask a question of you, but I will flag one that I want to continue to talking with you about. I would love to hear your big national pitch for these data analysts, because we need more great human capital to serve their country in this way. But I also want to be sure that our training for these data analysts has First Amendment sensibilities about what they are there to do. They are looking for violence. They are not looking there to be the national speech police. I look forward to continuing that conversation. Thanks for your work.

Director WRAY. Absolutely.

Chair DURBIN. Thank you, Senator Sasse. Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Mr. Chairman, and thank you, Director Wray, for being here today, and I want to join in expressing my condolences for the loss of those two agents, and my thanks to the thousands of agents who work day in and day out to make America safer.

When you last appeared before this Committee in July 2019, I expressed my concern that Donald Trump's attacks against Members of Congress and his other rhetoric, quote, "might ignite white supremacist and nationalist organizations and encourage hate crimes," end quote. I asked you whether you were concerned about the increasing number and intensity of his attacks on public officials and what the FBI was doing both proactively and responsively about them. You said, quote, "I think we are very concerned about any threats of violence against any Americans, but certainly that would prominently include our elected officials."

We have seen increasing attacks by the President and others against public officials. When the rioters, who came to the Capitol, stormed the Citadel of Democracy on January 6, were inside, they boasted proudly and loudly that they were doing what Donald Trump wanted them to do.

We have warned specifically about QAnon in a letter dated December 8, 2020. A number of us, Members of the Senate, warned that QAnon specifically was a threat.

I would like to ask you whether the threat posed by QAnon—and, as you well know, adherents of QAnon were among the rioters, very prominently, who stormed the Capitol—whether the continuing threat is worsened when prominent elected officials, including Members of Congress, endorse the QAnon theory.

Director WRAY. Well, certainly we are concerned about the QAnon phenomenon, which we view as a sort of loose sort of set of conspiracy theories, and we have certainly seen domestic violent extremists of the sort that you are describing who cite that as part of their motivation. That is something that we do—

Senator BLUMENTHAL. I apologize for interrupting. As you know, my time is limited. When Members of Congress, as has happened, endorse the QAnon theory, doesn't it worsen the threat of violence?

Director WRAY. Well, again, our focus is on the violence and on the plans to commit violence, on the threats to commit violence. It is less on the rhetoric and the ideology. Obviously, the folks who engage in this kind of violence draw inspiration from a variety of sources, and we are concerned about any source that stimulates or motivates violent extremism.

Senator BLUMENTHAL. Well, I will follow up in another setting, but I am, frankly, disappointed that you are not discouraging one of the sources of incitement, which is prominent public officials endorsing a theory that, in turn, resulted in storming the United States Capitol.

Let me turn to hate crimes. Hate crimes are underreported. We are seeing a rising trend of hate crimes, particularly directed against Asian Americans and Pacific Islanders. I have a bill called the "NO HATE Act" that would require more reporting, provide both incentives and requirements. Wouldn't you think that kind of measure is a good idea?

Director WRAY. So, certainly, we share your goal of both deterring and reducing hate crime, but also, particularly relevantly, promoting better reporting, more complete reporting of hate crime. We are specifically concerned about hate crimes against Asian Americans as well.

I am not directly familiar with the bill, but I think we share the goal of trying to figure out how to improve reporting. As you may know, we have NIBRS, which is a new system that we are rolling out. We are trying to get to 100 percent on that, and we would be pleased to work with you on figuring out how this bill might help advance that goal.

Senator BLUMENTHAL. Well, the NO HATE Act would, in fact, lead to better reporting. If 87 percent of hate crimes are unreported now, that is a searing indictment of the present system. We need to know more, and particularly about Asian Americans and Pacific Islanders being victims of them.

I know you do not want to be a, as you said, an armchair quarterback, but you are going to be armchair quarterbacked by the American people. And I think the American people, listening to these past 10 days of hearings and knowing how much information there was out there on social media, in other forums about these thugs and rioters coming to Washington—organized groups, Three Percenters, Proud Boys, and others—are wondering: Why didn't the FBI sound the alarm? I know there was a communication through

that threat assessment. I know you have talked about the agencies that were hearing that assessment. But here we have the United States Capitol, where a key function of democracy—enabling the peaceful transition of power—was taking place, and a threat of violence and even death to them. Why didn't you go to the Gang of Eight? Why didn't you sound the alarm in some more visible and ringing way?

Director WRAY. Well, Senator, I guess a couple things. One, over the course of 2020, we repeatedly—repeatedly—put out intelligence products on this very issue: domestic violent extremism, domestic violent extremism specifically tied to the election, domestic violent extremism specifically tied to the election and continuing beyond the election up through the Inauguration, and specifically in December 2020.

In addition to that, in connection with the one piece of raw intelligence that has been discussed so much here today, we did pass that on to the people in the best position to take action on the threat—not one, not two, but three different ways.

Now, more broadly, in terms of what is out in social media, as a number of the questions here today have elicited, I think it highlights—and your question highlights—one of the most challenging jobs for law enforcement in today's world with social media. There is so much chatter, often unattributed to somebody in a neatly identifiable way, where people are saying unbelievably horrific, angry, combative things, using language about beheading and shooting and explosives and all kinds of things like that. And separating out which ones are getting traction, which ones reflect intention as opposed to aspiration, is something that we spend an enormous amount of time trying to do. Sometimes we do not have the luxury of time and the ability to make those judgments.

I can assure you that, as I said I think to Senator Klobuchar, my standard is we are trying to bat a thousand. We want to thwart every attack, and anytime there is an attack that is not thwarted, we and our partners want to make sure that we figure out how to do even better preventing that.

We are pleased that the Inauguration, for example, went smoothly, notwithstanding threats and chatter that we were seeing not just here in the National Capital Region, but against State capitals all across the country. Our focus was on engaging with all of our partners, our State and local partners. I did a conference call with like a thousand-plus police chiefs from around the country about the State capitals. That is the kind of thing we were doing to try to make sure that we are doing the grind, the hard work to get in front of the threat, and we are going to keep working at it every single day.

Senator BLUMENTHAL. I understand your response. What I do not understand is why this chatter, raw intelligence, did not prompt a stronger warning and alarm going to the very top of the U.S. Congress, because clearly the U.S. Congress was under severe threat.

Chair DURBIN. Thank you, Senator.

Senator BLUMENTHAL. Thank you, Mr. Chairman.

Chair DURBIN. Senator Hawley.

Senator HAWLEY. Thank you, Mr. Chairman. Director Wray, thanks for being here.

Can I just go back to a series of questions that Senator Lee asked you? He asked you about the geolocation and metadata aspects in gathering related to—the gathering of metadata, that is, related to your investigation of the January 6 riot. You said you were not familiar with the specifics. Can I just clarify your responses to him? When you say you are not familiar, are you saying that you do not know whether or not the Bureau has scooped up geolocation data, metadata from cell phone records or cell phone towers? Do you not know or are you saying that the Bureau maybe—or maybe has not—done it? Just tell me what you know about this.

Director WRAY. When it comes to geolocation data specifically—again, not in a specific instance, but just even the use of geolocation data—I would not be surprised to learn, but I do not know for a fact, that we were using geolocation data under any situation in connection with the investigation of the 6th. But, again, we do use geolocation data under specific authorities and specific instances. Because this is such a sprawling investigation, that would not surprise me.

When it comes to metadata, which is a little bit different, obviously, than geolocation data, I feel confident that we are using various legal authorities to look at metadata under a variety of situations. But, again, the specifics of when, under what circumstances, with whom, that kind of thing, I am not in a position to testify about, with the sprawl and size of the investigation, and certainly not in a congressional hearing.

Senator HAWLEY. What authorities do you have in mind? You said that you are using relevant authorities. What authorities are they?

Director WRAY. Well, we have various forms of the legal process we can serve on companies that would allow us to get access—

Senator HAWLEY. And that has been done?

Director WRAY. We are using a lot of legal process in connection with the investigation, so yes.

Senator HAWLEY. But specifically serving—serving process on companies, invoking your various legal powers to get data from companies, that has been done in the case of gathering this data?

Director WRAY. In gathering metadata?

Senator HAWLEY. Yes.

Director WRAY. Again, I do not know the specifics, but I feel confident that has happened, because metadata is often something that we look at, and we have a variety of legal tools that allow us to do that under certain circumstances.

Senator HAWLEY. What about the cell tower data that was reportedly scooped up by the Bureau on the day, during, in fact, while the riot was underway? What has happened to that data? Do you still have it? Has it been retained? Do you have plans to retain it?

Director WRAY. Again, whatever we are doing with cell phone data, I am confident that we are doing it, you know, in conjunction with our appropriate legal tools and working with—

Senator HAWLEY. Well, how—here is what I am trying to get at, and I think it was what Senator Lee was trying to get at. How are we going to know what you are doing with it, and how are we going

to evaluate the Bureau's conduct if we do not know what authorities you are invoking, what precisely you are doing, what you are retaining? I mean, you said to him repeatedly you were not familiar with the specifics. You have now said it to me. I do not know—I am not sure how this Committee is supposed to evaluate anything that the Bureau is doing. You are basically saying, “Just trust us.” I mean, how are we going to know? Do we have to wait until the end of your investigation to find out what you have done?

Director WRAY. Well, certainly, I have to be careful about discussing an ongoing investigation, which I am sure you can appreciate. But all the tools that we have are done in conjunction with prosecutors and lawyers from the Justice Department.

Now, if there is information we can provide you before an investigation is completed that goes through what some of the authorities we have, the tools we have, et cetera, we could probably provide some information like that that might be useful to you to help answer the question.

Senator HAWLEY. That would be helpful. Thank you. I will hold you to that.

Let me ask you about some other things that have been reported in the press. Particularly, there have been a series of reports that the Bureau has worked with banks in the course of the investigation into the January 6 riot, both before and after, and that some banks—in particular, Bank of America—may have handed over data for 200-plus clients who may have used their credit or debit cards to make purchases in the D.C. area. What do you know about this? Has Bank of America voluntarily turned over information to the Bureau about its customer?

Director WRAY. I do not know any of the specifics, so I would have to look into that.

Senator HAWLEY. So, has the FBI requested similar information from any other companies, to your knowledge?

Director WRAY. Again, sitting here right now, I do not know the answer to that question. I do know that we work with private sector partners, including financial institutions, in a variety of ways all the time, in a variety of investigations. But exactly the specifics of what may or may not have happened here, that I do not know sitting here as we are talking today.

Senator HAWLEY. As I am sure you can appreciate, my concern here is that 12 U.S.C. § 3403 prohibits financial institutions from turning over confidential client records, unless, of course, they have got reasonable suspicion that there is a crime being committed.

Now, the news reports on this have indicated that the financial institutions were doing this in cooperation with the Bureau without any such indication of a crime. They are just turning over reams of consumer data. That obviously would be a major legal problem—a major legal concern.

Can you try and get me some answers to these questions? I appreciate you say you do not know today, you are not aware of what is going on, but can you look into this and follow up with me on this?

Director WRAY. I would be happy to see if there is more information we can provide you on the subject. As I said, we have a variety of ways in which we engage with financial institutions in par-

ticular, and as you referenced, there are a number of legal authorities that describe when you can and cannot do that and how that is supposed to work. So, I do not want to get out, as they say, over my skis and try to characterize what may have happened in this specific instance, but I am happy to look into it and see if there is more information we can provide.

Senator HAWLEY. What about some of the technology companies—Facebook, Google, Twitter, Apple, Amazon? Has the FBI had contacts with those tech platforms following the events of the 6th?

Director WRAY. We have certainly had contact with a number of the social media companies in connection with the 6th, so that much I know.

Senator HAWLEY. Has the Bureau sought to compel any of those companies to turn over user data related to the 6th?

Director WRAY. Well, again, I cannot tell you the specifics here, but what I will tell you is that we—I feel certain that we have served legal process on those companies, which we do with some frequency—and we have received information from some of those companies. Whether that is true of every single one of the companies you listed I cannot say for sure, but I suspect it is because we work with the social media companies quite a lot.

Senator HAWLEY. Are you aware of any of the companies voluntarily turning over data to the Bureau in relationship to the events of the 6th?

Director WRAY. I can't—sitting here right now, I cannot say for sure.

Senator HAWLEY. Just one more question, Mr. Chairman. My time has almost expired.

Is the FBI—are you currently pressuring any of these platforms, these social media platforms or tech platforms, to include back doors in their software that would help defeat end-to-end encryption?

Director WRAY. Are we pressuring—

Senator HAWLEY. Are you encouraging, are you pushing for, are you—is it your desire to get such access?

Director WRAY. We are not trying to get back doors. That is, I think, a criticism that gets leveled our way by people who do not understand our position often, so I appreciate the opportunity to address it here. We are concerned about end-to-end encryption, especially default end-to-end encryption, in connection with a lot of these platforms, and we are concerned that if these companies continue to move in the trajectory that they are moving in, we are going to find ourselves in a situation where no matter how bullet-proof or ironclad the legal authority, no matter how compelling the facts and circumstances, no matter how horrific the crime or heart-breaking the victim, we will not be able to get access to the content that we need to keep people safe.

What we have been suggesting—and the cryptographers and cryptographists that I talk to say this is doable—is for the companies themselves to build in a way to have legal access when confronted with the proper legal authority so that they can get access to information and provide it in response to a warrant or a court order. We are not going to have a key; we are not asking for a back door. That is a myth, an urban legend that has been directed our

way. But this is a subject that I think the American people need to understand, because decisions that affect the life and blood of Americans all over this country, which normally are made by our elected representatives, are in effect getting made in corporate offices in big technology companies. Different people can come down to different places on that balancing, but I would submit that is a balancing that should be made up here and not by one company based on its business model.

In the context, for example, of child exploitation, we get—and to Facebook's great credit, we get millions—millions—of tips on child exploitation through NCMEC every year that help us prevent and rescue kids, hundreds of kids, every year. If they move forward in the direction they are moving in, which is the direction, by the way, that Apple already went, we are going to be in a position where those tips, those leads, that content, that information will drop into the abyss. So, the tips will be gone. The victims, all those kids, will still be out there. The pedophiles that are exploiting them, they will still be out there. The only thing that will be different is that neither the company nor we, in law enforcement, will know who they are, where they are, or what they are doing. I do not think that is a situation that we want to find ourselves in, so we would welcome the opportunity to work with the companies, perhaps encouraged or incentivized through Congress, to get to a situation where we can balance strong cybersecurity—absolutely, that is a key part of our mission as well at the FBI—along with strong flesh-and-blood security, especially for America's children.

Chair DURBIN. Thank you, Senator.

Senator HIRONO is on remote. Can you hear me, Senator?

Senator HIRONO. Yes. Thank you, Mr. Chairman.

Director Wray, following the January 6 insurrection, you and other senior law enforcement officials were missing from public view, and the people who were providing the briefings to the public were the D.C. Acting U.S. Attorney and the Assistant Director of the FBI's Washington Field Office.

I hope you agree that at a time like this, it would be very important for high-level law enforcement people like you and others to brief the public to limit the spread of misinformation about what happened and who was behind what happened. Wouldn't you agree?

Director WRAY. Certainly, I agree it is important to prevent misinformation as much as we can, consistent with our legal responsibilities.

Senator HIRONO. Part of the misinformation that happened was that—and you have testified that so far there is no evidence of fake Trump supporters committing or provoking violence during the January 6 riot at the Capitol. That is part of the misinformation that got out.

Were you aware of these false claims?

Director WRAY. Well, certainly along the way, we have seen a whole variety of claims from a variety of people about the investigation into the January 6 attack, just like with a lot of other high-profile attacks. Whether I can recall exactly when the first time I have heard that specific claim, I do not know for sure.

Senator HIRONO. This is part of the kind of false information narrative that got out, blaming others such as Antifa for what happened. So, that is why I think it is really important for you and others like you to be out front.

You have been asked some questions about hate crimes, and you acknowledged that there is a rise in hate crimes against the AAPI, Asian American Pacific Islander community. Wouldn't you agree that calling the COVID-19 the "Kung Flu" or the "China virus" adds to the kind of targeted hate crimes that we are seeing arise against the AAPI community?

Director WRAY. Well, I do not know that it is really my place, as FBI Director, to start weighing in on rhetoric, but I can assure you that that is not language I would ever use, and hate crimes against Asian Americans and Pacific Islanders is something that we are concerned about, we take very seriously. We are investigating where we have facts sufficient to do that. We are also engaged in a variety of forms of outreach to the public. I think we have done, you know, 60-plus training or liaison events with the Asian American Pacific Islander community since just March of last year. We have put out intelligence reports to our partners about hate crimes against that community in particular, and it is something we take very seriously.

Senator HIRONO. I commend you for working with ISO, local and State—State and local law enforcement entities as well as community advocacy groups to deal with the rise in hate crimes against Asian Americans, and, in fact, just a few weeks ago, there were lethal attacks on—there seems to be a targeting of senior Asians—so, lethal attacks in San Francisco and in New York. I think these are totally unprovoked attacks.

I think that we need to continue to focus on what the community can do and what law enforcement can do to make sure that these crimes are prosecuted as the hate crimes that they are, and I think it is also important for our leaders to not fan the flames by calling COVID-19 the "China virus" or "Kung Flu."

You also testified, and you were asked some questions about the role of social media by these extremist groups, and you said that terrorism moves at the speed of social media. Senators Warner, Klobuchar, and I recently introduced the Safe Tech Act which would pull back Section 230 immunity from tech companies for things like civil rights violations and wrongful death suits.

Do you think that exposing these companies to civil liability would force them, basically, to take extremist content off of their platforms or to take these kinds of content more seriously and do something about it?

Director WRAY. Well, Senator, I want to be careful not to get out ahead of the rest of the administration and weighing in on specific pieces of legislation. But having said that, I think there are a few things I could say.

One is, while the immunity under Section 230 has obviously helped the evolution of the social media industry, it has also allowed it to avoid a lot of the burdens and risks that other brick-and-mortar companies have had to face. It means that important decisions that affect many aspects of society that would normally be made by the people's elected representatives are now being

made in corporate offices in the industry. So, while I cannot comment on specific legislation, I certainly can tell you that I see the value—maybe is the best way of putting it—of incentivizing online platforms to address both illicit content on their platforms and to assist law enforcement in bringing to justice criminals who use those platforms to victimize Americans.

Senator HIRONO. Then there is also the concern that as the entities such as Facebook and Twitter do more to control—modify this kind of content, that I know this could encourage—drive extremists to use encrypted platforms like Telegram and Signal. So, that is another area that we are going to need to address.

I wanted to turn briefly to your testimony that identifies lone-wolf actors as a concern for you, and I think that with regard to lone-wolf actors we need probably a whole-of-society approach. What can we all do to deal with the problem of lone-wolf extremists?

Director WRAY. I appreciate the question. We do consider that the lone actor—I have sort of stopped using the term “wolf” because I feel like it gives them too much credit. But lone actors—

Senator HIRONO. Lone actors.

Director WRAY [continuing]. Whether they are homegrown violent extremists or domestic violent extremists, is a real threat because one of the—A, because it is so pervasive but, B, because unlike somebody who is working as part of a large group, somebody acting alone has fewer people they are in contact with, which means fewer dots to connect, et cetera. It makes it that much harder for us to get in front of.

What we desperately need is more and more situations where the members of the public who know that person, who see the transformation, who see things starting to change in a way that they know is different and has become much darker and more dangerous, those people to speak up, to contact law enforcement, whoever they trust in law enforcement, to alert people to the threat. The good news, if there is any good news in this, is that we are seeing that happen more and more in this country. You know, we have had lots of people, as heartbreaking as it must be, turn in family members when they see this transformation because they know that having us or our partners intercede may not only prevent that person from committing an attack against an innocent American, but also may, in some instances, result in that person being off-ramped to get help, as opposed to potentially being killed by law enforcement, or incarcerated, or something else.

We need the people—we always say, “If you see something, say something,” and most people picture the abandoned backpack in a Greyhound bus terminal. Obviously, we want people to see something and say something there. But, we also need people, if they see something about somebody, to say something. The more of that we can have and the more Members of Congress as key voices in their communities, in your home States, can encourage people to do that, that is one of the key weapons we have as a country, to use your phrase, a whole-of-society defense against this threat.

Senator HIRONO. Thank you.

Thank you, Mr. Chairman.

Senator BOOKER [presiding]. Senator Cotton.

Senator COTTON. Director Wray, welcome. First, I want to say I was deeply saddened by the loss of Special Agents Dan Alfin and Laura Schwartzenberger, and I want to extend condolences to their families and to the agents who worked with them and the entire Bureau. My wife and I know many of your agents across the country, and we are extremely grateful for the work they do to keep our communities safe.

I want to turn to some of your written testimony. You say that, “The FBI assesses homegrown violent extremists as the greatest, most immediate international threat to the Homeland.” These extremists “are U.S.-based individuals, located in and radicalized primarily in the U.S., who are not receiving individualized direction from global jihad-inspired foreign terrorist organizations, but are inspired largely by ISIS and al Qaeda to commit violence.”

So, what you are saying there, Director Wray, if I understand it correctly, is that dangerous as the threat is from other kinds of extremists, like racial supremacist groups or anarchist groups, the most dangerous threat we have in the country from extremism remains jihadist. Is that correct?

Director WRAY. Well, I think the key word there was “international.” I do not have the written statement for the record in front of me, but what I would say is we view—let me step back. What we view as the most dangerous threat to Americans today is largely lone actors, in some cases small cells, if you will; largely radicalized online; already here in the United States; attacking soft targets using crude, readily accessible weapons; motivated either by jihadist inspirations or by a variety of domestic inspiration. So, we have the HVEs, the homegrown violent extremists, which are the jihadist-inspired, and we have the DVEs, the domestic violent extremists, who are inspired by domestic sources. That bucket, which have a lot in common with each other, is the greatest threat, the greatest terrorism threat we face as a country.

Senator COTTON. Okay. I want to turn to another kind of potential terrorist threat. We talked a lot here about domestic terrorism. Obviously, international terrorism remains a serious threat. An important part of the Federal Government’s counterterrorism work remains trying to prevent foreign terrorists from reaching our shores. Is that correct?

Director WRAY. Yes.

Senator COTTON. Part of the screening process is checking our own criminal record and terrorism data bases, but it does rely heavily on foreign governments both providing us with data about criminal terrorist ties and also to document security practices so terrorists cannot obtain fake IDs. Is that correct?

Director WRAY. Certainly, that is an important part of kind of hardening our homeland defense, if you will.

Senator COTTON. Your predecessor testified to Congress in 2015 that, without cooperation from those governments, if a terrorist is not already in our own data bases, we could, quote, “query our data base until the cows come home, but there will be nothing to show up,” end quote, unless foreign governments work with us. Is that still the case?

Director WRAY. Certainly, we depend heavily on cooperation from foreign governments to make that kind of defense effective.

Senator COTTON. Let us turn to a few of those foreign governments. Is it still the case that Syria and Iran are both nations that share little, if any, information with the United States about potential travelers or immigrants coming to our country?

Director WRAY. I will confess that I am not sure I know the answer sitting here today, but I would be flabbergasted if the answer were anything other than, yes, it is still the case.

Senator COTTON. Is it still the case that Syria and Iran—I am sorry, that Libya and Syria are both countries that lack effective control over significant parts of their territory and, therefore, cannot provide information from people coming from those parts of their country?

Director WRAY. I believe that to be the case.

Senator COTTON. What about Myanmar, also known as Burma, where there was a military coup last week? Is it true that the United States now faces serious obstacles to vet individuals coming from Burma?

Director WRAY. I am not sure I know the answer on Burma, but I suspect the answer is the same.

Senator COTTON. Finally, in this rogues gallery, what about North Korea? Is it true that North Korea remains uncooperative in providing us information about North Korean nationals that might try to come to the United States?

Director WRAY. I have rarely heard North Korea come up in the context of cooperativeness.

Senator COTTON. Thank you. I just want to note before we close on this topic that all of those nations—Syria, Iran, Libya, Burma, North Korea—were among the nations from which President Biden lifted travel restrictions by Executive order on his very first day in office without any plan in place to improve security for those travel situations. Each of them represents a real threat to the United States.

I want to turn to another kind of threat we face, which is crime and gang violence, in particular. Unfortunately, both drug trafficking and violent crime are now on the rise in the United States. Are street gangs driving a significant part of violent crime on streets across America?

Director WRAY. Well, certainly, when I go around, and I have talked with State and local law enforcement in all 50 States, I think the number one issue you would hear about from maybe all of them is violent crime. What drives it in each city, State, town is different, but it is not just the national gangs, you know, the MS-13s, the 18th Street gangs, et cetera. A lot of times it is the neighborhood gangs that are really top of mind when you talk to chiefs and sheriffs around this country.

Senator COTTON. All right. Those gangs of whatever type, they often use violent crime as a way to expand their territory and exert more control so then they can use—seek money-making enterprises like drug trafficking or prostitution, property crimes like robbery. Is that—

Director WRAY. Yes, yes.

Senator COTTON. Let us talk about MS-13 since you raised it. MS-13 has gained notoriety for some particularly brutal crimes

across the country in recent years, and they continue to expand their influence in the United States. Is that right?

Director WRAY. Well, I know we have made significant strides against MS-13 over the last 18 months or so, but it is a very significant gang threat, and the brutality, the savagery, and the level of, kind of, organization that exists there is something that has to be taken extremely seriously.

Senator COTTON. It remains primarily a Central American and especially an El Salvadoran gang. Is that correct?

Director WRAY. Well, certainly from the Triangle, the so-called Triangle, but, yes, El Salvador is one place from which a lot of them come.

Senator COTTON. They do not exactly hand out membership cards, I am sure, or have a membership directory. Unless they are named by another gang member, you still use methods like gang tattoos to identify who belongs to MS-13?

Director WRAY. That would be one piece of information that would be relevant. We are obviously talking to human sources, witnesses, informants, collecting information from partners, et cetera.

Senator COTTON. Then I know that your Safe Streets Task Forces and your National Gang Intelligence Center and other units often work together with the Department of Homeland Security and with State and local law enforcement to find and to prosecute and deport these gang members. In your professional opinion today, is Immigration and Customs Enforcement deporting too many or too few MS-13 gang members?

Director WRAY. Well, I do not know that I have tracked the deportation rate related to MS-13 members. When we come across MS-13 members in this country, our focus has been on locking them up and putting them in Federal prison as much as we can, which is where we like to have them. In addition to the units that you listed off, I think correctly, I would also cite our TAG, our transnational group, which is a task force that we have in El Salvador, because we actually have pretty effective results with the U.S. law enforcement working with El Salvador law enforcement, and to a somewhat lesser extent the other two countries in the Triangle, to take down some of the MS-13 members in their home country as well. So, it is the two pieces together.

I cannot say sitting here right now anything about the immigration posture, but certainly when we find MS-13 gang members here, we want to put them in orange jumpsuits where they get to spend a lot of time in our prisons.

Senator COTTON. Thank you. Well, when it comes to MS-13, it will not surprise you to know that I support the "lock them up" policy. But I also support the "deport them" policy.

Senator BOOKER. Thank you, Senator Cotton.

Director Wray, hello. I know it has been a long day, and I appreciate—you are on the very tail end of the questioners, so I appreciate your endurance.

I first just want to associate myself with, maybe not the heat that you received from Senator Whitehouse, but definitely the spirit of what he was talking about. I appreciate your commitment to meet his concerns, which are concerns I have heard on both sides of the aisle. It is very hard to play our role, our constitutionally

mandated role, if we do not have the information to do the oversight of your agency. So, I do appreciate your commitments.

I also want to join what is, I think as you have seen, really bipartisan condolences for the loss of Daniel Alfin and Laura Schwartzenberger. That is the greatest sacrifice anyone can make for this Nation, which is to die in the line of duty and protecting others. I am aware that there are other officers that were injured, other agents that were injured. I hope they are recovering well.

Director WRAY. They are. They are—I had the opportunity the morning after the shooting to go down not just to meet with Laura's and Dan's families, but also to visit the hospital, and, happily, I think the four injured agents should make a full recovery.

Senator BOOKER. Well, would you please express from the entire Committee not only our condolences to the families but our robust concern for their recovery and their well-being, and should they need anything, you obviously have allies here in their well-being.

Director WRAY. Thank you, Senator.

Senator BOOKER. You and I have had one of my—a treasured conversation, frankly, to—you showed me the honor of coming to visit me before you were—you sat with me in my office before you stepped into that job, and I really appreciated our conversation about the challenges we still have in this country around racial issues. The urgency for the FBI, which has abused its power before, whether it is investigations of Martin Luther King or other ways, to really set an example for the largest driver, in many ways, as we pledge allegiance to the flag—this driver toward being a just Nation.

I just want to ask you, though, about your team. We know that diverse teams are better. Everybody from Harvard Business School to every top business consulting agency has shown study after study that diverse teams are stronger teams, but especially ones in law enforcement to have such a mandate that you have, having diversity is really important.

I guess my first question is: How diverse is the FBI's workforce now in terms of gender, religious, and racial diversity?

Director WRAY. Senator, this is a topic that, as you may recall from our prior visit, is very important to me personally and something I have tried to make as a priority. We are addressing it in a variety of ways, but in terms of results, there is—I guess I would characterize it as “cautiously optimistic.”

On the racial diversity front, our Special Agent class has been more diverse with each year over the past few years, in each case more certainly than the diversity percentage of the workforce that exists. This year, which I think is a bright spot, the percentage—the racial diversity of our applicant pool is much higher than it was in years past.

On gender, much the same. Applications—the diversity of applications is up significantly. The diversity—gender diversity of our Quantico classes is up. We have set—I have set—aggressive targets for our field offices, and those targets are for the most part being exceeded. So, we are doing a number of things to try to address the issue. We have what we call “diversity agent recruitment events,” which were easier to do pre-COVID, but, you know, that a lot of

times I would go to different parts of the country myself and speak at.

We have a very encouraging project we started with 300 Entertainment that is focused on historically Black colleges and universities and trying to improve our recruiting pipeline there.

Senator BOOKER. Can I maybe just ask you, could you share that data with the Committee of the progress that you are making?

Director WRAY. Sure. I think there is definitely information we could provide separately.

Senator BOOKER. In your leadership team, can you provide the diversity of the leadership team that you have around you?

Director WRAY. Sure. I will say—yes is the answer, but I will say that on that front, I have recently appointed—I am not sure how much you remember about our structure, but we have at the very top of the FBI six EADs, Executive Assistant Directors. Each one is over a branch that has multiple divisions. So, just over the last couple of months, as people retire, I have replaced one of the EADs with an Asian-American woman who oversees our Human Resources Branch, and one of the other of these six EADs with an African-American male who oversees our Intelligence Branch, which includes not just our entire intelligence function but our private sector engagement and our law enforcement partner engagement as well.

I also appointed the first—

Senator BOOKER. I want to honor the time here.

Director WRAY. Okay.

Senator BOOKER. I know you will be available to discuss that more and get me information.

In the minute or so I have left, I really think a lot of the questioning has been very illustrative of a lot of the challenges we face, and I appreciate that from Members of both sides of the dais here.

I just wanted to drill into something. We talked about extremist groups that were at the Capitol. We talked about many others. But as I have seen interviews of folks, there were many people that were just saying, “I am here because President Trump”—now former President Trump—“wanted us here.” It seemed that this lie that was told over and over again, that many people felt like their Government had betrayed them—that the courts, court case after court case, Republican official after Republican official, were all just dead wrong, really believed in the lie and felt like they were left with no choice but to try to stop the peaceful transfer of power. So, I guess I would just ask to begin with, Attorney General Barr said that he had, quote, “not seen fraud on a scale that could have effected a different outcome in the election.”

Do you agree with Attorney General Barr’s statement that there is absolutely no evidence of voter fraud that could have changed the outcome of the 2020 Presidential election?

Director WRAY. I agree with Attorney General Barr.

Senator BOOKER. To be crystal clear on this, as FBI Director—these would be Federal crimes—you are aware of no evidence of widespread voter fraud in the 2020 Presidential election, correct?

Director WRAY. We are not aware of any widespread evidence of voter fraud much less that would have affected the outcome in the Presidential election.

Senator BOOKER. All right. Well, I have great respect for Senator Kennedy, and I see him as a friend. I am not going to abuse the incredible power that Dick Durbin has given me right now, although power is going to my head, but I am going to police myself and defer to the good Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Senator BOOKER. I did not hear you. Did you call me—

Senator KENNEDY. I called you “Mr. Chairman.”

Senator BOOKER. Thank you, sir. Thank you, sir. That sounds very good.

Senator KENNEDY. Thank you again, Mr. Chairman.

Mr. Director, I listened from my office to your testimony today. Tell me who had the authority to call out the National Guard on January 6.

Director WRAY. My understanding—well, my understanding is that the decisions to call out the National Guard, in one sense, are the responsibility of the Secretary of Defense. But in another sense—

Senator KENNEDY. Okay. Mr. Director, I am sorry to interrupt you, but I think we can agree that the FBI had credible information that there was likely to be violence on January 6. Can we agree on that?

Director WRAY. Well, I do not know that we had assessed its credibility. We certainly had information that was concerning about the potential for violence in connection with the January 6 events. As we have discussed here this morning, one piece of information that was most specific that I am aware of was passed, you know, quite quickly—

Senator KENNEDY. Well, based on that information—and I am sorry to interrupt, but we just keep nibbling at the edges and dancing around the issue. I understand. I am not asking you to throw anybody under the bus, Chris. I get it. But we need to find out what happened.

Now, if you were king for a day, based on the information that you had—maybe not at the time but later on—would you have called out the FBI—I mean the National Guard?

Director WRAY. You know, Senator, as you said, I really want to be careful not to be armchair quarterbacking others. I think the National Guard, we have seen, can play a very important role in crowd control—

Senator KENNEDY. Okay. Excuse me for interrupting. You know, I am not trying to be rude, but my time is limited. Well, who made the call not to—based on your information, who made the call not to call out the FBI, whether they should have or shouldn’t?

Director WRAY. Not to call the FBI?

Senator KENNEDY. I am sorry. I am tired. The National Guard.

Director WRAY. Well, I would defer to others who were more involved in that discussion, but from what I have heard, what I have read, my understanding is that at one stage of the process, the local government was of the view that it did not need the National Guard’s assistance.

Senator KENNEDY. Who do you mean by the “local government?” The Mayor?

Director WRAY. Yes.

Senator KENNEDY. So, the Mayor did not call out the National Guard?

Director WRAY. At the beginning——

Senator KENNEDY. What do you mean by the beginning?

Director WRAY. Well, you know, in the day or two leading up to the 6th.

Senator KENNEDY. Okay.

Director WRAY. Then as to exactly how it played out on the 6th itself——

Senator KENNEDY. I understand, but——

Director WRAY [continuing]. I am not as sure about—yes.

Senator KENNEDY. I mean, clearly our people were overrun by the nutjobs. So, we are making progress here, okay. So, the Mayor or the city government decided not to call out the FBI—the National Guard ahead of time.

What about the House Sergeant at Arms?

Director WRAY. I do not know what role the House Sergeant at Arms played with respect to the National Guard.

Senator KENNEDY. Okay. How about the Senate Sergeant?

Director WRAY. Same answer.

Senator KENNEDY. Okay. How about the Capitol Police, the Chief of Capitol Police? Did the Chief of Capitol Police make the call not to call out the National Guard?

Director WRAY. I do not know the answer to that. My understanding is that the law enforcement officials here with responsibility over the Capitol, that there were varying—differing views about whether or not the National Guard was appropriate and when and what level, but all I really know on that is what I have—same thing you have seen, you know, in the press coverage of the event.

Senator KENNEDY. Okay. That is enough on that.

I listened to your comments about diversity, and I thank you for your good work there. I think any fair-minded person has to conclude that diversity is a strength, not a weakness. But this subject comes up a lot, and I think it is going to come up a lot again, and that is not a criticism. That is just an observation.

Do you believe that the FBI is a systemically racist institution?

Director WRAY. No. Now, having said that, I do believe the FBI needs to be more diverse and more inclusive than it is, and that we need to work a lot harder at that. And we are trying to work a lot harder on that.

Senator KENNEDY. Do you believe that the FBI is a systemically sexist or misogynistic institution?

Director WRAY. Again, that is not the way I would describe the FBI that I know and see every day. But, again, it is a place where we need to be more diverse and inclusive, and we need to work harder at that. And we are working hard at that, and we have got progress that we still need to make at least to be satisfactory by my standards.

Senator KENNEDY. Okay, fair enough. Mr. Director, have you ever been to Hong Kong?

Director WRAY. No.

Senator KENNEDY. Wonderful place, wonderful people. The Chinese Communist Party is destroying it. If Congress passed a bill

and said to the good people of Hong Kong who yearn for freedom, "Come to America"—we are going to follow our friends in Britain and say, "Come here. You want to get out from under the thumb of the Communist Party, come to America. We welcome you." Do you think the FBI and law enforcement has the ability to screen for spies? One of the criticisms of the proposition I just stated is, well, we would be letting in spies. Do you think, based on your knowledge of security, that we could catch most of the spies?

Director WRAY. Well, I yield to no one in my faith and confidence in the great work of the men and women of the FBI, but I will tell you that the Chinese counterintelligence threat is the greatest threat—certainly, the greatest counterintelligence threat—that we face as a country.

Senator KENNEDY. Right.

Director WRAY. The sheer number of what we would refer to as "nontraditional collectors" working on behalf of the Chinese Communist Party is something that is a massive resource challenge for the FBI.

Senator KENNEDY. Okay. That was probably an unfair question. I am not asking you to guarantee anything.

In the few seconds I have left and begging the indulgence of our esteemed Chairman—who is doing a much better job than Durbin, by the way. Oh, he is back.

[Laughter.]

The Horowitz report, can you tell me how many people you have referred for prosecution at the FBI as a result of the Horowitz report?

Director WRAY. For prosecution or for discipline?

Senator KENNEDY. For prosecution first. Just give me numbers, because I do not want to abuse my time.

Director WRAY. Well, you know, the prosecution issue related to anything to do with the Horowitz report is in the hands of—

Senator KENNEDY. Have many have you fired?

Director WRAY [continuing]. The Inspector—

Senator KENNEDY. I get it. How many have you fired?

Director WRAY. So, all the people—most of the people involved in the Horowitz report—are former employees. Of the ones who are current, every single one of them, even if mentioned only in passing, has been referred to our Office of Professional Responsibility, which is our disciplinary arm. Now, that piece—and this is important—that piece of it, because we are cooperating fully with Mr. Durham's investigation, at his request, we had slowed that process down to allow his criminal investigation to proceed. So, at the moment, that process is still underway in order to make sure that we are being appropriately sensitive to the criminal investigation.

Senator KENNEDY. Okay. So, you have had to hold up as a result of the criminal investigation?

Director WRAY. Yes.

Senator KENNEDY. I am sorry I went over, Mr. Chairman. I am sure glad you are here. Booker was just screwing everything up.

Chair DURBIN [presiding]. Senator Padilla. I am sure you will do a better job than the previous questioner.

[Laughter.]

Senator PADILLA. Thank you, Mr. Chairman. I will do my best.

Director Wray, other Members of the Committee have raised their concerns over the increase in hate crimes in recent years against Latinos, African Americans, the LGBTQIA community, and others. Over the last year, we have seen a significant increase in violence specifically against Asian Americans, including in my home State of California. Earlier in this hearing, Members raised the recent lethal attacks in San Francisco and New York as some examples.

Just last week, in Sacramento, California, a man returned to the premises of an Asian family-run butcher shop with a mutilated cat carcass for no apparent reason other than to stoke fear. The incident is currently under investigation as a hate crime.

It is clear to me that this uptick in violence against Asian Americans is the direct result of racist rhetoric used by political leaders with intentional regard to the coronavirus pandemic, such as when former President Donald Trump has used offensive references to the coronavirus.

Indeed, a March 2020 FBI assessment conducted by the FBI's Houston office and distributed to law enforcement across the country—and I will quote. Well, it predicted a future surge in hate crimes against Asian Americans due to the spread of coronavirus, and I want to quote from that assessment: “The FBI makes this assessment based on the assumption that a portion of the U.S. public will associate COVID-19 with China and Asian-American populations.”

I know Senator Hirono has already raised the topic, but I wanted to ask a couple more specific follow-up questions. To what extent, Director Wray, do you believe the increasing violence against Asian Americans has been influenced by reckless rhetoric concerning the pandemic? Two, what steps is the FBI taking to address the increase in hate crimes against Asian Americans? Three, part of that, I hope, is an update on how the FBI is proactively working to overcome trust issues in immigrant communities and communities of color.

Director WRAY. Senator, let me try to take all three questions in turn. First, I want to be careful as FBI Director not to start to get in the business of kind of weighing in and characterizing rhetoric, because, as you know, we focus on the violence, not on the ideology or the motivation. So, I would largely, on that issue, just reaffirm the intelligence assessment that has already been produced through the appropriate channels.

On the second two questions, in terms of trying to be proactive, a number of things that we are doing. In addition to our investigations, which we—on which we work closely with State and local, in some cases Tribal and other Federal law enforcement agencies, and that—we have some cases we will be able to bring Federal cases, working with our Civil Rights Division counterparts, the prosecutors. In other cases, even if it is going to be a State or local charge, which sometimes may be the best charge available based on the facts, we are trying to provide forensic support, other kinds of expertise, and experience to help support the State and local prosecution.

We are also trying to do a lot more public outreach, which is both with the community itself, but also with State and local law en-

forcement. In some cases, field offices are bringing them together, so it is a group discussion, which I think has a lot of value. We are also providing training, so we are doing a lot of training. We are doing hundreds of seminars, workshops, for both law enforcement and community groups, religious organizations, so forth, and that includes hate crimes training, not just for the hundreds of Special Agents at the FBI, but for thousands—thousands of police officers.

When it comes specifically to the last part of your question, the trust issues, you know, part of that is demonstrating through our work that we are going to do the right thing in the right way, and that we are going to respond just as aggressively and professionally to crimes against them as victims, as they see with other kinds of crimes. We have done, just since March 2020, I think we have done 60—over 60 liaison events or trainings specifically geared toward the Asian American Pacific Islander community, and we have also tried to put out intelligence reports like the one you referenced that call out the issue.

Senator PADILLA. Great. I think it is just another example of the value of increased, improved diversity, not just throughout the ranks of the agency, but especially amongst agents and amongst leadership. Now, your examples of collaboration with local law enforcement is actually a great transition to my next question.

Some of the most striking revelations in the aftermath of the January 6 insurrection here in the Capitol were reports—reports that some members of the Capitol Police were sympathetic to the insurrectionists, that they posed for photos, provided directions, and may have even expressed support for those attacking the very building they are sworn to protect. I understand that six Capitol Police officers have been suspended, and at least 29 others are under investigation for their alleged role in the attack.

We have also learned that among those participating in the insurrection were numerous off-duty law enforcement officers from around the country. Rooting out white supremacists and right-wing extremists is a challenge that local law enforcement agencies and even the United States military is facing across the country.

Director Wray, how is the FBI assisting law enforcement agencies across the country to root out white supremacy or other forms of extremism? Do you believe there is a concerted effort by right-wing extremists to infiltrate law enforcement agencies?

Director WRAY. So, I guess a few things I would say on this topic. Certainly, it is true that in some instances, as we continue to investigate the January 6 attack, there have been some instances of current or, in particular, former military or law enforcement who participated, and we want to pursue those cases just as aggressively as we would anybody else.

We are also, though, which may go more to the heart of your question, when appropriate, referring individuals to their—the department that employs them—for possible administrative or disciplinary action under their rules as appropriate.

We work very closely with both our law enforcement partners and our military partners in their efforts to address any kind of violent extremism that may be in their midst. We view that as, in effect, a kind of insider threat, if you will, and they do, too. I want to be clear that in my experience—and I am dealing with our law

enforcement partners and our military partners every single day—the vast, vast, vast, vast, vast, vast majority of the men and women in uniform, both in law enforcement and the military, are brave, selfless, professional, high-integrity individuals. But when there are bad apples in the midst, we work with our partners to try to get ahead of it.

Senator PADILLA. I agree with that final statement, but the threat and the danger that those few bad apples present are to be taken very seriously, I understand. So, I hope to work with you possibly to develop further best practices and protocols to be shared with agencies around the country.

Director WRAY. Thank you.

Senator PADILLA. Thank you, Mr. Chairman.

Chair DURBIN. Thank you. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Director Wray, thank you for being here, for your years of service, and for the great work that so many of the people in the FBI do every single day.

Before I ask you a question, though, I think it is very important—I was the last Member to leave the Senate Chamber, and I observed the Capitol Police doing an extraordinary job in shepherding every single Member and every single staff to safety. So, I hope as they are reviewing some of the officers—we should go through a review—I hope that we are tracking their entire pattern of movement that day. I think you will see many of them were doing—putting themselves between us and violence, and we need to make sure that we treat them fairly.

But back on the rioters on January 6, can you give me a rough idea just of the crimes that many of them are being charged with or being pursued through investigations?

Director WRAY. Well, we are using a variety of statutory weapons. There are certainly assault charges. There are a number of charges that are specifically—by that, I mean assault against, you know, Federal law enforcement, including the Capitol Police, the brave men and women of the Capitol Police that I think you rightly credited there. There are also various charges related to destruction of Federal property, things along those lines.

We are now starting to begin to see, as we have sort of taken care of the most immediate, easiest to prove—I hate to use words like “low-hanging fruit charges”——

Senator TILLIS. Yes.

Director WRAY [continuing]. But now we are starting to get more of the more advanced charges, if you will. So, you know, we have had some conspiracy charges recently. Some of the people that are more involved with different forms of planning or coordination or preparation, and some of those charges are starting to happen, and I would expect to see that continue.

Senator TILLIS. Incidentally, Mr. Chair, I want to associate myself with Senator Graham’s comments earlier. I think your threats are going up, and we have got to match that with additional resources. So, I look forward to the Committee continuing that.

Would you see any difference between the charges, the investigations that you are pursuing in the events on January 6 and charges that should be pursued against Federal buildings and Federal law enforcement officers being harmed in Seattle or Portland? Are

there active investigations for either of those two events? And would they be treated any differently?

Director WRAY. As I think I said in response to an earlier question, we are equal opportunity, so by that I mean we do not care what ideology motivates you; if you are engaged in violence that violates Federal law, we are coming for you. That is as true for the events over the summer and some of the domestic terrorism that occurred——

Senator TILLIS. Are there active investigations related to those events?

Director WRAY. Yes.

Senator TILLIS. Thank you. I feel like—you mentioned in response to one of the Members' questions about this is just increasing; the volume is increasing. I introduced in the last Congress, and I intend to reintroduce a bill called "Protect and Serve," which increases penalties for rioters for assaults on Federal officers and more significant consequences. Do you think that those would be helpful tools for law enforcement?

Director WRAY. Certainly——

Senator TILLIS. And for prosecution?

Director WRAY. Sorry, I did not mean to——

Senator TILLIS. Go ahead.

Director WRAY. I think—while I am not familiar with the specific bill—I want to enthusiastically support the idea of looking at everything we can do to protect the men and women of law enforcement. The threats, the violence against law enforcement in this country, is one of the most tragic and sometimes least talked about challenges we face. This year alone—this year alone, an officer is shot and killed in the line of duty at a rate of more than one a week. When you think about what it takes for someone to be willing to sacrifice his or her life for a total stranger and how unusual that is just to begin with, and then you add on top of that somebody who is willing to do that, get up and do that every single day, day after day after day, and they never know when that day might be the day that they do not come home to their families.

Then you put that in the context of the way in which some violent opportunists or domestic terrorists hijack some of these protests, whether it is the ones over the summer or the ones on the 6th, and now you have got some of these same selfless individuals who are, in many cases, killed; but for every one who is killed, there is someone who survived, thank goodness, but whose life and his family's life is forever altered. I do not think we could ever—and should ever—take for granted those people because they protect all of us.

Senator TILLIS. I agree. I am curious. With all the discussion of defund the police and systemic racism in all law enforcement agencies, some of the dialog that is out there, have you seen any measurable decrease in the number of people who are trying to apply to come into the FBI? I know I am seeing it in—State troopers are telling me their applications for academies are down by over 70 percent. We see people accelerating their retirements. Do we have any potential threat out there, either within the FBI or for law enforcement in general, having fewer people willing to get into this profession?

Director WRAY. So, certainly when it comes to State and local law enforcement, because I talk to many of the same chiefs and sheriffs you do, the recruiting challenge is a real concern, and it comes up all the time. That is something we need to be concerned about, and all of these trends that we are talking about will have—I think we run the risk of that, just making that trend worse.

At the FBI, happily, because we can all use some good news from time to time, last year and the year before, we tripled the number of people, Americans across the country applying to be Special Agents. When I took the job, it was around 11,000 or so a year people applying to be Special Agents. In 2019 it was about 36,000. Then last year, even with the pandemic, it was even higher than that, and that is the highest number of people applying to work at the FBI as Special Agents to put their lives on the line in about a decade.

We would like to think our work is earning people who want to come work for us, and we are grateful for that, and hopefully we can do our part to try to encourage more people—because we can only take so many of them—to pursue law enforcement jobs in other agencies.

Senator TILLIS. Well, that is good news. I just wish you all the best of luck in prosecuting every single person that you can that breached the Capitol and every single person on the grounds who assaulted or threatened a police officer, if there is anything that we can do to help. I will follow up with the Department to get your perspective as to whether or not you think the Protect and Serve Act would be helpful. I think that it will be, but I would like your professional judgment.

Director WRAY. Thank you, Senator. I appreciate it.

Senator TILLIS. Thank you, Mr. Chair.

Chair DURBIN. Thank you, Senator. Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman. And, Director Wray, greetings from your home State of Georgia.

Director WRAY. Thank you.

Senator OSSOFF. Thank you for your service.

There has been a significant increase in shootings and violent crime nationwide over the last 18 months. There were at least 10 people shot in Atlanta, Georgia, on Sunday. What does the FBI assess is driving this crime wave?

Director WRAY. Well, certainly, I am following the same trends you are with concern not just in Atlanta but in other cities around the country. I am not sure there is any single factor that is driving it. I think it is a variety of things.

We are seeing—you know, some of it may be the pandemic itself, in its own way, has had an impact. You know, the people who are maybe not at jobs, are not in school, are not otherwise available, and there is more potential for wrongdoing to occur. We have talked about some of the challenges with local police departments and some of the issues there in terms of their recruiting and staffing. A lot of them are understaffed in addition to the recruiting challenge, so that is a problem.

There are a variety of drivers that we think contribute to it, but the violent crime problem over the last year, in particular, 2020, is something that is a great concern and that we are very warily

keeping our eye on. It does not get the same kind of headlines as some of the other threats we have talked about today, but, as your question, I think quite rightly implies, it is a subject that is near and dear to the hearts of all the people we know back home.

Senator OSSOFF. Yes, with that many shootings in Atlanta on Sunday alone, this increase in violent crime is of grave concern to Georgians and people across the country. Will you work with this Committee and my office to try to refine that assessment of the drivers of this violent crime wave?

Director WRAY. We would be pleased to do that. I commend you for your interest in the violent crime problem back in our home State.

Senator OSSOFF. I appreciate that, Director Wray.

Next week will be the first anniversary of the shooting death of Breonna Taylor, a young woman who died when police officers in Louisville, Kentucky, entered her home with a battering ram, executing a no-knock search warrant connected to a narcotics investigation. Ms. Taylor was not the subject of that warrant. There has obviously been deepening and grave concern about equal justice, due process, the extent of brutality, harassment, discrimination faced by Black Americans in the criminal justice system, growing over the last year given incidents such as this one. Without commenting on the specifics of the late Ms. Taylor's case, is the FBI prioritizing investigations of cases involving color of law violations under 18 U.S.C. § 242? What resources have you instructed your field offices to commit to those investigations?

Director WRAY. As you say, I cannot discuss the Taylor case specifically. We have an ongoing Federal investigation there. But we are definitely trying to push forward on color of law cases. We have—we do that through our Civil Rights Division, within our Criminal Investigative Division. In addition to the investigations we are pursuing—and we have quite a number around the country—we are also trying to contribute by doing different forms of training and outreach to State and local police departments so they understand better kind of where the lines are and where we fit into it. That is, you know, part of it as well.

We are also trying to contribute to the situation by encouraging better reporting, and we have had a lot of conversations this morning in other contexts about statistics and reporting. When it comes to use of force, we are trying to build out a use-of-force database that involves use of force by police departments, law enforcement agencies around the country. It is voluntary. We cannot mandate all these local police departments to provide the information. But we are doing a lot to encourage them to submit their data, and my pitch to them has been: we are going to be talking about these issues no matter what, and we should all want the conversations to be based on the actual facts and the actual data as opposed to what some random person thinks the facts or data are.

We have now reached one of the thresholds where we can start doing some of the reporting related to this effort. We need to get to a certain threshold statistically. I think it is like 80 percent or something of police departments before the data is considered statistically reliable. So, investigations, training, and outreach; more complete statistical reporting on use of force.

Senator OSSOFF. Thank you, Director Wray, and I know the Committee is considering legislation to make that data more available to you from local agencies. Will you provide to the Committee and to my office an accounting of the FBI's investigations over the last 2 years, color of law violations, Title 18 U.S.C. § 242?

Director WRAY. I would be happy to see if we can provide you some more information on that.

Senator OSSOFF. Okay. I look forward to that.

Director WRAY. Thanks.

Senator OSSOFF. Director Wray, is the recently revealed SolarWinds breach, a major cybersecurity breach, a failure, a counterintelligence failure by the U.S. Government?

Director WRAY. I do not know that I would describe it that way. Certainly, the SolarWinds intrusion is something that reflects a trend that we have been calling out for some time, but it takes it to the next level. So, for years, we have been warning of both China and Russia in efforts to inject malware and to undermine our trust in software that organizations all rely on. We have also called out the intrusions into managed service providers, which allow our adversaries to reach a far greater number of networks through sort of single entry points.

The SolarWinds intrusion essentially takes this to the next level, purposely infecting a product that is widely used to manage networks, and so the scope, the scale, the somewhat indiscriminate nature of the intrusion is something we take very seriously with our partners, and——

Senator OSSOFF. Director Wray, my time, being limited, if I might——

Director WRAY. Yes.

Senator OSSOFF. Surely, for malware to be embedded on sensitive U.S. networks at that scale and without detection for that duration must constitute a counterintelligence failure.

Director WRAY. Well, I think it is a cybersecurity issue. I think of counterintelligence a little bit differently than just the kind of context you are talking about. But, as I said, in some ways it is analogous to what I said about some of the earlier threats. You know, our goal is to try to bat a thousand, and anytime we do not bat a thousand, we are obviously looking hard to see what we can do better to prevent that from happening again.

When it comes to cyber intrusions in particular, though, we are long past the world where it is a question of if an organization is going to be the victim of cyber intrusion. We are in the world of when. The question is not whether somebody was the subject of a cyber intrusion, but how fast does it get detected? How well does it get mitigated, et cetera? The scope, the scale, the range of attack methods, the number of adversaries involved in sophisticated cyber attacks dwarfs what it was when I was in law enforcement and national security before, and a huge amount of the information, a huge amount of the information for America in particular, is in the hands of the private sector. So, unlike in some of the other kinds of threats we have been talking about here this morning, the partnership between the intelligence community, other Federal agencies, and the private sector, is at the heart of the issue.

Senator OSSOFF. Thank you, Director Wray.

Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Ossoff. I am glad you brought up SolarWinds because I think it is the first reference at this hearing.

I would like to do a follow-up before I recognize Senator Blackburn. So, what do we do about it? We know that we do not have an extradition agreement with Russia, so even finding and naming the hackers does not lead to any punishment of them. What is our response as a deterrent to future cyber intrusion?

Director WRAY. Mr. Chairman, I think discussing the response in any detail is probably something that would be better done in a classified setting. That by itself might give you a little bit of a hint. But what we have found—speaking more generally, what we have found over the last couple years in the cyber arena in particular—is that we are at our most effective when we have joint sequenced operations. Essentially, think of it as having the whole be greater than the sum of the parts.

You mentioned a few of the things that can be done. Any one of those things, by themselves, ain't going to get the job done, but if you start putting some of those things together in a way where each amplifies the effect of the other, we have actually seen some pretty good results with some of our adversaries. It is everything from not just the law enforcement piece; it is foreign partner participation; it is private sector hardening; it is Treasury sanctions. It is a whole host of things. When you put them together, sequenced, while I would never suggest to you, and you would never believe me if I did suggest to you, that that is going to somehow just eliminate the problem, it does push the adversary back and slow their progress. But this is going to be a long, hard slog.

Chairman DURBIN. Thanks, Director. I believe that Senator Blackburn is on remote. Senator.

[Pause.]

Chair DURBIN. Technical difficulties. She has waited patiently, so I will give her another minute and see if that helps.

Senator BLACKBURN. Yes, Mr. Chairman, I am here.

Chair DURBIN. Okay, Senator. You have the floor.

Senator BLACKBURN. Thank you, sir. I appreciate that. And, yes, I think I do not have enough bandwidth—something is wrong with the video transmission. We will just go with the audio.

To the Chairman's follow-up, Director Wray, I would just like to add, I think it would be excellent, and, Mr. Chairman, I would offer to you, as we are looking at what is happening with cryptocurrencies and with the growth in that marketplace and how this currency could be used when it comes to cyber crimes and to terrorism, I think a briefing from you all on what you are tracking and what you are seeing would be very helpful to us. I would just—I would commend that as a second place for us to go.

Director Wray, I want to say thank you to you for being here and thank you to the FBI and the U.S. Attorney's Offices in Tennessee for the work they did after January 6, tracking down and catching the rioters from Tennessee that had taken part in those activities. There are a lot of questions that still remain. One—and I know Senator Kennedy mentioned this—but the National Guard and the timeline that was there, I would like for you to speak to that, if

you can, the timeline, because I understand that Mayor Bowser spoke with the Secretary of the Army twice, at 1:34 and at 2:22, and with Chief Sund, he spoke with the Guard, the D.C. Guard Commanding General at 1:49. The Guard began to mobilize at 3, and the troops did not arrive until 5:40. Is that your understanding of the timeline?

Director WRAY. Senator, I appreciate the question, and I am glad you tied me back to my exchange with Senator Kennedy, because I fear that I may have contributed to a little bit of a muddle here.

First, let me say that my understanding is that—on the question of authority—is that the D.C. Mayor and the U.S. Capitol Police can ask for the National Guard; that the Secretary of Defense has the authority on Federal land, the Secretary of the Army has authority on, in effect, D.C. or, when it is not D.C., State land. I really do not have the specifics on exactly who requested what and when. I understand why it is a topic of keen interest, but I, as FBI Director, am not intimately involved in that process, and so I do not want to add to any confusion that is out there.

Senator BLACKBURN. Okay. So, then it would be appropriate that we direct that, first of all, to the Guard command and to the Secretary of the Army. Is that what I am hearing you say?

Director WRAY. I think so, yes.

Senator BLACKBURN. Okay. All right. That sounds great. Thank you for that clarification, because I do think that we do need some clarification there.

Let me go to some of the riots that have taken place around the country and the crime that has seemed to spike this year. Previous to this, the FBI participated in Operation Legend. Of course, Memphis, Tennessee, was a part of that effort, so we thank you for that. But let me ask you: Is the FBI tracking extremist groups like Antifa or other radicalism that are connected to violence in cities across the country—the violence and the looting that has taken place? We know Operation Legend wound down and ended in January. So, how is the FBI going to continue assisting local law enforcement in these cities where you have these riots that have taken place?

Director WRAY. Well, Senator, I appreciate the question. I think you have touched on two very important but distinct topics. One is the violence on our streets in a lot of our major cities, including Memphis, that Operation Legend was designed to address. The other is the violence that is occurring amidst protests, where otherwise peaceful protests are hijacked by people who engage in violent criminal behavior.

On the first, on what I would call sort of the more traditional violent crime side, in effect, the Operation Legend side—if I can just use that as a shorthand—we do think that was a successful operation, but it was, by its very nature, finite in duration.

What we are doing since then is trying to work with our Safe Streets Task Forces, which have representatives of State and local and other Federal agencies, and to try to bring a strategic, intelligence-driven approach to the violent crime problem. What I have found—and I have talked with State and local police chiefs in all 50 States—is that each city has its own idiosyncrasies. There may be certain common trends, but ultimately there is usually some

kind of, in effect, tail wagging the dog that is contributing disproportionately to the violent crime problem in that community. If everybody can be working together in an intelligence-driven way, they can prioritize the impact and dismantle the enterprise, as opposed to just kind of pushing the problem around.

Senator BLACKBURN. Okay. Let me—not to cut you off but to jump in there—

Director WRAY. Sure.

Senator BLACKBURN. Because you are correct, there are different sets of issues around the different types of crime. I understand that, and I appreciate that. But I think part of the frustration is—let us take July 4th last year, with the Hatfield Federal Courthouse in Portland, with the fire that was started. How did the FBI and Federal and local law enforcement agencies attempt to track down those that were responsible? Was this an extremist group or groups? Or was it individuals like a lone actor, which you mentioned earlier? And, of course, in Nashville, on Christmas Day, we saw the actions of a lone actor. Separately, at some point, I would like to get an update from you on that.

But let us talk about what you are doing to track those groups that are there—like in Seattle, with the Capitol Hill Autonomous Zone, where they are just really flouting the rule of law and trying to abolish a police presence. How are you tracking these anarchist groups who were planning attacks, who were occupying public spaces? What type of work are you doing to help protect communities from this?

Director WRAY. Sure. That is the second topic of the two that we touched on. We do have a number of domestic terrorism investigations—we would call them “anarchist violent extremism” investigations—into individuals, some of the most dangerous individuals involved in some of the conduct, in particular, over the summer. We are looking at everything from tactics to funding to logistics, and we are pursuing all of available charges against them. I think I may have mentioned in response to an earlier question that last year, in 2020, we arrested more anarchist violent extremists than the prior 3 years combined.

In addition, I would say that in some of the activity that you have described from over the summer, when it is targeting Federal buildings, there are certain charges that may be available there, as was true with the courthouse in Portland and as is true obviously with the Capitol on the 6th. But when it comes to non-Federal facilities, sometimes the charges end up being State and local charges, where we work closely with and support our State and local partners as they bring charges.

We are continuing to move full speed ahead. We have increased significantly the number of investigations into the kind of activity you are describing, and we are going to keep at it.

Senator BLACKBURN. Thank you so much. Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Blackburn.

As we conclude the hearing, in the area of shameless self-promotion, I am not going to send you a QFR, but I would like to send you a copy of my Domestic Terrorism Prevention Act to ask for

your reaction to it. You may suggest some changes to make it more effective, and I would appreciate that.

It has been a while since you have been before the Committee, and we have certainly tried your patience today, but you have been excellent in your presentation, and I just want to thank you and the men and women of the Federal Bureau of Investigation for the sacrifices they make to keep America safe.

This meeting of the Judiciary Committee will stand adjourned.

Mr. WRAY. Thank you, Mr. Chairman.

[Whereupon, at 1:40 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]



## **Department of Justice**

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STATEMENT OF  
CHRISTOPHER A. WRAY  
DIRECTOR  
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE

AT A HEARING ENTITLED  
“OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION: THE JANUARY 6<sup>TH</sup>  
INSURRECTION, DOMESTIC TERRORISM, AND OTHER THREATS”

PRESENTED  
MARCH 2, 2021

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CHRISTOPHER A. WRAY  
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**BEFORE THE  
COMMITTEE ON THE JUDICIARY  
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**AT A HEARING ENTITLED  
“FBI OVERSIGHT”**

**PRESENTED  
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Good morning, Chairman Durbin, Ranking Member Grassley, and Members of the Committee. I am honored to be here, representing the men and women of the FBI. Our people — nearly 37,000 of them — are the heart of the Bureau. I am proud of their service and their commitment to our mission. Every day, they tackle their jobs with perseverance, professionalism, and integrity — sometimes at the greatest of costs.

Just last month, two of our agents made the ultimate sacrifice in the line of duty. Special Agents Dan Alfin and Laura Schwartzenberger left home to carry out the mission they signed up for — to keep the American people safe. They were executing a federal court-ordered search warrant in a violent crimes against children investigation in Sunrise, Florida, when they were shot and killed. Three other agents were also wounded that day. We’ll be forever grateful for their commitment and their dedication — for their last full measure of devotion to the people they served and defended. We will always honor their sacrifice.

Despite the many challenges our FBI workforce has faced, I am immensely proud of their dedication to protecting the American people and upholding the Constitution. Our country has faced unimaginable challenges this past year. Yet, through it all, whether it was coming to the aid of our partners during the Capitol siege and committing all of our resources to ensuring that those involved in that brutal assault on our Democracy are brought to justice, the proliferation of terroristic hate moving at the speed of social media, abhorrent hate crimes, COVID-19 related fraud and misinformation, the increasing threat of cyber intrusions and state-sponsored economic espionage, malign foreign influence and interference, the scourge of opioid trafficking and abuse, or human trafficking and crimes against children, the women and men of the FBI have unwaveringly stood at the ready and taken it upon themselves to tackle any and all challenges thrown their way.

The list of diverse threats we face underscores the complexity and breadth of the FBI's mission: to protect the American people and uphold the Constitution of the United States. I am pleased to have received your invitation to appear today and am looking forward to engaging in a thorough, robust, and frank discussion regarding some of the most critical matters facing our organization and the Nation as a whole.

### ***Capitol Violence***

First and foremost, I want to assure you, your staff, and the American people that the FBI has deployed every single tool at our disposal and our full arsenal of investigative resources to aggressively pursue those involved in the heinous violence and criminal activity that occurred on January 6, 2021. We are working closely with our federal, state, and local law enforcement partners, as well as private sector partners, to identify those responsible for the violence and destruction of property at the U.S. Capitol building who showed blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process.

Our agents, analysts, and professional staff have been working non-stop with federal prosecutors to gather and preserve evidence, share intelligence, and identify and bring charges against those who participated in the siege of the U.S. Capitol. As we have said consistently, we do not and will not tolerate violent extremists who use the guise of First Amendment-protected activity to wreak havoc and incite violence. Thus far, our investigators have identified hundreds of individuals involved in the siege of the Capitol Complex and already charged well over 300 of them. Many of those identifications are the result of the over 200,000 digital media tips we have received from the public. Members of the public who have any information related to the siege should continue to provide tips, information, and videos of illegal activity at [www.tips.fbi.gov](http://www.tips.fbi.gov) or by calling 1-800-CALL-FBI.

Overall, the FBI assesses that the January 6<sup>th</sup> siege of the Capitol Complex demonstrates a willingness by some to use violence against the government in furtherance of their political and social goals. This ideologically motivated violence underscores the symbolic nature of the National Capital Region and the willingness of Domestic Violent Extremists to travel to events in this area and violently engage law enforcement and their perceived adversaries. The American people should rest assured that we will continue to work to hold accountable those individuals who participated in the violent breach of the Capitol on January 6<sup>th</sup>, and any others who attempt to use violence and destruction to intimidate, coerce, or influence the American people or affect the conduct of our government.

### ***Top Terrorism Threats***

As has been stated multiple times in the past, preventing terrorist attacks, in all forms, remains the FBI's top priority. The nature of the threat posed by terrorism – both international terrorism (“IT”) and domestic terrorism (“DT”) – continues to evolve.

The most significant threat to our homeland is posed by lone actors who often radicalize online and seek out soft targets to attack with easily accessible weapons. We see these individualized threats manifested within both Domestic Violent Extremists (“DVEs”) and Homegrown Violent Extremists (“HVEs”). Although they have different ideologies, they both typically radicalize and mobilize to violence on their own and are both located primarily in the United States. Individuals who commit violent criminal acts in furtherance of ideological goals stemming from domestic influences – some of which include racial or ethnic bias, or strong anti-government or anti-authority sentiments – are described as DVEs, whereas HVEs are individuals inspired primarily by achieving global jihad, but not receiving individualized direction from Foreign Terrorist Organizations (“FTOs”).

Domestic and Homegrown Violent Extremists are often motivated and inspired by a mix of socio-political, ideological, and personal grievances against their targets, and more recently have focused on accessible targets to include civilians, law enforcement and the military, symbols or members of the U.S. Government, houses of worship, retail locations, and mass public gatherings. Selecting these types of soft targets, in addition to the insular nature of their radicalization and mobilization to violence and limited discussions with others, challenges law enforcement to detect and disrupt the activities of lone actors before they occur.

The top threat we face from DVEs continues to be those we identify as Racially or Ethnically Motivated Violent Extremists (“RMVEs”), specifically those who advocate for the superiority of the white race, and who were the primary source of ideologically-motivated lethal incidents of violence in 2018 and 2019. It is important to note that we have recently seen an increase in lethal DVE attacks perpetrated by Anti-Government or Anti-Authority Violent Extremists, specifically Militia Violent Extremists and Anarchist Violent Extremists. Anti-Government or Anti-Authority Violent Extremists were responsible for three of the four lethal DVE attacks in 2020. Also, in 2020, we saw the first lethal attack committed by an Anarchist Violent Extremist in over 20 years.

Consistent with our mission, the FBI does not investigate First Amendment-protected speech or association, peaceful protests, or political activity. The FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms. Non-violent protests are signs of a healthy democracy, not an ailing one. Regardless of their specific ideology, the FBI will aggressively pursue those who seek to hijack legitimate First Amendment - protected activity by engaging in violent criminal activity such as the breach, destruction of property, and violent assaults on law enforcement officers that we witnessed on January 6<sup>th</sup> and during lawful protests throughout the U.S. during the summer of 2020. In other words, we will actively pursue the opening of FBI investigations when an individual uses – or threatens the use of – force, violence, or coercion, in violation of federal law and in the furtherance of a political or social ideological goal.

The FBI assesses HVEs as the greatest, most immediate international threat to the Homeland. As I have described, HVEs are United States-based individuals, located in and radicalized primarily in the U.S., who are not receiving individualized direction from global

jihad-inspired FTOs, but are inspired largely by the Islamic State of Iraq and ash-Sham (“ISIS”) and al-Qa’ida to commit violence. An HVE’s lack of a direct connection with an FTO, ability to rapidly mobilize without detection, and use of encrypted communications pose significant challenges to our ability to proactively identify and disrupt them.

The FBI remains concerned that Foreign Terrorist Organizations, such as ISIS and al-Qa’ida, intend to carry out or inspire large-scale attacks in the U.S. Despite their loss of physical territory in Iraq and Syria, ISIS remains relentless in its campaign of violence against the United States and our partners – both here at home and overseas. To this day, ISIS continues to aggressively promote its hate-fueled rhetoric and attract like-minded violent extremists with a willingness to conduct attacks against the United States and our interests abroad. ISIS’ successful use of social media and messaging apps to attract individuals seeking a sense of belonging is of continued concern to us. Like other foreign terrorist groups, ISIS advocates for lone offender attacks in the United States and Western countries via videos and other English language propaganda that have at times specifically advocated for attacks against soldiers, law enforcement and other intelligence community personnel.

Al-Qa’ida maintains its desire for large-scale, spectacular attacks. Because continued pressure has degraded some of the group’s senior leadership, in the near term, al-Qa’ida is more likely to continue to focus on building its international affiliates and supporting small-scale, readily achievable attacks in regions such as East and West Africa. Over the past year, propaganda from al-Qa’ida leaders sought to inspire individuals to conduct their own attacks in the United States and other Western nations.

Iran and its global proxies, including Iraqi Shia militant groups, continue to attack and plot against the United States and our allies throughout the Middle East in response to U.S. pressure. Iran’s Islamic Revolutionary Guard Corps-Qods Force (“IRGC-QF”) continues to provide support to militant resistance groups and terrorist organizations. Iran also continues to support Lebanese Hizballah and other terrorist groups. Lebanese Hizballah has sent operatives to build terrorist infrastructures worldwide. The arrests of individuals in the United States allegedly linked to Lebanese Hizballah’s main overseas terrorist arm, and their intelligence collection and procurement efforts, demonstrate Lebanese Hizballah’s interest in long-term contingency planning activities here in the Homeland. Lebanese Hizballah Secretary-General Hasan Nasrallah also has threatened retaliation for the death of IRGC-QF Commander Soleimani.

As an organization, we continually adapt and rely heavily on the strength of our federal, state, local, Tribal, territorial, and international partnerships to combat all terrorist threats to the United States and our interests. To that end, we use all available lawful investigative techniques and methods to combat these threats while continuing to collect, analyze, and share intelligence concerning the threat posed by violent extremists, in all their forms, motivated by any ideology, who desires to harm Americans and U.S. interests. We will continue to share information and encourage the sharing of information among our numerous partners via our Joint Terrorism Task Forces across the country, and our Legal Attaché offices around the world.

*Lawful Access*

The problems caused by law enforcement agencies' inability to access electronic evidence continue to grow. Increasingly, commercial device manufacturers have employed encryption in such a manner that only the device users can access the content of the devices. This is commonly referred to as "user-only-access" device encryption. Similarly, more and more communications service providers are designing their platforms and apps such that only the parties to the communication can access the content. This is generally known as "end-to-end" encryption. The proliferation of end-to-end and user-only-access encryption is a serious issue that increasingly limits law enforcement's ability, even after obtaining a lawful warrant or court order, to access critical evidence and information needed to disrupt threats, protect the public, and bring perpetrators to justice.

The FBI remains a strong advocate for the wide and consistent use of responsibly-managed encryption – encryption that providers can decrypt and provide to law enforcement when served with a legal order. Protecting data and privacy in a digitally-connected world is a top priority for the FBI and the U.S. government, and we believe that promoting encryption is a vital part of that mission. But we have seen that the broad application of end-to-end and user-only-access encryption adds negligible security advantages. It does have a negative effect on law enforcement's ability to protect the public. What we mean when we talk about lawful access is putting providers who manage encrypted data in a position to decrypt it and provide it to us in response to legal process. We are not asking for, and do not want, any "backdoor," that is, for encryption to be weakened or compromised so that it can be defeated from the outside by law enforcement or anyone else. Unfortunately, too much of the debate over lawful access has revolved around discussions of this "backdoor" straw man instead of what we really want and need.

We are deeply concerned with the threat end-to-end and user-only-access encryption pose to our ability to fulfill the FBI's duty of protecting the American people from every manner of federal crime, from cyber-attacks and violence against children to drug trafficking and organized crime. We believe Americans deserve security in every walk of life – in their data, their streets, their businesses, and their communities.

End-to-end and user-only-access encryption erode that security against every danger the FBI combats. For example, even with our substantial resources, accessing the content of known or suspected terrorists' data pursuant to court-authorized legal process is increasingly difficult. The often online nature of the terrorist radicalization process, along with the insular nature of most of today's attack plotters, leaves fewer dots for investigators to connect in time to stop an attack – and end-to-end and user-only-access encryption increasingly hide even those often precious few and fleeting dots.

In one instance, while planning and right up until the eve of the December 6, 2019 shooting at Naval Air Station Pensacola that killed three U.S. sailors and severely wounded eight other Americans, deceased terrorist Mohammed Saeed Al-Shamrani communicated undetected with overseas al-Qa'ida terrorists using an end-to-end encrypted app. Then, after the attack, user-only-access encryption prevented the FBI from accessing information contained in his phones for several months. As a result, during the critical time period immediately following the shooting and despite obtaining search warrants for the deceased killer's devices, the FBI could not access the information on those phones to identify co-conspirators, or determine whether they may have been plotting additional attacks.

This problem spans international and domestic terrorism threats. Like Al-Shamrani, the plotters who sought to kidnap the Governor of Michigan late last year used end-to-end encrypted apps to hide their communications from law enforcement. Their plot was only disrupted by well-timed human source reporting and the resulting undercover operation. Subjects of our investigation into the January 6 Capitol siege used end-to-end encrypted communications as well.

We face the same problem in protecting children against violent sexual exploitation. End-to-end and user-only-access encryption frequently prevent us from discovering and searching for victims, since the vital tips we receive from providers only arrive when those providers themselves are able to detect and report child exploitation being facilitated on their platforms and services. They cannot do that when their platforms are end-to-end encrypted. For example, while Facebook Messenger and Apple iMessage each boast over one billion users, in 2020, the National Center for Missing and Exploited Children ("NCMEC") received over 20 million tips from Facebook, compared to 265 tips from Apple, according to NCMEC data and publicly available information. Apple's use of end-to-end encryption, which blinds it to child sexual abuse material being transmitted through its services, likely plays a role in the disparities in reporting between the two companies. We do not know how many children are being harmed across the country as a result of this under-reporting, by Apple and other end-to-end providers.

When we are able to open investigations, end-to-end and user-only-access encryption makes it much more difficult to bring perpetrators to justice. Much evidence of crimes against children, just like many other kinds of crime today, exists primarily in electronic form. If we cannot obtain that critical electronic evidence, our efforts are frequently hamstrung.

This problem is not just limited to federal investigations. Our State and local law enforcement partners have been consistently advising the FBI that they, too, are experiencing similar end-to-end and user-only-access encryption challenges, which are now being felt across the full range of State and local crime. Many report that even relatively unsophisticated criminal groups, like street gangs, are frequently using user-only-access encrypted smartphones and end-to-end encrypted communications apps to shield their activities from detection or disruption. As this problem becomes more and more acute for State and local law enforcement, the advanced technical resources needed to address even a single investigation involving end-to-end and user-only-access encryption will continue to diminish and ultimately overwhelm State and local capacity to investigate even common crimes.

## *Cyber*

In 2020, nation-state and criminal cyber actors took advantage of people and networks made more vulnerable by the sudden shift of our personal and professional lives online due to the COVID-19 pandemic, targeting those searching for personal protective equipment, worried about stimulus checks, and conducting vaccine research.

Throughout the last year, the FBI has seen a wider-than-ever range of cyber actors threaten Americans' safety, security, and confidence in our digitally connected world. Cyber-criminal syndicates and nation-states keep innovating ways to compromise our networks and maximize the reach and impact of their operations, such as by selling malware as a service or by targeting vendors as a way to access scores of victims by hacking just one provider.

These criminals and nation-states believe that they can compromise our networks, steal our property, and hold our critical infrastructure at risk without incurring any risk themselves. In the last year alone, we have seen – and have publicly called out – China, North Korea, and Russia for using cyber operations to target U.S. COVID-19 vaccines and research. We have seen the far-reaching disruptive impact a serious supply-chain compromise can have through the SolarWinds intrusions, which we believe was conducted by an Advanced Persistent Threat actor, likely Russian in origin. We have seen China working to obtain controlled defense technology and developing the ability to use cyber means to complement any future real-world conflict. We have seen Iran use cyber means to try to sow divisions and undermine our elections, targeting voters before the November election and threatening election officials after.

As dangerous as nation-states are, we do not have the luxury of focusing on them alone. In the past year, we also have seen cyber criminals target hospitals, medical centers, and educational institutions for theft or ransomware. Such attacks on medical centers have led to the interruption of computer networks and systems that put patients' lives at an increased risk at a time when America faces its most dire public health crisis in generations.

We are also seeing dark web vendors who sell capabilities in exchange for cryptocurrency increase the difficulty of stopping what would once have been less dangerous offenders. What was once a ring of unsophisticated criminals now has the tools to paralyze entire hospitals, police departments, and businesses with ransomware. It is not that individual hackers alone have necessarily become much more sophisticated, but – unlike previously – they are able to rent sophisticated capabilities.

We have to make it harder and more painful for hackers and criminals to do what they are doing. That is why I announced a new FBI cyber strategy last year, using the FBI's role as the lead federal agency with law enforcement and intelligence responsibilities to not only pursue our own actions, but to work seamlessly with our domestic and international partners to defend their networks, attribute malicious activity, sanction bad behavior, and take the fight to our adversaries overseas. We must impose consequences on cyber adversaries and use our

collective law enforcement and intelligence capabilities to do so through joint and enabled operations sequenced for maximum impact. And we must continue to work with the Department of State and other key agencies to ensure that our foreign partners are able and willing to cooperate in our efforts to bring the perpetrators of cybercrime to justice.

An example of this approach is the international takedown in January 2021 of the Emotet botnet, which enabled a network of cyber criminals to cause hundreds of millions of dollars in damages to government, educational, and corporate networks. The FBI used sophisticated techniques, our unique legal authorities, and, most importantly, our worldwide partnerships to significantly disrupt the malware. We imposed upwards of 1,100 consequences on cyber adversaries last year, including arrests, criminal charges, convictions, dismantlements, and disruptions, and enabled many more actions through our dedicated partnerships with the private sector, foreign partners, and at the federal, State, and local level.

We have been putting a lot of energy and resources into all of those partnerships, especially with the private sector. We are working hard to push important threat information to network defenders, but we have also been making it as easy as possible for the private sector to share important information with us. For example, we are emphasizing to the private sector how we keep our presence unobtrusive in the wake of a breach; how we protect information that companies and universities share with us, and commit to providing useful feedback; and how we coordinate with our government partners so that we are speaking with one voice. But we need the private sector to do its part, too. We need the private sector to come forward to warn us — and warn us quickly — when they see malicious activity. We also need the private sector to work with us when we warn them that they are being targeted. The SolarWinds example only emphasizes what I have been saying for a long time: The government cannot protect against cyber threats on its own. We need a whole-of-society approach that matches the scope of the danger. There is really no other option for defending a country where nearly all of our critical infrastructure, personal data, intellectual property, and network infrastructure sits in private hands.

### ***Foreign Influence***

Our nation is confronting multifaceted foreign threats seeking to both influence our national policies and public opinion, and cause harm to our national dialogue. The FBI and our interagency partners remain concerned about, and focused on, the covert and overt influence measures used by certain adversaries in their attempts to sway U.S. voters' preferences and perspectives, shift U.S. policies, increase discord in the United States, and undermine the American people's confidence in our democratic processes.

Foreign influence operations — which include subversive, undeclared, coercive, and criminal actions by foreign governments to influence U.S. political sentiment or public discourse or interfere in our processes themselves — are not a new problem. But the interconnectedness of the modern world, combined with the anonymity of the Internet, have changed the nature of the threat and how the FBI and its partners must address it. Foreign

influence operations have taken many forms and used many tactics over the years. Most widely reported these days are attempts by adversaries – hoping to reach a wide swath of Americans covertly from outside the United States – to use false personas and fabricated stories on social media platforms to discredit U.S. individuals and institutions.

The FBI is the lead federal agency responsible for investigating foreign influence operations. In the fall of 2017, we established the Foreign Influence Task Force (“FITF”) to identify and counteract malign foreign influence operations targeting the United States. The FITF is led by the Counterintelligence Division and is comprised of agents, analysts, and professional staff from the Counterintelligence, Cyber, Counterterrorism, and Criminal Investigative Divisions. It is specifically charged with identifying and combating foreign influence operations targeting democratic institutions and values inside the United States. In all instances, the FITF strives to protect democratic institutions; develop a common operating picture; raise adversaries’ costs; and reduce their overall asymmetric advantage.

The FITF brings the FBI’s national security and traditional criminal investigative expertise under one umbrella to prevent foreign influence in our elections. This better enables us to frame the threat, to identify connections across programs, to aggressively investigate as appropriate, and – importantly – to be more agile. Coordinating closely with our partners and leveraging relationships we have developed in the technology sector, we had a number of instances where we were able to quickly relay threat indicators that those companies used to take swift action, blocking budding abuse of their platforms.

Following the 2018 midterm elections, we reviewed the threat and the effectiveness of our coordination and outreach. As a result of this review, we further expanded the scope of the FITF. Previously, our efforts to combat malign foreign influence focused solely on the threat posed by Russia. Utilizing lessons learned over the last year and half, the FITF is widening its aperture to confront malign foreign operations of China, Iran, and other global adversaries. To address this expanding focus and wider set of adversaries and influence efforts, we have also added resources to maintain permanent “surge” capability on election and foreign influence threats.

We have also further refined our strategy to ensure all efforts are based on a three-pronged approach, which includes investigations and operations, information and intelligence sharing, and a strong partnership with the private sector. Through the efforts of the FITF, and lessons learned from both the 2016 and 2018 elections, the FBI is actively engaged in identifying, detecting, and disrupting threats to our elections and ensuring both that the integrity of our democracy is preserved and that the will of the American people is fulfilled.

### ***Conclusion***

Finally, the strength of any organization is its people. The threats we face as a nation have never been greater or more diverse and the expectations placed on the FBI have never been higher. Our fellow citizens look to the FBI to protect the United States from all of those threats,

and the men and women of the FBI continue to meet and exceed those expectations, every day. I want to thank them for their dedicated service.

Chairman Durbin, Ranking Member Grassley, and Members of the Committee, thank you for the opportunity to testify today. I am happy to answer any questions you might have.

**Senate Committee on the Judiciary Hearing**  
**“Oversight of the Federal Bureau of Investigation: The January 6 Insurrection, Domestic**  
**Terrorism, and Other Threats”**  
**Questions for the Record**  
**March 2, 2021**

**QUESTIONS FROM CHAIRMAN DURBIN**

1. In your written statement, you stated that FBI investigators “have identified hundreds of individuals involved in the siege of the Capitol Complex and already charged well over 300 of them.” At a separate hearing, Assistant Director Sanborn testified that she could “only recall from [her] memory one of the individuals that was under investigation prior” to January 6.
  - a. How many charged individuals were under investigation before the attack? Of the individuals subject to prior investigation, how many were the subject of a full investigation, how many were the subject of a preliminary investigation, and how many were subject to an assessment?
  - b. How many of the individuals charged in connection with the January 6 attack on the Capitol were listed on the Terrorist Screening Data Base (TSDB) prior to January 6?

**Response:** As of April 2022, of the approximately 775 subjects charged to date related to the attack on the U.S. Capitol Complex on January 6, 2021, the Federal Bureau of Investigation (FBI) has identified two individuals who were predicated subjects prior to January 6th. It is important to note there are still several individuals who entered the Capitol that have yet to be identified. It is FBI policy to nominate all subjects of domestic and international terrorism investigations to the Terrorist Screening Database for watchlisting. The Terrorist Screening Center determines who is added to the watchlist.

2. In your written statement, you affirmed that the “top threat from DVEs continues to be those” you call “Racially or Ethnically Motivated Violent Extremists” (RMVEs)—“specifically[,] those who advocate for the superiority of the white race.” You further testified that, with respect to the January 6 attack on the Capitol, the FBI is “seeing quite a number” of militia violent extremists as well as “a couple of instances” of RMVEs “who advocate for what you would call white supremacy.”
  - a. What is the difference between a white supremacist and an individual “who advocate[s] for the superiority of the white race”? If there is no difference, why does the FBI avoid using the terms “white supremacist” and “white supremacy”?

**Response:** The FBI uses the term “Racially or Ethnically Motivated Violent Extremism,” (RMVE) because it focuses on the violence, not First Amendment-protected ideology or belief, as a way to label this threat. The FBI uses the description “RMVEs who advocate for the superiority of the white race” because it encompasses many sub-ideologies that draw from religious, cultural, and political themes. For example, the description RMVE captures the sub-

ideologies of neo-Nazi, white nationalist, racist Odinist, racist skinhead, Klan, Christian Identity extremists, and other expressions of white superiority.

- b. What, if any, threat does the FBI assess is posed by RMVEs other than those who advocate for the superiority of the white race? What is the extent of this threat, particularly in comparison to “those who advocate for the superiority of the white race”? Please be specific.

**Response:** The large majority of the FBI’s RMVE investigations involve RMVEs who advocate for the superiority of the white race; but the FBI has also seen some RMVE threat actors use political reasons – including racism or injustice in American society, the desire for a separate Black homeland or starting a “race war,” or draw on aspects of religion, including elements of Christianity, Islam, and Judaism – as justification for their use or threat of force or violence. Between 2015 and 2020, at least 19 attacks and 72 deaths were the result of RMVEs. Of those, 11 attacks and 52 deaths were the result of attacks perpetrated by RMVEs who advocate for the superiority of the white race; and 8 attacks and 20 deaths were the result of attacks perpetrated by RMVEs motivated by racism and injustice in American society, the desire for a separate Black homeland, or religion-themed reasons.

3. You testified at the hearing that there were roughly three groups of people involved in the January 6 attack on the Capitol: “rowdy protesters” who didn’t violate the law; individuals who had intended to participate in a peaceful protest, but who were “swept up” in the riot and engaged in “low-level criminal behavior”; and a group consisting of those who “attempted to disrupt the members of Congress and the conduct of their constitutional responsibilities,” a subset of which “came to Washington . . . with plans and intentions to engage in the worst kind of violence.”
  - a. Of the individuals facing charges in connection with the January 6 attack on the Capitol, how many fall into the subset of defendants who allegedly “came to Washington . . . with plans and intentions to engage in the worst kind of violence”?
  - b. Of this subset of defendants, how many of them allegedly are members of or affiliated with the Oath Keepers, the Three Percenters, the Proud Boys, or similar groups, and how many are not? Were there any other white supremacist or violent right-wing militia extremist groups whose members or affiliates were charged in connection with the attack?

**Response:** According to publicly available court documents, the Department of Justice has charged a number of defendants involved in the attack on the U.S. Capitol with conspiracy, either to obstruct a Congressional proceeding, to obstruct law enforcement during a civil disorder, and/or to injure an officer. These investigations are on-going, but the FBI has seen indications of some small cells of individuals alleged to have been conspiring and communicating with each other prior to their involvement in the attack. For example:

- In February 2021, six individuals associated with the Proud Boys were indicted with conspiring to obstruct or impede an official proceeding and to impede or interfere

with law enforcement during the commission of a civil disorder, among other charges. The indictment alleges that the defendants planned with each other, and with others known and unknown, to enter the Capitol forcibly on January 6, and to stop, delay, and hinder the Congressional proceeding occurring that day. The defendants brought and wore paramilitary gear and supplies – including camouflaged combat uniforms, tactical vests with plates, helmets, eye protection, and radio equipment – and affixed orange tape to their clothing and tactical gear to identify each other.

- In February 2021, six individuals associated with the Oath Keepers, some of whose members were among those who forcibly entered the U.S. Capitol on January 6, were arrested for conspiring to obstruct Congress' certification of the result of the 2020 U.S. Presidential Election, among other charges. According to the indictment, one individual allegedly arranged, for himself and others, training by a Florida company that provides firearms and combat training. The indictment also alleges that in the lead-up to the attack on the U.S. Capitol, one individual allegedly communicated extensively with another about potentially joining her militia and combining forces for the events of January 6.
- In April 2021, two individuals associated with the Oath Keepers were indicted in federal court in the District of Columbia for conspiring to obstruct Congress, among other charges. According to the charging documents, they communicated with co-conspirators in advance of the January 6 incursion on the U.S. Capitol. The indictment alleges frequent and consistent communication leading up to the attack, such as in reserving hotel rooms and making phone calls to co-conspirators the morning of the breach.

Additional information related to the defendants charged in federal court in the District of Columbia related to crimes committed at the U.S. Capitol on January 6, 2021, as well as links to the court documents referenced above and, *inter alia*, related superseding indictments, are available at: [www.justice.gov/usao-dc/capitol-breach-cases](http://www.justice.gov/usao-dc/capitol-breach-cases). In order to protect the integrity of all investigations, as a general practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

4. With respect to the causes of domestic terrorism, you stated at the hearing that you are concerned about “any source that stimulates or motivates violent extremism.” Both before and after the 2020 election, including at the hearing, you have repeatedly confirmed that the FBI has not seen any evidence of a national voter fraud effort.
  - a. How do continued false claims of a stolen election impact the FBI's efforts to combat domestic terrorism?

- b. Does disinformation or misinformation, including with respect to voter fraud, gain more credibility with individuals susceptible to radicalization to violence when it is amplified by prominent individuals, such as current or former elected officials?
- c. Do false claims of a stolen election elevate the risk of a domestic terrorist threat when they are amplified by current or former elected officials? Is this a “source that stimulates or motivates violent extremism”?

**Response:** Although the FBI is not in a position to comment on any specific individual’s speech or rhetoric, amplified perceptions of fraud surrounding the outcome of the 2020 General Election, when combined with long-standing Domestic Violent Extremist (DVE) drivers such as perceived government or law enforcement overreach, could lead some individuals to adopt the belief that there is no political solution to address their grievances and violent action is necessary. However, radicalization of DVEs most often occurs through self-radicalization to violence online, which presents mitigation difficulties. Social media has increased the speed and accessibility of violent extremist content, while also facilitating greater decentralized connectivity among violent extremist supporters. Trends continue to evolve, but long-standing DVE drivers, including racism, anti-Semitism, perceived government or law enforcement overreach, socio-political conditions, legislation, and other world events, combined with personal grievances, remain constant. The FBI assesses some DVEs will continue to personalize their own ideology in an attempt to justify their violent acts.

- d. Without confirming or denying the existence of any specific investigation, is the FBI investigating whether the mob that attacked the Capitol on January 6 was incited or encouraged to attack Congress? If not, why not?

**Response:** As part of all investigations, the FBI attempts to determine what mobilized a person to violence, but those motivators are highly personalized, varied, and complex, and build upon one another over time. Although groups may share a common purpose or objective, it is not always the case that a single event or element motivated someone to act on that purpose.

- 5. You’ve stated many times to Congress and the public that the FBI is concerned with violence, not ideology. You also stated at the hearing that “more and more, the ideologies . . . that are motivating these violent extremists are less and less coherent, less and less linear, and less easy to kind of pin down.” Yet the FBI continues to categorize domestic terrorists as either “Racially or Ethnically Motivated Violent Extremism,” “Anti-Government or Anti-Authority Violent Extremism,” “Animal Rights/Environmental Violent Extremism,” “Abortion-Related Violent Extremism,” and “Other Domestic Terrorism Threats.” The point of differentiation for each category appears to be the extremists’ motivations for violence—i.e., their ideologies.
  - a. If the FBI is concerned only with violence regardless of ideology, and if violent extremists’ ideologies are getting less coherent, less linear, and harder to pin down, why does it categorize domestic terrorists according to their ideologies?

- i. Do disparate groups within each of the categories used by the FBI have common (or, at least, more common) practices, methods, tactics, techniques, and procedures as between them? For example, does an Anti-Government or Anti-Authority Violent Extremist who supports male chauvinist causes (e.g., a Proud Boy) have more in common in terms of behavior, associations, and lethality with another Anti-Authority Violent Extremist who supports Antifa than they would with a Racially or Ethnically Motivated Violent Extremist who advocates for the superiority of the white race?
- ii. What is the analytic value in having a category for “Other Domestic Terrorism Threats”? What can be generalized about a class of violent extremists that are defined solely by the fact that they don’t fit into other categories?

**Response:** Classifications, or categories, help the FBI better understand the criminal actors it pursues, but actors’ motivations vary, are nuanced, and sometimes are derived from a blend of socio-political goals or personal grievances.

Across all threat categories, the greatest domestic terrorism threat to the Homeland is posed by lone offenders, often radicalized to violence online, who look to attack soft targets with easily accessible weapons. Although there are key differences between the threat categories, there is some overlap in terms of targets and tactics. For example, although the underlying motivations differ, law enforcement personnel and facilities are a common target of Militia Violent Extremists (MVEs), Sovereign Citizen Violent Extremists (SCVEs), and Anarchist Violent Extremists (AVEs), all of which are categorized as Anti-Government or Anti-Authority Violent Extremists (AGAAVEs). Similarly, RMVEs and MVEs have both targeted ethnic and religious minorities based on different motivations. Arson and vandalism are shared tactics among AVEs, Abortion-Related Violent Extremists, and Animal Rights/Environmental Violent Extremists; whereas firearms and edged weapons have typically been used by RMVEs, MVEs, and Involuntary Celibate Violent Extremists, which is part of the “All Other DT Threats” category.

The “All Other DT Threats” category encompasses threats involving the potentially unlawful use or threat of force or violence in furtherance of ideological agendas that are not otherwise defined under or primarily motivated by one of the other DT threat categories. Such agendas could flow from, but are not limited to, a combination of personal grievances and beliefs, including those described in the other DT threat categories. Some actors in this category may also carry bias related to religion, gender, or sexual orientation.

- b. Why did the FBI abandon the separate category used to track white supremacist incidents in favor of its current taxonomy if not to obscure the fact that the vast majority of domestic terrorist attacks—and the most lethal attacks—are being conducted by violent right-wing extremists?
  - i. Why has the FBI broken up right-wing violent extremist movements, many of whose members appeared to have acted in concert on January 6, across three separate categories?

- ii. Doesn't this make it harder to understand the connections between these groups and movements, many of which share common values (e.g., racism, misogyny, homophobia, transphobia, anti-Semitism, Islamophobia, and xenophobia) and, at times, memberships?

**Response:** The FBI uses the term “Racially or Ethnically Motivated Violent Extremism,” (RMVE) because it focuses on the violence and motivation, not First Amendment-protected activity, no matter how abhorrent. Integrating all types of racially or ethnically motivated violence into one threat category allows FBI Field Offices the latitude to collect intelligence and allocate resources to combat all RMVE threats, regardless of ideological motivation. More importantly, the FBI's internal threat-naming conventions do not dictate what domestic terrorism agents investigate; instead, the intelligence and violent criminal conduct dictate what is investigated.

The FBI does not view or describe violence as left- or right-wing. The FBI protects First Amendment rights, including the freedoms of association and assembly, and the right to coalesce with like-minded individuals. The FBI does not investigate or collect based on sheer ideology or assembly. As with all the threats, the FBI continually assesses and evaluates trends in the motivations and targets of like-minded threat actors. The FBI's priority is to stay agile in its efforts to confront domestic violent extremism and prevent the next attack.

6. In a recently-published report, the George Washington University (GWU) Project on Extremism concluded that “[t]he events at the Capitol on January 6th also evidence the reach of the QAnon conspiracy theory,” noting that it had “identified over a dozen individuals at the Capitol with an overt QAnon affiliation.” GWU PROJECT ON EXTREMISM, *“This Is Our House!”: A Preliminary Assessment of the Capitol Hill Siege Participants* at 38 (March 2021), available at <https://extremism.gwu.edu/sites/g/files/zaxdzs2191/f/This-Is-Our-House.pdf>. When asked about the threat posed by the QAnon conspiracy theory at the hearing, you responded that you were “concerned” about it.
  - a. Do you agree with the GWU Project on Extremism that QAnon adherents appear to have played a significant role in the January 6 attack on the Capitol?
  - b. What are the domestic terrorism threats posed by QAnon?
  - c. Are those threats exacerbated when prominent current or former elected officials endorse or amplify the QAnon theory, thereby lending it more credibility?

**Response:** It is important to note, though some individuals who commit violence may reference QAnon, the FBI does not investigate, collect, or maintain information based solely on First Amendment-protected activities. The FBI understands “QAnon” as a reference to a complex and constantly evolving conspiracy theory that is promoted by a decentralized online community that has morphed into a real-world movement. Of the hundreds of individuals the FBI has arrested for their participation in the Capitol attack on January 6, 2021, several were self-identified QAnon adherents. The participation of some DVEs who are self-identified QAnon adherents in

the Capitol attack underscores how the current environment likely will continue to act as a catalyst for some to begin accepting the legitimacy of violent action.

The FBI assesses some DVE adherents of QAnon likely will begin to believe they can no longer “trust the plan” referenced in QAnon posts and that they have an obligation to change from serving as “digital soldiers” towards engaging in real world violence – including harming perceived members of the “cabal” such as Democrats and other political opposition – instead of continually awaiting Q’s promised actions, which have not occurred. Other QAnon adherents likely will disengage from the movement or reduce their involvement since the Administration changed. This disengagement may be spurred by the large mainstream social media de-platforming of QAnon content based on social media companies’ own determinations that users have violated terms of service, and the failure of long-promised QAnon-linked events to materialize. Some DVEs have discussed how to radicalize new users to violence through niche social media platforms following QAnon adherents’ migration to these platforms after large scale removals of QAnon content from other platforms. Adherence to QAnon by some DVEs likely will be affected by factors such as the severity of the COVID-19 pandemic, the level of societal polarization in the United States, social media companies’ willingness to host QAnon-related content on their sites, and the frequency and content of pro-QAnon statements by public individuals who feature prominently in core QAnon narratives.

7. The FBI’s annual hate crimes incident reports suggest a significant increase in the numbers of hate crimes across the country over the past five years, including an approximately twenty-five percent increase between 2015 and 2019. You acknowledged at the hearing that hate crimes are historically underreported. Even where victims report these incidents, they are often not reflected in the FBI’s statistics. For example, the Arab American Institute (AAI) has found that there are often significant discrepancies between state-level statistics on hate crimes and the federal data. ARAB AMERICAN INSTITUTE FOUNDATION, *Underreported, Under Threat: Hate Crime Data in the United States and the Targeting of Arab-Americans* (July 2018).

- a. Why do we continue to see discrepancies between hate crimes as reported by the states in their own statistics and as reflected in the federal data?

**Response:** Each year, the FBI Uniform Crime Reporting (UCR) Program sets a submission deadline to the states for providing data. The hate crime totals reported annually by the FBI UCR Program and the state UCR programs differ because the submission deadlines between the FBI and the states do not always correlate. The annual *Hate Crime Statistics* publication is a snapshot in time. The numbers depicted in the annual publication are those reported voluntarily to the FBI UCR Program, by state law enforcement agencies, to meet the publication deadline.

- b. What is the FBI doing to address the significant reporting concerns surrounding federal hate crimes data?

**Response:** The FBI Uniform Crime Reporting (UCR) Program has been a member of the Department of Justice’s Hate Crime Prevention and Enforcement Initiative, since 2017. On October 29, 2018, this initiative hosted a Law Enforcement Roundtable meeting with various law

enforcement practitioners and officers from around the country. The breakout sessions held during the roundtable provided insight into the reporting issues experienced at the agency levels across the country. In collaboration with the members, the FBI UCR Program staff identified the following obstacles to law enforcement's hate crime submissions to the FBI UCR Program:

- variations in federal, state, and local laws or definitions of hate crimes that make it difficult to know whether and when to classify incidents as hate crimes for FBI UCR purposes;
- miscoding of offenses and the need to update records as more evidence is gathered;
- gaps in training and investigation;
- obtaining leadership support at local levels regarding prioritization of treatment of hate crime reporting;
- cost of improving record management systems to make reporting easier; and
- lack of resources.

To address the reporting concerns surrounding the FBI UCR Program's Hate Crime Statistics Collection, FBI employees offer a training program for the law enforcement community via webinars. During these training sessions, the FBI provides an overview of the hate crime statistics collection and hate crime scenarios, the two-tiered decision-making process, bias motivation indicators, and the importance and benefits of reporting hate crime incident data (*i.e.*, increases understanding, supports long-range planning, promotes transparency, improves information sharing, and addresses threats). These instructional opportunities allow FBI personnel to meet with the law enforcement community from reporting agencies to address questions concerning records management. The training emphasizes the need and benefits of the Hate Crime Statistics Collection, as well as identifies gaps in training and determining bias indicators. This training encourages participants to discuss this important topic with law enforcement leadership and colleagues within their local agencies and communities. The free webinars allow the FBI UCR Program to continue outreach strategies and trainings with state UCR program agencies and the local agencies facing traveling constraints due to budgetary issues and the Coronavirus Pandemic.

The FBI UCR Program transitioned all federal, state, local, college/university, and tribal law enforcement agencies nationwide to the National Incident-Based Reporting System (NIBRS) on January 1, 2021. This transition will ease the ability for agencies to submit hate crime data as NIBRS includes a designated field for law enforcement agencies to report hate crimes. Therefore, reporting via NIBRS will improve the quality, reliability, and accuracy of hate crime data.

To support federal and tribal reporting, the FBI deployed the NIBRS Collection Application (NCA). The FBI developed the NCA, which is available on the Law Enforcement Enterprise Portal, to provide a no-cost solution for federal and tribal agency users to submit

NIBRS data to the FBI UCR Program and to comply with the Uniform Federal Crime Reporting Act of 1988. As the NCA's functionality became more robust, the NCA became a viable option for non-transitioned state and local agencies to submit NIBRS data. The NCA is an extension of the UCR system and enables users to directly enter and submit NIBRS crime data to the UCR Program for processing, retention, and publication.

The *Hate Crime Guidelines and Training Manual* was developed to assist law enforcement agencies in establishing a hate crime training program to allow personnel to collect and submit hate crime data to the FBI UCR Program. The manual provides suggested model reporting procedures and training aids for capturing the bias-motivated incident data reported to the FBI. The FBI UCR Program is currently revising this document to remove all Summary Reporting System (SRS) verbiage and adding all federal and tribal law enforcement offenses. The SRS collected hate crime data on 13 offenses versus the 70 offenses collected in the NIBRS. The manual is located on the FBI.gov website at: <https://www.fbi.gov/file-repository/ucr/ucr-hate-crime-data-collection-guidelines-training-manual-02272015.pdf/view>.

In 2021, the FBI UCR Program also published a hate crime article titled, *Hate Crime Data Helps Law Enforcement Address Threat*. This article was published in the *CJIS Link* on the FBI.gov website at: <https://www.fbi.gov/services/cjis/cjis-link/hate-crime-data-helps-law-enforcement-address-threat>. The *CJIS Link* article informs readers of the serious nature of hate crimes across the United States.

In addition, the FBI UCR Program developed a hate crime flyer containing the bias motivation categories for law enforcement officers to reference while investigating bias-related incidents. The flyer is provided to stakeholders during FBI Criminal Justice Information Services Division conferences, DOJ Civil Rights Division trainings, and FBI UCR Program hate crime trainings.

The FBI UCR Program finalized a 2021 Hate Crime Outreach and Communications Plan with a focus on most-in-population law enforcement agencies (over 100,000 inhabitants) and college/university law enforcement agencies. Through the NIBRS transition, the FBI UCR Program anticipates hate crime participation to improve over the next few years as agencies continue to transition to incident-based reporting.

8. You also pointed out at the hearing that you created the Domestic Terrorism-Hate Crimes Fusion Cell to ensure the FBI “didn’t have a left-hand, right-hand problem” where hate crimes and domestic terrorism investigations weren’t properly coordinated “because a lot of these crimes could fit either into a domestic terrorism bucket or a hate crimes bucket.” These concerns, and the related concern that domestic terrorism crimes are too often labeled hate crimes and then deprioritized for investigative purposes—persist despite the fact that under its Civil Rights Program Policy Implementation Guide, the FBI requires that hate crimes investigations must also be opened as domestic terrorism investigations if the subject of the investigation has any connection to a white supremacist group.
  - a. How confident are you that the Civil Rights Program Policy Implementation Guide is always being followed in practice? If it is, why did the FBI characterize the

investigation of the murder of Heather Heyer in Charlottesville as a civil rights investigation rather than a domestic terrorism investigation?

**Response:** The 2017 attack that resulted in the murder of Heather Heyer was included as an FBI-designated significant domestic terrorism incident in the May 2021 joint FBI, Department of Homeland Security, and National Counterterrorism Center report, titled “Strategic Intelligence Assessment and Data on Domestic Terrorism.”

Hate crimes and domestic terrorism (DT) incidents are often not mutually exclusive. A hate crime is targeted violence motivated by the offender’s bias against a person’s actual or perceived characteristics, while a DT incident is a criminal act, including threats or acts of violence made to specific victims, is made in furtherance of a domestic socio-political goal.

To address the intersection of the FBI counterterrorism and criminal investigative missions to combat DT and provide justice to those who are victims of hate crimes, the FBI formally created the Domestic Terrorism-Hate Crimes Fusion Cell in April 2019. The Hate Crime Statistics Program of the FBI’s Uniform Crime Reporting (UCR) Program collects data regarding criminal offenses that were motivated, in whole or in part, by the offender’s bias against a person’s actual or perceived race/ethnicity/ancestry, national origin, gender, gender identity, religion, disability, or sexual orientation, and were committed against persons, property, or society. As noted above, the FBI publishes an annual report of hate crime statistics, and in 2019, law enforcement agencies participating in the UCR Program reported 7,314 hate crime incidents. While the FBI collects and reports hate crime statistics, there is no mandatory reporting requirement for state and local law enforcement agencies to identify hate crime incidents that would also be considered criminal activity that appears to be motivated by a socio-political goal consistent with the DT threat categories. Therefore, the FBI does not have the data to be able to determine numbers of DT assessments and investigations that were opened as a result of a hate crime.

The FBI’s understanding of domestic violent extremism continues to evolve, just as the domestic terrorism threat has evolved. Many of the domestic violent extremists who have committed attacks in the United States appear to have been motivated and inspired by a mix of ideological, sociopolitical, and personal grievances against their targets. The FBI is seeing more and more that the combination of violent extremist ideologies, individualized grievances toward a particular target, and personal factors all contribute to the mobilization to violence process. In short, the motivations behind acts of domestic terrorism are complex and nuanced, and often very personalized to the perpetrator.

- b. Does the policy of opening domestic terrorism investigations for certain hate crimes also apply to hate crimes committed by members of other domestic violent extremist groups that are considered “Anti-Government/Anti-Authority Violent Extremists” or “Other Domestic Terrorism Threats”? If not, shouldn’t it?

**Response:** The FBI opens a full investigation predicated on an “articulable factual basis” that reasonably indicates the existence of federal criminal activity or a threat to national security, or to protect against such activity or threat. The same policy applies across all DT threat categories.

9. In your written statement, you said that “the FBI does not investigate First Amendment-protected speech or association, peaceful protests or political activity.” Associate Director Sanborn testified at a separate hearing that the FBI “cannot collect First Amendment-protected activities without sort of the next step, which is the intent. And so we’d need to have an already predicated investigation that allowed us access to those [communications] and/or a lead or a tip or a report from a community citizen or a fellow law-enforcement partner for us to gather than information.”
  - a. Under what circumstances may the FBI access, monitor, collect, retain, analyze, or disseminate speech protected by the First Amendment, and how are these actions consistent with applicable law and policy? Please be specific, including the relevant provisions of the Constitution, statute, executive order or other presidential directive or memorandum, regulation, departmental or agency policy or procedure, or case law interpreting those authorities that justify such activities?
  - b. With respect to publicly available social or other open source media in particular, what kind of predicate is required for the FBI to monitor this media? Is it sufficient for the FBI to have a lawful purpose in monitoring the media? If not, what is required for it to do so? Can it monitor media related to an assessment, a preliminary investigation, or a full investigation?

**Response:** The *Attorney General’s Guidelines for Domestic FBI Activities* (AGG-DOM) establish a set of basic principles that serve as the foundation for all FBI mission-related activities, including online investigation. The AGG-DOM prohibits the FBI from “investigating or collecting or maintaining information on United States persons solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or laws of the United States.”

In accordance with those guidelines, the FBI may review, observe, and collect information from open sources as long as the FBI activities are done for a valid law enforcement or national security purpose and in a manner that does not unduly infringe upon the speaker’s or author’s ability to deliver his or her message. The FBI does not have the authority to persistently and passively examine the World Wide Web, Internet traffic, and social media conversations. The core requirement is that the authorized purpose must specifically be tied to federal criminal or national security purposes, usually to further an FBI assessment or predicated investigation, with due regard to the First Amendment.

With regard to predication, assessments require an authorized purpose but not any particular factual predication. Preliminary investigations may be initiated on the basis of any allegation or information indicative of possible criminal or national security-threatening activity, and full investigations require more substantial factual predication. The significance of the distinction between an assessment and preliminary and full investigations is in the availability of investigative tools and methods. A full investigation, which is based on the more robust factual predicate, permits the full range of legally available investigative tools and methods, whereas assessments and preliminary investigations are more limited in the available tools and methods.

10. You noted at one point in your testimony that DVEs and homegrown violent extremists (HVEs) “have a lot in common with each other” and cited the case of two Boogaloo Bois in Minnesota charged with allegedly providing material support to Hamas. Like HVEs, many DVEs are affiliated with or inspired by terrorist groups that operate at least in part outside the United States. These groups could be designated as foreign terrorist organizations under existing laws. Last year, the Department of State designated a foreign violent right-wing extremist group, the Russian Identity Movement (RIM), as a Specially Designated Global Terrorist organization, but it still has not designated the RIM as a Foreign Terrorist Organization.
- a. Would it advance the law enforcement and counterterrorism missions of the FBI if the RIM was designated as a Foreign Terrorist Organization?
  - b. Would it advance the law enforcement and counterterrorism missions of the FBI if other violent extremist groups with international presences, such as the neo-Nazi accelerationist groups The Base and Atomwaffen Division, were designated as Specially Designated Global Terrorists or Foreign Terrorist Organizations?

**Response:** The FBI does not have the authority to designate a group as a terrorist organization. Regardless of a designation, the FBI investigates violent, criminal acts committed by individuals intending to intimidate, influence, or coerce a civilian population or a government. However, the FBI will use all tools and resources lawfully available to us to combat terrorism.

**QUESTIONS FROM SENATOR LEAHY**

11. Currently there is no statutory authority for the FBI or Department of Justice to maintain a list of domestic terrorist groups comparable to the State Department's list of Foreign Terrorist Organization (FTOs) authorized by Section 219 of the Immigration and Nationality Act (INA). It is easy to see the potential First Amendment issues related to freedom of association and freedom of speech that a domestic terror group list could generate. It is also easy to see how this type of list could become overly politicized.
- a. Please describe how an official list of domestic terrorist organizations would aid the FBI in stopping domestic terrorist attacks in the future and lowering the overall threat level.
  - b. What specifically would a list like this accomplish that cannot be accomplished by raising or decreasing threat levels as the FBI does currently?
  - c. Would such a list be compatible with the FBI's policy of investigating violence and not ideology?
  - d. In your opinion, how do the benefits of such a list weigh against the foreseeable costs?
  - e. On Tuesday you noted that one of the largest threats we face from domestic terrorists in the racially motivated violent extremist group is "inspired" lone actors. How would a list of domestic terrorist organizations help prevent these attacks?

**Response:** The FBI does not have the authority to designate a group as a terrorist organization. Regardless of a designation, the FBI investigates violent, criminal acts committed by individuals intending to intimidate, influence, or coerce a civilian population or a government. When combatting terrorism, the FBI looks at individuals who commit or intend to commit violence and criminal activity that constitutes a federal crime or poses a threat to national security.

The FBI has the dual mission of protecting the American people and upholding the Constitution of the United States. Accordingly, the FBI protects First Amendment rights, including the freedoms of association and assembly, and the right to coalesce with like-minded individuals. Many groups in America form for the sole purpose of exercising their rights, and that is not a crime. However, separate and apart from protected assembly, the FBI works to determine whether multiple individuals worked together, or conspired together, to commit criminal acts in violation of federal law.

12. As you mentioned at the hearing and in past appearances before Congress, there is no crime of domestic terrorism or a domestic terrorism charge. There are, however, many tools available to both prosecute and investigate domestic terrorism. The FBI demonstrated this by disrupting the plot to kidnap Governor Gretchen Whitmer and the prosecution of those involved. Further, at least prior to the elevation of the domestic

terrorism threat level, the FBI in practice has deprioritized certain domestic terrorism related investigations by classifying them as hate crimes and passing them off to state and local law enforcement.

- a. Given the link between the current domestic terror threat and racially motivated violent extremists, if the FBI and Department of Justice continue to exercise their investigative and prosecutorial authorities creatively and proactively—like in the case of Governor Whitmer or by expanding the investigation and prosecution of hate crimes—then does the FBI have the legal tools it needs to meet the current threat?

**Response:** Combatting terrorism is the FBI's top priority. Last year, the White House completed a comprehensive review of domestic terrorism (DT) and issued a report, titled "National Strategy for Countering Domestic Terrorism." The FBI was an active participant in that effort. It is important to send a strong message to hate-motivated perpetrators of violence and federal criminal activity, and the Department of Justice is still considering whether one way to convey that message is with additional legal tools. The FBI currently has a number of federal and state statutes available to use to investigate federal offenses involving DT incidents. The FBI will continue to use every single tool at its disposal to bring to justice those who engage in violence, regardless of their motivation. The FBI will do this through its Domestic Terrorism Operations Section (DTOS) and through Joint Terrorism Task Forces (JTTFs) across the country. The FBI is willing to work with Congress, the Department of Justice, and the Administration to consider thoughtful legislative efforts that seek to support and enhance law enforcement's ability to combat this threat.

- b. The hate crimes and domestic terrorism "fusion cell" we briefly discussed during the hearing seems like an excellent example of the FBI acting creatively to maximize the legal tools at its disposal. If appropriate for this setting, please provide more details on how this program works, such as (i) specific examples of the types of cases the fusion cell has helped with; (ii) other relevant procedural or legal details; and (iii) how the fusion cells cooperate and share information with other federal, state, and local law enforcement agencies.

**Response:** To address the intersection of the FBI counterterrorism and criminal investigative missions to combat DT and provide justice to those who are victims of hate crimes, the FBI formally created the Domestic Terrorism-Hate Crimes Fusion Cell in April 2019. This Fusion Cell creates more opportunities for investigative creativity, provides multi-program coordination, helps ensure information sharing, and enhances investigative resources to combat the DT threat. The Fusion Cell has had significant successes. For example, in November 2019, the work of the Fusion Cell resulted in the arrest of Richard Holzer, a Colorado man who ultimately pleaded guilty and was sentenced to over 19 years in prison for federal hate crime and explosives charges for plotting to blow up a synagogue in Pueblo, Colorado. This was the first time in recent history that the FBI made a proactive arrest on a federal hate crimes charge.

13. The events of January 6th, the rise of domestic terrorism and hate crimes, and the increase in political violence highlight the need for cooperation across federal law enforcement—

including both the FBI and DHS—and state and local law enforcement. I thank you for providing clarity on the communication relayed from the FBI Norfolk Field Office to the relevant law enforcement authorities on January 5th. While I appreciate that it can be difficult to distinguish credible from aspirational threats, I share my colleagues' concern that this message was not acted on and worry that it highlights a gap across law enforcement cooperation.

- a. Please describe the specific law enforcement and intelligence breakdowns as you see them that culminated in the events of January 6th. If the FBI were given raw intelligence from an information sharing law enforcement agency that the cooperating agency had deemed actionable—like the Norfolk Field Office Communication—but only had a few hours to process and act, what specific actions would the FBI take?

**Response:** Any time there is an attack, the FBI will ask itself what could be done differently and what can be improved in collecting, analyzing, and disseminating information. As the FBI continues to examine the events of January 6th, and what led up to that day, the FBI welcomes the opportunity to learn from its collective experiences and work to prevent such an attack from ever happening again.

Regarding information sharing, the FBI routinely shares intelligence products with its federal, state, and local partners. For example, throughout 2020, the FBI issued multiple external intelligence products to federal, state, and local partners with an assessment and warning of credible threats of violence from DVEs related to the election and the transition process, the elevated threats posed by AGAAVEs, and the potential for DVEs to exploit First Amendment-protected activities. The Situational Information Report (SIR) from the Norfolk Field Office is an example of how the FBI quickly shares raw, unevaluated intelligence quickly. On January 5, 2021, the FBI Norfolk Field Office received information from an online discussion thread, not linked to any specific person, calling for violence to begin on January 6th in Washington, DC. FBI Norfolk determined that information warranted dissemination and released the SIR to raise law enforcement awareness regarding the potential for violence in the Washington, DC, area. Upon receiving the report, the FBI Washington Field Office immediately: shared it by email with all partners on the JTTF; shared it during a briefing in the Washington Field Office interagency Command Post at which the U.S. Capitol Police, the Metropolitan Police Department, the U.S. Park Police, the U.S. Secret Service, and others partners were present; and distributed it to Virginia state and local law enforcement partners, as well as to certain federal law enforcement partners, through the Virginia Fusion Center.

- b. While the Norfolk Field Office's threat assessment was not deemed serious enough to alert senior Congressional officials, what is the process for notifying such officials if a domestic threat is serious enough to require a coordinated full government response?

**Response:** The FBI takes seriously its duty to warn, and the FBI *Domestic Investigations Operations Guide* (DIOG) mandates that the FBI notify persons of threats to their life or threats that may result in serious bodily injury and to notify other law enforcement agencies of such

threats. If the FBI becomes aware of threats to life or threats of potential bodily injury that involve government officials, it may coordinate with the U.S. Capitol Police or the U.S. Secret Service, as the law enforcement agencies that have protective jurisdiction of the threatened person. Specific to Congressional officials, the FBI works with the U.S. Capitol Police via the Washington Field Office Joint Terrorism Task Force (JTTF) to issue “duty to warn” notifications. The practice is for the U.S. Capitol Police to then provide confirmations to the FBI once they have issued the notifications.

- c. Do you believe the current level of cooperation, both generally and specific to domestic terror, is adequate and, if not, what changes need to be made to improve law enforcement cooperation?

**Response:** The front line of the counterterrorism mission in the United States are the approximately 200 FBI-led JTTFs in all of the FBI’s 56 Field Offices and in many satellite Resident Agencies. The JTTFs have the participation of over 50 federal and over 500 state, local, tribal, and territorial agencies. These relationships are critical to effective information sharing and leveraging local expertise and experience in terrorism investigations, both domestic and international. Prior to January 6th, the effective coordination with law enforcement partners resulted in the disruption of subjects of predicated investigations who were planning to travel to Washington, DC for events on January 6, 2021. Those efforts may have reduced the number and type of individuals who breached the U.S. Capitol and may have kept at bay persons with even more malicious intent or capabilities.

- d. During the hearing, you mentioned training efforts to assist state and local law enforcement with investigating active duty officers who may be racially motivated violent extremists or militia violent extremist group members. Recognizing that this does not apply to the overwhelming majority of law enforcement, please provide more details on your coordination with state and local law enforcement on this issue.

**Response:** The FBI continues to work with state and local law enforcement agency partners to detect, identify, and disrupt any and all DT threats, especially those that may stem from trusted communities and positions of authority within government entities at any level. One way the FBI does this is by providing regular training on DT matters to partners through FBI Field Office partnerships, as well as through established entities, such as the JTTF and the National Academy. Topics of training include mobilization indicators, iconography, and symbology for the violent extremism threats investigated by the FBI.

- 14. In your oral and written testimony, you mentioned that end-to-end encryption across devices and social media platforms threatens the FBI’s ability to manage threats. You suggested that you believed that this was a policy judgement Congress should make but that instead it was being made by private companies.

- a. Please describe, as specifically as possible, the biggest issues related to end-to-end encryption from the FBI’s perspective that you believe this Committee should

be aware of when considering the balancing of civil liberties with law enforcement surveillance.

**Response:** The online, encrypted nature of radicalization to violence, along with the insular nature of most of today's attack plotters, leaves investigators with fewer dots to connect. These encrypted communications applications can make it difficult, if not impossible, for the FBI and its partners to track and disrupt threats before they proceed to violence or other criminal actions. Resources are an issue in a number of ways, but simply providing additional resources will not solve this problem. First, encryption vastly increases the cost of investigations by prolonging investigations and causing law enforcement to deploy more intrusive investigative efforts typically consuming other investigative resources. Second, even if methods to gain access to encrypted information are available, the advanced and technical resources necessary to access a single encrypted device or encrypted chat session are so significant that it requires significant triage.

When encryption is a barrier in an investigation, many resources are leveraged for an extended period. Those resources are then unavailable to assist in mitigation of future threats. Additionally, these delays create unnecessary risk to life and property from the lack of lawful access to critical data. This is all the more true for state and local law enforcement partners who have an infinitely greater number of serious criminal investigations, a growing number of which, they report, are now being significantly inhibited by encryption.

15. During the hearing you received many questions about the National Guard's role leading up to January 6th and during the attack on the Capitol. I understand from your responses that you were not involved in any decisions related to activating the Guard and have no such power to do so.
  - a. Given the National Guard's prominent role protecting the Capitol today and their visual presence at the protests throughout the summer, do you believe there are adequate channels of communication open between National Guard leadership and the FBI, both in Washington, D.C. and throughout the country, to address and respond to domestic terror threats in the future?

**Response:** The FBI works in close coordination with federal, state, and local partners to combat terrorism, collaborate on operational activity, and share intelligence. The FBI works closely with the Department of Defense (DoD) through the FBI's Military Operations Support Team (MOST), which is assigned to the National Joint Terrorism Task Force (NJTTF). Leading up to events, the FBI reviews intelligence to identify potential threats to public safety and mitigate them before they become violent acts and federal crimes. The FBI also shares various intelligence products with federal, state, and local partners – including the DoD – through, for example, JTTFs and joint interagency Command Posts.

16. As discussed at the hearing, there has been a dramatic increase in firearm background checks during the pandemic. The FBI operates the National Instant Criminal Background Checks System (NICS), which conducts these background checks of buyers. Last year, the FBI processed nearly 40 million firearm background checks – the highest year on

record. And the numbers are only increasing. In January of this year, the FBI set another record for the highest number of background checks run in one month: 4.3 million. Notably, this was the same month as the deadly attack on the Capitol. As you well know, it's imperative that the FBI efficiently process these background checks to make sure that guns don't end up in the hands of those who are legally barred from owning them.

- a. Congress provided the FBI \$179 million in emergency funding to help address the increased workload of gun background checks. Has the FBI received this critical funding from OMB and if not, when do you expect to be able to access this funding?

**Response:** Yes, \$179M in two-year supplemental funding was provided by Congress. This two-year funding was appropriated to the FBI for three purposes: NICS improvements; User Fee shortfall; and Coronavirus relief. In coordination with the Department of Justice and the Office of Management and Budget, the FBI has budgeted most of this funding to personnel and non-personnel NICS expenses to improve the timeliness and effectiveness of processing gun background checks.

- b. Please describe how the funding will help improve the efficiency of the background check system and ensure that guns don't end up in the wrong hands.

**Response:** This supplemental funding continues to be instrumental in adding much needed personnel resources, augmenting information technology (IT) development staff, and enhancing the productivity of NICS through an improved telework posture. The ongoing system improvements being performed with the supplemental funding will help improve the efficiency of processing gun background checks.

Additional personnel resources will improve the NICS program by providing timely and accurate determinations of each individual's eligibility to possess firearms and/or explosives in accordance with federal law. An increase in resources will allow the staff assigned to important support functions to perform that function throughout the year and not be reassigned to process firearm transactions when the volume dictates. The increased personnel resources will allow for processing additional firearm background checks from the NICS Delay Queue and additional firearm background checks from the E-Check workbasket; thereby reducing the amount of firearm background checks that are not processed until the third business day. The ability to process background checks more efficiently will help to minimize the number of firearm sales to prohibited persons and decrease the workload for the Bureau of Alcohol, Tobacco, Firearms and Explosives, the federal agency tasked with retrieving firearms from prohibited persons who are in possession of a firearm due to delays in a NICS final determination.

All of the system development efforts that the NICS Section is focused on with this funding will be toward automation and efficiencies through increased development capacity. The NICS development effort utilizes an agile development methodology that prioritizes requirements to resolve known or discovered operational system defects. The prioritization is reevaluated upon identification of new system requirements during program increment planning.

sessions. The exact requirements will change as priorities change. Priority changes are driven by newly identified system vulnerabilities or defects and changes in the operational environment such as changes in gun laws, new Congressional mandates, and new Executive Orders.

Some of the high-priority items that also have software and hardware costs in the development plan are:

- Robotic Process Automation (RPA) – The ability to search external state websites and pull back that information to the transaction.
- Computer Telephone Integration (CTI) – This will assist the NICS Section with processing the phone calls received from the call center and gain efficiencies on the call back functionality.
- Movement to the cloud – This will help the NICS Section with system stability and flexibility as well as future cost savings.
- Enhanced test tools – This will help the NICS Section to have a higher quality product when enhancements are deployed to the NICS system and provide stability and agility in the future.
- Future technologies – The NICS Section will be prepared to implement future technologies and inputs if regulation changes occur in the near term.

- c. What resources does the FBI need to keep pace with firearm background checks if this level of demand continues?

**Response:** The NICS Section’s mission statement is: seeking to enhance national security and public safety by conducting background checks to determine a person’s eligibility to possess firearms or explosives in accordance with federal and state laws. In order to meet this mission, the NICS Section must provide excellent service in several operational functions, such as the NICS E-Check and the NICS Delay Queue. These functions are the highest priority for the Section. The FBI has identified a need for additional personnel resources to increase its capacity to perform NICS background checks for firearm purchases. The additional personnel resources will provide an enhanced ability for the section to complete transactions within three business days, meet service levels of the NICS E-Check and telephone responses, and effectively address additional services provided to the law enforcement community and its customers. Since the beginning of calendar year (CY) 2020, the NICS Section saw a considerable increase to incoming federal firearm background checks, and in the beginning of CY 2021, the NICS set records for transaction volume with multiple days, weeks, and months ranking in the top ten. The increase has severely pressured the NICS Section to complete firearm transactions within three business days.

The President’s 2023 Budget fully annualizes the personnel costs associated with the supplemental resources provided in 2021 and requests additional resources to support NICS.

17. In 2020, the National Center for Missing and Exploited Children's (NCMEC) CyberTipline received more than 21.7 million reports regarding online exploitation of children – almost 4 million more reports than in 2019. NCMEC also received almost twice as many reports in 2020 of online enticement of children than it did in 2019.
- a. Please describe, in as much detail as possible, the steps the FBI is taking to combat this disturbing rise in the exploitation of children online, particularly on social media and online gaming platforms.

**Response:** The FBI continues to work with its federal, state, and local counterparts to address child exploitation online. The FBI runs 85 Child Exploitation Human Trafficking Task Forces (CEHTTFs) around the country, which focus their efforts on the worst offenders – those who kidnap, produce or manufacture child sexual abuse material (CSAM), engage in sextortion, or travel to exploit children. Additionally, the FBI works with the DOJ-funded Internet Crimes Against Children (ICAC) Task Forces around the country to ensure we use all of the tools available to us, whether they be federal, state, or local charges, to hold these offenders accountable.

As it has for many years, the FBI continues to work closely with NCMEC to identify child victims and educate the community about crimes against children and how children, parents, and caregivers can protect themselves from child sexual exploitation. FBI personnel assigned to NCMEC review the tips received there and forward pertinent information to FBI field offices for investigation. Recently, the FBI partnered with NCMEC and the anti-human trafficking organization “Thorn” for a Twitter chat to educate the public about online child sexual exploitation as part of its efforts for National Child Abuse Prevention Month.

The FBI continues to develop and acquire innovative tools, technologies, methodologies, and external relationships that increase the efficiency and effectiveness of Violent Crimes Against Children (VCAC) investigations and operations. The FBI focuses these efforts on tools that assist in the identification of important data from within larger sets, reduce the burden of review for investigators, enhance or expand automation to identify newly produced CSAM, and indicate links or correlation between the activities or identities of threat actors across platforms.

Finally, since January 2020, FBI Agents around the country have conducted more than 4,300 training and outreach sessions with state, local, and community partners, which focused specifically on crimes against children and human trafficking.

- b. Please describe the resources the FBI is providing to educate parents about the issue and to help prevent their children from online exploitation, particularly with more children online during the pandemic.

**Response:** The FBI's Victim Services Division provides sextortion victims in FBI investigations with numerous services through its Child Pornography Victim Assistance Program. The FBI also has many resources available online for parents to learn about sextortion, solicitation, and enticement of a minor. There are brochures, cyber alerts for parents and children, news

regarding adjudicated child exploitation cases, and valuable data and resources collected by the National Center for Missing and Exploited Children (NCMEC).

- c. Does the FBI have all of the resources it needs as part of this program to meet this growing challenge?

**Response:** Technological developments and encrypted messaging applications have made investigations of crimes against children more difficult and complex. The subjects of VCAC investigations are more likely to use sophisticated encryption methods, exploit covert communication techniques, and operate on illicit Dark Web networks. New platforms and applications showcase ever-increasing security technologies, which are then adopted by subjects. The FBI – and law enforcement in general – lacks large-scale technological solutions to proactively address children being sexually exploited via end-to-end encrypted platforms and livestream applications. The evolution of the technology and criminal methodologies requires a sustained effort to train the FBI workforce, as well as a significant investment in investigative tools. The FBI sees an increasing need for technical expertise, equipment, and global collaboration to combat child sex offenders using sophisticated techniques and technical tools, and will continue to focus its resources on accomplishing these goals.

18. When I asked you about an FBI report indicating that 87 percent of law enforcement agencies participating in the FBI's hate crime data collection program have reported zero hate crimes in their jurisdictions, you responded that "We do want the percentage of departments who are cooperating and voluntarily responding to go up."

- a. What steps will you take to ensure that more law enforcement agencies are accurately reporting the hate crimes that occur in their jurisdictions? Are additional resources required for the FBI to ensure better cooperation from law enforcement agencies with its hate crime data collection program?

**Response:** The FBI Criminal Justice Information Services (CJIS) Division's Audit Unit conducts periodic reviews of Uniform Crime Reporting (UCR) crime data, including hate crimes reported to the FBI UCR Program. Each state's UCR Program is subject to review at least once every three years to evaluate the state's compliance with the FBI UCR Program's hate crime reporting guidelines. Hate crime audits focus on classification procedures and correcting previously identified errors. After the audit, the auditor provides a report of their findings to the local agency and to FBI UCR Program hate crime personnel.

The FBI UCR Program transitioned all federal, state, local, college/university, and tribal law enforcement agencies nationwide to the National Incident-Based Reporting System (NIBRS) on January 1, 2021. This transition will ease the ability for agencies to submit hate crime data as NIBRS includes a designated field for law enforcement agencies to report hate crimes. Therefore, reporting via NIBRS will improve the quality, reliability, and accuracy of hate crime data.

To support federal and tribal reporting, the FBI deployed the NIBRS Collection Application (NCA). The FBI developed the NCA, which is available on the Law Enforcement

Enterprise Portal, to provide a no-cost solution for federal and tribal agency users to submit NIBRS data to the FBI UCR Program and to comply with the Uniform Federal Crime Reporting Act of 1988. As the NCA's functionality became more robust, the NCA became a viable option for non-transitioned state and local agencies to submit NIBRS data. The NCA is an extension of the UCR system and enables users to directly enter and submit NIBRS crime data to UCR for processing, retention, and publication.

The *Hate Crime Guidelines and Training Manual* was developed to assist law enforcement agencies in establishing a hate crime training program to allow personnel to collect and submit hate crime data to the FBI UCR Program. The manual provides suggested model reporting procedures and training aids for capturing the bias-motivated incident data reported to the FBI. The FBI UCR Program is currently revising this document to remove all Summary Reporting System (SRS) verbiage and adding all federal and tribal law enforcement offenses. The SRS collected hate crime data on 13 offenses versus the 70 offenses collected in the NIBRS. The manual is located on the FBI.gov website at: <https://www.fbi.gov/file-repository/ucr/ucr-hate-crime-data-collection-guidelines-training-manual-02272015.pdf/view>.

In 2021, the FBI UCR Program also published a hate crime article titled, *Hate Crime Data Helps Law Enforcement Address Threat*. This article was published in the *CJIS Link* on the FBI.gov website at: <https://www.fbi.gov/services/cjis/cjis-link/hate-crime-data-helps-law-enforcement-address-threat>. The *CJIS Link* article informs readers of the serious nature of hate crimes across the United States.

In addition, the FBI UCR Program developed a hate crime flyer containing the bias motivation categories for law enforcement officers to reference while investigating bias-related incidents. The flyer is made available to stakeholders during FBI CJIS Division conferences, Department of Justice Civil Rights trainings, and FBI UCR Program hate crime trainings.

The FBI UCR Program finalized a 2021 Hate Crime Outreach and Communications Plan with a focus on most-in-population law enforcement agencies (over 100,000 inhabitants) and college/university law enforcement agencies. Through the NIBRS transition, the FBI UCR Program anticipates that participation in hate crimes reporting will improve over the next few years as agencies continue to transition to incident-based reporting.

The FBI UCR Program offers a training program for our law enforcement community via webinars. During these training sessions, the FBI provides an overview of the hate crime statistics collection and hate crime scenarios, the two-tiered decision-making process, and bias motivation indicators. It also discusses the importance and benefits of reporting hate crime incident data (increases understanding, long-range planning, promotes transparency, information sharing, and address threats). These instructional opportunities allow FBI staff to meet with the law enforcement community from reporting agencies. The training emphasizes the need and benefits of the Hate Crime Statistics Collection, and in turn encourages participants to discuss this important topic with law enforcement colleagues within their local agencies and communities. The overall goal is to increase participation in this data collection.

**QUESTIONS FROM SENATOR COONS**

19. You testified that social media has become a “catalyst” of domestic violent extremism. You also testified that the FBI has “tried to work with social media to get them to more aggressively use the tools that they have to police their own platforms under terms of service, etc.”

a. Please elaborate on these statements.

**Response:** The FBI maintains strong private sector partnerships and ongoing communications regarding threats, violence, and malign foreign interference. The FBI routinely engages with the technology sector to educate them on the threats, and many companies are proactively identifying threats and notifying the FBI. To succeed in finding plots where violent rhetoric or hate speech online has turned to planning, social media companies need to be spotting and warning of dangers. The FBI does not, however, police speech and does not get involved until speech crosses the line and becomes a violation of federal criminal law. Up to and until that point, it is up to the private sector companies to craft and enforce their own terms of use on their platforms.

b. Please describe the extent to which, and in what ways, the January 6 insurrection was organized and coordinated through social media platforms.

**Response:** Radicalization of DVEs most often occurs through self-radicalization to violence online. Social media has increased the speed and accessibility of violent extremist content, while also facilitating greater decentralized connectivity among extremist supporters. According to publicly available court documents, the Department of Justice has charged a number of defendants involved in the attack on the U.S. Capitol with conspiracy, either to obstruct a congressional proceeding, to obstruct law enforcement during a civil disorder, and/or to injure an officer. In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

c. Please describe the extent to which the FBI has observed disinformation on social media platforms contributing to domestic violent extremism through radicalization.

**Response:** The FBI is concerned about any source that stimulates or motivates violent extremism. However, radicalization of DVEs most often occurs through self-radicalization to violence online. Social media has increased the speed and accessibility of violent extremist content, while also facilitating greater decentralized connectivity among extremist supporters. Some DVEs will continue to be inspired by an individualized mix of various beliefs, picking and choosing themes of different ideologies in an attempt to justify their violent acts. Trends continue to evolve, but long-standing DVE drivers, including racism, anti-Semitism, perceived government or law enforcement over-reach, socio-political conditions, legislation, and other world events, combined with personal grievances, remain constant. Additionally, the FBI

assesses some DVEs will continue to personalize their own ideology in an attempt to justify their violent acts.

- d. Please describe the extent to which the FBI has observed efforts by domestic violent extremists to recruit members on social media.

**Response:** Over the years, DVEs have increased their use of the Internet and online platforms, which often play an important role in an attacker's radicalization to violence and have been used for the creation of violent rhetoric, spreading violent extremist ideology, and recruiting like-minded individuals to DVE causes. Additionally, increased use of encrypted applications affords users anonymity and operational security, while ensuring their material remains widely accessible to online audiences. However, the FBI does not investigate or collect based solely on ideology or assembly. The FBI predicates investigations on individuals, not groups that exist to express First Amendment-protected activity, and does not investigate group membership.

- e. What are the kinds of content that remain on platforms that, in your view, represent the greatest law enforcement threats? Please explain.
- f. Is there more that the FBI believes social media platforms could be doing to address the incitement of violence on their platforms? Please explain.

**Response:** The FBI does not police speech and does not get involved until speech crosses the line and becomes a violation of federal criminal law. Up to and until that point, it is up to the private sector companies to craft and enforce their own terms of use on their platforms.

The volume of data online proliferated by the growth in communications platforms requires increased resources and the ability to address end-to-end encryption. The FBI also needs technology companies to retain the ability to provide electronic evidence when we come to them with a lawful court order that we obtained to gather evidence pertinent to the planning or commission of a federal crime.

- 20. Please clarify the FBI's policies on social media monitoring in light of Assistant Director Jill Sanborn's testimony and subsequent press reports.<sup>1</sup>

- a. What social media monitoring was the FBI conducting in connection with the events that culminated in the Jan. 6 insurrection?

**Response:** Although the FBI does not have the authority to persistently and passively examine Internet traffic and social media conversations, the FBI does proactively review, observe, and collect information from open sources when there is a valid law enforcement or national security purpose and the FBI's activities are done in a manner that does not unduly infringe upon the speaker's or author's ability to deliver his or her message. After the 2020 election, and in advance of January 6, 2021, the FBI performed standard preliminary open source analysis to

<sup>1</sup> See Ken Dilanian, "Why did the FBI miss the threats about Jan. 6 on social media?" *NBC News* (Mar. 8, 2021), available at <https://www.nbcnews.com/politics/justice-department/fbi-official-told-congress-bureau-can-t-monitor-americans-social-n1259769>.

identify any threats of violence or criminal activity related to potential protest activities in the National Capital Region (NCR).

In the weeks leading up to January 6th, the FBI Counterterrorism Division engaged with all 56 Field Offices to collect information on threats to the NCR connected to January 6th. The FBI also coordinated with federal, state, local, and private sector partners to determine whether any of those entities possessed information regarding potential threats. The FBI assessed there would be significant demonstrations at several key sites throughout the NCR, including the U.S. Capitol Complex. Additionally, there were online posts that mentioned possible violence; however, these posts were of limited specificity and unknown credibility. A review of the reporting indicated only unsubstantiated threats and did not identify any specific or corroborated threats to the activities planned for January 6th.

- b. Why wasn't the FBI able to develop more verified and actionable intelligence in advance of the Jan. 6 insurrection?

**Response:** Throughout 2020, the FBI issued multiple external intelligence products to its federal, state, and local partners on the threats posed by DVEs. The FBI had been assessing and warning of credible threats of violence from DVEs over the past year related to the election and the transition process, the elevated threats posed by AGAAVEs, and the potential for DVEs to exploit First Amendment-protected activities. The FBI shared these intelligence products with its federal, state, and local partners through, for instance, its JTFs and joint interagency Command Posts.

- 21. Does the FBI plan to conduct an after-action review of its intelligence-gathering and law enforcement response to the events culminating in the Jan. 6 insurrection?

- a. If yes, please provide details of the scope and nature of this review, and whether it will assess potential policy changes. Please also explain whether this Committee will be briefed on the findings.
- b. If not, please explain.

**Response:** Any time there is an attack, the FBI will look at what could have been done differently, and how to improve collecting, analyzing, and disseminating information. As the FBI continues to examine the events of January 6th, and what led up to that day, the FBI welcomes the opportunity to learn from collective experiences and work to prevent such an attack from ever happening again.

Currently, the Department of Justice Office of the Inspector General, along with other agency Inspectors General, is conducting an investigation into how the agencies prepared for and responded to the events of January 6th; the Government Accountability Office (GAO) has initiated an assessment in response to January 6th; and several Committees have made oversight requests. The FBI is fully cooperating with each investigation and review, consistent with its law enforcement and national security obligations to protect ongoing investigations and cases.

22. Commentators have posed the question of “the role of implicit bias in blinding the FBI to the gathering storm in the run-up to Jan. 6,” asking whether the intelligence and law enforcement response would have been the same had the identities of the participants been different.<sup>2</sup>

- a. What is your response to this concern?
- b. Will the potential role of implicit bias be a part of any after-action review of this incident? Please explain.

**Response:** Consistent with the FBI’s mission to protect the American people and uphold the Constitution of the United States, the FBI does not investigate anyone based solely on First Amendment-protected activity, to include speech, political affiliation, association, or assembly. The FBI is focused on threats or acts of violence or other federal criminal activity, regardless of underlying motivation or socio-political goal.

23. The Russian-perpetrated SolarWinds attack penetrated at least nine federal agencies and 100 companies, and appeared to be part of an effort to move beyond espionage to create capabilities and access that could be used for information campaigns, political manipulation, and a potential foundation for more active disruption of things like critical infrastructure.

- a. How did this attack persist without detection, and why was it uncovered by the private sector and not government agencies charged with cybersecurity? How can federal agencies better partner with the private sector on cyber security?

**Response:** For years, the FBI has warned of China’s and Russia’s efforts to inject malware into programs, undermining trust in software and automated updates. This has been evident in recent years with Russia’s NotPetya malware, which inserted malicious code into seemingly routine updates, and China’s Tax Bureau mandated software that contained malware that installed a hidden backdoor to the networks using the software. The SolarWinds intrusion takes it to a more dangerous level. By purposely infecting a product widely used by enterprises to manage their networks, the adversary gained incredible access and visibility, and executed their plan with a degree of sophistication, tradecraft, and thoroughness that made it extremely difficult to detect. This incident shows the investments in time, money, and talent that U.S. adversaries will make to harm us, and the importance of imposing risk and consequences on adversaries to deter this type of activity. It drives home that only a whole-of-society approach will be effective against these threats. The FBI appreciated the proactive cooperation of the private sector in the Solar Winds incident, which made a difference in the Unified Coordination Group’s (UCG’s) ability to investigate, mitigate, and learn from the incident.

The SolarWinds incident highlighted how vital private sector cooperation is to the FBI’s broader work protecting America from cyber threats. The virtuous cycle of working together has been on display in the SolarWinds response: information from the private sector fuels the FBI’s

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<sup>2</sup> See Tia Sewell and Benjamin Wittes, “The Questions FBI Director Christopher Wray Wasn’t Asked,” *Lawfare* Mar. 5, 2021), available at <https://www.lawfareblog.com/questions-fbi-director-christopher-wray-wasnt-asked>.

investigations, allows identification of additional victims, evidence, and adversary infrastructure, and enables information sharing with intelligence and law enforcement partners that enables their operations. These partners then put that information to work and provide the FBI more information than originally known, which can be used to then arm the private sector to harden itself against the threat. By leaning into partnerships, all who are combatting malicious cyber activity become stronger while weakening the perpetrators together.

In this context, “private sector” refers to two main groups:

- Providers—those in the IT and cybersecurity industry whose products and services give them unique visibility into how adversaries are traversing U.S. networks; and
- Victims—those whose hard drives, logs, and servers give the technical dots to piece together who compromised them, how, and who they might target next.

With respect to enhancing public-private information sharing, this generally refers to the FBI’s relationship with providers. But enhanced engagement from the victims who have unique visibility is also very important.

The most sophisticated adversaries make pervasive use of strong encryption. They may connect from their home operating base, through multiple servers in third countries, to one in the U.S. then to a victim. They are usually working through an encrypted tunnel along that whole chain.

However, on the victim network, they show their hand. There is not a substitute for visibility into what the adversary is doing to victims, or to the information victims have about where the adversary went next. Very often, actors use different infrastructure to exfiltrate (steal) data than they used to gain initial access. The FBI needs to be able to find that next destination, to figure out what else the adversary is doing from those servers, and to position to disrupt that activity. This is just part of why FBI devotes so much effort across the country to working with victims, and with companies it assess adversaries are likely to target.

- b. Are the Russians exploiting a statutory gap between domestic and overseas intelligence activities? If so, how can Congress help the administration close these gaps?

**Response:** It is not surprising that malicious foreign actors try to avoid detection by the FBI domestically and by other IC agencies overseas. So, the FBI, NSA, and others are always working on ways to limit those actors’ ability to hide their activities. Working together is most powerful—which is an advantage that the more competitive intelligence services in Russia and China, for example, do not enjoy.

One area that is so important is increased visibility into what adversaries are doing, especially when they are on privately-owned infrastructure. That includes the NSA, CIA, and FBI as intelligence agencies; and, CISA as the defenders of Federal Civilian Executive Branch

networks and major Internet and IT service providers whose networks and software are ubiquitous. The FBI needs to keep getting faster and better at sharing what it sees, in a way that protects privacy but leads to faster detection and action. Over the past few years, U.S. government agencies have all learned to lean hard into sharing, but need to get better at pulling in the information and working with the experts in the private sector. Ultimately, the goal is always to disrupt threats before they occur, and to do so it is critically important that the FBI have the information needed to respond quickly and limit the damage.

- c. What technical, organizational, and legal improvements can Congress make to prevent these attacks to the extent possible, detect them faster, and minimize their damage?

**Response:** The FBI is working with its federal agency partners and the Administration on ways to improve U.S. Government's cyber incident prevention, detection, and mitigation efforts. The FBI will also continue to work with the Administration on any proposals for Congress to assist the Executive Branch with these interrelated lines of effort.

One critical aspect to incident detection and mitigation is entities notifying the Federal Government when they have suffered an intrusion or are observing malicious cyber activity. These notifications, especially when made promptly, are oftentimes critical to containing the damage caused by cyber threat actors exploiting specific vulnerabilities. Receiving notifications of malicious cyber activity from industry, and cooperation with the FBI when it responds, assists federal efforts to warn the public about ongoing cyber threat activity, assists the public and private sectors with detection and mitigation measures, and also supports cyber investigations that uncover the scope of computer intrusions, develop cyber threat intelligence, and ultimately hold cybercriminals accountable.

- 24. China's government-sponsored cyber-attacks are frequent, sophisticated, and widespread, with a recent attack discovered earlier this month compromising an estimated 30,000 - 60,000 public and private entities in the United States alone, and as many as 250,000 servers infected globally. These hacks are a major threat to not only our national security but also risks the theft and ransom of proprietary data for a massive number of U.S. businesses – a threat to consumers, the protection of intellectual property, and economic activity in the U.S.
  - a. Reports indicate that this attack went undetected by U.S. cybersecurity firms for weeks, and may have been picked up a few weeks earlier by researchers in Taiwan. How can we better cooperate with allies and partners, including with private sector tech and cybersecurity firms, to detect and counter these cyber threats?

**Response:** In December 2020 and again in early January 2021, a Taiwan-based cybersecurity firm alerted Microsoft of the Microsoft Exchange Server vulnerabilities. Microsoft developed a patch and released it along with a public announcement on March 2, 2021, attributing the activity to a group it calls Hafnium, which Microsoft assesses to be a Chinese state-sponsored intrusion set.

Stitching together a complete picture of a cyber threat or incident requires information from many sources. The Microsoft Exchange Server vulnerability as well as the SolarWinds hack underscore the essential value of using law enforcement authorities, voluntary sharing by third parties, and victim cooperation in order to triage data and exploit evidence, to provide assistance to victims, and to work with industry victims and partners to gather information.

The private sector owns approximately 90 percent of the critical infrastructure in the United States, but that figure does not fully capture the private sector's importance in cyber defense. Information from the private sector fuels FBI investigations, allows FBI personnel to identify evidence and adversary infrastructure, and enables the FBI to hand off leads to intelligence and law enforcement partners here and abroad.

Key to the FBI's cyber strategy is using the information and insight developed through FBI investigations to support a full range of public and private sector partners who defend networks, build international partnerships, sanction destabilizing behavior, collect foreign intelligence, and conduct cyber effects operations. These collective actions to combat cyber threats are most effective when they are joint, enabled, and sequenced for maximum impact.

Each Intelligence Community (IC) agency needs to do more to improve the quality and quantity of data points contributed to cyber incident response, which is accomplished by leaning into partnerships and increasing information sharing. Enhancing public-private information sharing generally means relationships with providers—those in the IT and cybersecurity industry whose products and services give them unique visibility into how adversaries are traversing U.S. networks—but enhancing cooperation from victims is also critical. Their networks hold insights into how the adversary is operating, and who they may target next, which no one else has.

This is just part of why the FBI devotes so much effort across the country to working with victims and with companies *before* they suffer an intrusion. The FBI's pre-existing partnerships with the private and public sectors throughout the country are critical to identifying threats, understanding their scope, and pursuing attribution to impose risk and consequence on adversaries. Sharing and collaboration with the private sector (and across agencies) is steadily improving. As the IC gets better at this, and builds trust with key industry stakeholders, visibility gaps will steadily close.

- b. I understand the administration is considering the creating of a cyber “Unified Coordination Group.” Can you say more about what this group is expected to do to respond to this situation and hold the government of China accountable? Will it remain active to detect and prevent future cyber-attacks from China's hacker army?

**Response:** The UCG construct was established for cyber incident response in Presidential Policy Directive (PPD)-41, but has its roots in incident response in the physical realm, specifically, the National Response Framework. This allows for interoperability of UCGs in the event of a hybrid cyber/physical event. PPD-41's principles balance concurrent lines of effort: national security and investigative requirements (FBI's role in a UCG) with restoration and recovery (CISA's

role). The FBI's role in a UCG is Threat Response, which includes investigating and gathering intelligence in order to attribute, disrupt, and hold accountable the responsible threat actors. In practice, this means:

- The FBI leads the investigation of the activity against affected entities and engages victims to collect forensic evidence and identify adversary tactics and techniques. The FBI shares that information with a variety of partners inside and outside government for multiple purposes, including intelligence, investigation, and network defense to prevent additional victims. The FBI also shares that information with partner operational agencies to enable further action.
- The FBI engages industry partners who, through what they see on their infrastructure, can help point to additional victims.
- The FBI analyzes what it learns and combines that with other information at the FBI's disposal as part of the IC to attribute the activity—i.e., to identify who is responsible and warn of a broader threat.
- The FBI can use that attribution to pursue the threat actors and, through the National Cyber Investigative Joint Task Force, to convene partners to coordinate a response through joint, sequenced operations.

25. Russian activist Vladimir Kara-Murza was poisoned in Russia in 2015 and again in 2017, with evidence indicating the involvement of FSB personnel. Following both poisonings, samples of his blood were accepted for testing by the FBI, and tests were performed, but the results of those tests have not been fully released. On July 5, 2018, Mr. Kara-Murza submitted a request pursuant to the Freedom of Information Act and Privacy Act (FOIPA) to the FBI (FOIPA Request No. 1410820-000) for documents relating to his poisonings. The heavily redacted documents released to him acknowledged he had been poisoned with a biotoxin, but did not include the toxicology test results, nor did it include more than 270 pages of documents under review by other agencies.

- a. Will you direct that the 562 pages of documents that were redacted by the FBI be re-reviewed with an eye to releasing as much information as possible to Mr. Kara-Murza about the circumstances surrounding his poisonings and the nature of the agent with which he was poisoned?
- b. To which other agencies of the federal government did the FBI refer documents responsive to Mr. Kara-Murza's FOIPA request?
- c. With respect to each such referral, what was the date of the referral, and how many pages were referred to each agency?
- d. In January 2018, did you or other FBI officials discuss Mr. Kara-Murza or his poisonings in meetings with the then-visiting heads of Russia's FSB, GRU and SVR (Sergey Naryshkin, Alexander Bortnikov or Igor Korobov)?

**Response:** The FBI Lab has essentially exhausted its capabilities and has been unable to identify the specific poison or compound that was utilized on Mr. Kara-Murza. Additional testing

conducted at the FBI Lab for potential agents and known variants utilized in other high-profile incidents also yielded negative results. The Lab has preserved the remaining sample to allow for further testing at a facility with capabilities/certifications exceeding those currently available at the FBI Lab. That said, the FBI's Washington Field Office has already relayed this information to Mr. Kara-Murza personally and has made it known that they will do what they can to get him a copy of the full FBI Lab report as soon as its completed.

The FOIA litigation is ongoing, so all exemptions and actions are still subject to change. The documents released, to this point, were not particularly heavily redacted. The most substantial redactions are of: (1) classified information/intelligence source and method information protected by the National Security Act of 1947; and (2) information that would identify confidential source(s) and/or any information provided by such a source. There were other exemptions cited, including for privacy and law enforcement sensitive information.

**QUESTIONS FROM SENATOR BLUMENTHAL****Questions for Director Wray**

26. As you are aware, several insurrectionists who attacked the United States Capitol on January 6, 2021, have been identified as active duty servicemembers, reservists, retirees, and veterans.<sup>3</sup> I am concerned that federal, state, and local law enforcement agencies may, too, have White Supremacist Extremists (WSEs) and other violent fringe extremists in their ranks, evidenced by reporting that law enforcement officers were among those who participated in the January 6 insurrection.<sup>4</sup>
- a. Is the FBI taking steps to investigate WSEs and other extremists among federal law enforcement officers and other personnel in the Bureau?
    - i. If so, please describe these steps and how the FBI intends to prevent, address, and neutralize extremist ideology within the Bureau.
    - ii. If not, please explain why not.
  - b. Is the FBI taking steps to assist other federal agencies and departments, including, but not limited to, the Bureau of Alcohol, Tobacco, and Firearms, the United States Marshals Service, the United States Secret Service, the Drug Enforcement Administration, Immigration and Customs Enforcement, Customs and Border Protection, the Bureau of Prisons, the Department of State, and the Department of Defense to investigate WSE and other violent fringe extremism in their ranks?
    - i. If so, please describe these steps.
    - ii. If not, why not?
  - c. Is the FBI taking steps to assist state and local law enforcement agencies to investigate WSEs and other extremists in their ranks?
    - i. If so, please describe these steps.
    - ii. If not, why not?

**Response:** The FBI works closely with federal, state, local, tribal, and territorial law enforcement partners through the FBI-led JTTFs to detect, identify, and disrupt any and all DT threats, especially those that may stem from trusted communities and positions of authority within government entities at any level. One way is by providing regular training on DT matters

<sup>3</sup> Gina Harkins, Hope Hodge Seck, *Marines, Infantry Most Highly Represented Among Veterans Arrested After Capitol Riot*, Military.com (Feb. 26, 2021), <https://www.military.com/daily-news/2021/02/26/marines-infantry-most-highly-represented-among-veterans-arrested-after-capitol-riot.html>.

<sup>4</sup> NPR, *The Capitol Siege: The Arrested and Their Stories*, (March 5, 2021) <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories>.

to partners through FBI Field Office partnerships, as well as through established entities, such as the JTTF and the National Academy. Topics of training include mobilization indicators, iconography, and symbology for the violent extremism threats investigated by the FBI.

It is important to note, there are more than 13,000 law enforcement agencies in the United States with more than 800,000 sworn law enforcement officers.<sup>5</sup> Those agencies do not have a centralized mechanism for communicating with the FBI about the issue of DVEs in their ranks, and there is no mandatory requirement to notify the FBI if they see indications of violent extremism in an employee. However, agencies have contacted the FBI when they have concerns about current or former employees. For example, on January 7, 2021, the day after the attack on the U.S. Capitol, officers of a local police department in Georgia provided the FBI information about a former fellow officer who allegedly participated in the attack. The FBI opened an investigation into that former officer and arrested him on January 15, 2021.

- d. Recent reports indicate that at least one then-member of the Trump administration was among those present at the Capitol during the insurrection.<sup>6</sup> Please state whether the FBI identified any other federal government employees, including both political appointees and career civil service personnel, who participated in the January 6 insurrection.

**Response:** In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

- 27. The FBI's data shows that there were 7,314 reported hate crimes in 2019—a 10-year high and 7% increase from 2015.<sup>7</sup> These numbers, shocking as they may be, fail to reflect just how pervasive and pernicious the problem is, given the vast underreporting of hate crimes and hate crimes that are not identified as such by law enforcement.

- a. Please explain the benefits to law enforcement of complete and accurate reporting of hate crimes.

**Response:** When federal, state, local, college/university, and tribal law enforcement agencies provide complete and accurate hate crime data to their state and local governments and the FBI Uniform Crime Reporting (UCR) Program, a more open and transparent environment is created for the communities they serve. Reliable statistics also enable law enforcement agencies to understand the hate crimes occurring in their jurisdictions, assist law enforcement agencies in developing preventative measures to combat these crimes, and assist the FBI to provide a national representative picture of hate crimes nationally to inform, educate, and strengthen communities.

<sup>5</sup> 2019 Unified Crime Reporting Program Report, "Crime in the United States."

<sup>6</sup> Josh Gerstein, *Trump appointee arrested in connection with Capitol riot*, POLITICO (Mar. 5, 2021 3:54 PM), <https://www.politico.com/news/2021/03/04/trump-appointee-arrested-for-capitol-riot-473825>.

<sup>7</sup> *Hate Crime Statistics, 2019*, FEDERAL BUREAU OF INVESTIGATION (2019), <https://ucr.fbi.gov/hate-crime/2019>.

- i. Please summarize the steps the FBI is taking to improve hate crime reporting and hate crime identification at the federal-level, including coordination with FBI field offices and U.S. Attorney offices as well as partnerships with community-based organizations.

**Response:** To support federal and tribal reporting, the Federal Bureau of Investigation (FBI) deployed the National Incident-Based Reporting System (NIBRS) Collection Application (NCA). The FBI developed the NCA, which is available on the Law Enforcement Enterprise Portal, to provide a no-cost solution for federal and tribal agency users to submit NIBRS data to the FBI Uniform Crime Reporting (UCR) Program and to comply with the Uniform Federal Crime Reporting Act of 1988. The NCA is an extension of the UCR system and enables users to directly enter and submit NIBRS crime data to UCR for processing, retention, and publication.

- ii. Please summarize the steps the FBI is taking to improve hate crime reporting and hate crime identification with and by state and local law enforcement agencies, including, but not limited, providing state and local law enforcement with best practices, training, and technical assistance on hate crimes reporting and identification.

**Response:** The FBI Uniform Crime Reporting (UCR) Program transitioned all federal, state, local, college/university, and tribal law enforcement agencies nationwide to the National Incident-Based Reporting System (NIBRS) on January 1, 2021. This transition will ease the ability for agencies to submit hate crime data as NIBRS includes a designated field for law enforcement agencies to report hate crimes. Therefore, reporting via NIBRS will improve the quality, reliability, and accuracy of hate crime data.

To support federal and tribal reporting, the FBI deployed the NIBRS Collection Application (NCA). The FBI developed the NCA, available on the Law Enforcement Enterprise Portal, to provide a no-cost solution for federal and tribal agency users to submit NIBRS data to the FBI UCR Program and comply with the Uniform Federal Crime Reporting Act of 1988. As the NCA's functionality became more robust, the NCA became a viable option for non-transitioned state and local agencies to submit NIBRS data. The NCA is an extension of the UCR system and enables users to directly enter and submit NIBRS crime data to UCR for processing, retention, and publication.

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The FBI UCR Program finalized a 2021 Hate Crime Outreach and Communications Plan with a focus on most-in-population law enforcement agencies (over 100,000 inhabitants) and college/university law enforcement agencies. Through the NIBRS transition, the FBI UCR Program anticipates hate crime participation to improve over the next few years as agencies continue to transition to incident-based reporting.

In 2021, the FBI UCR Program also published a hate crime article titled, *Hate Crime Data Helps Law Enforcement Address Threat*. This article was published in the *CJIS Link* on the FBI.gov website at: <https://www.fbi.gov/services/cjis/cjis-link/hate-crime-data-helps-law-enforcement-address-threat>. The *CJIS Link* article informs readers of the serious nature of hate crimes across the United States.

In addition, the FBI UCR Program developed a hate crime flyer containing the bias motivation categories for law enforcement officers to reference while investigating bias-related incidents. The flyer is made available to stakeholders during FBI Criminal Justice Information Services Division conferences, Department of Justice Civil Rights trainings, and FBI UCR Program hate crime trainings.

The FBI UCR Program offers a training program for the law enforcement community via webinars. During these training sessions, the FBI provides an overview of the hate crime statistics collection and hate crime scenarios, the two-tiered decision-making process, bias motivation indicators, and discusses the importance and benefits of reporting hate crime incident data (increases understanding, long-range planning, promotes transparency, information sharing, and address threats). These instructional opportunities allow FBI staff to meet with the law enforcement community from reporting agencies. The training emphasizes the need and benefits of the Hate Crime Statistics Collection, and in turn encourages participants to discuss this important topic with law enforcement colleagues within their local agencies and communities. The overall goal is to increase participation in this data collection.

28. In April 2019, the FBI created the Domestic Terrorism-Hate Crimes Fusion Cell at FBI Headquarters in Washington, D.C., “to address the intersection of the complementary FBI missions to combat domestic terrorism and provide justice to those who are victims of hate crimes.” The Fusion Cell is “[c]omprised of subject matter experts from both the Criminal Investigative and Counterterrorism Divisions” and “offers programs coordination from FBI Headquarters.” It “helps ensure seamless information sharing across divisions and augments investigative resources to combat the domestic terrorism threat, ensuring [the FBI is] not solely focused on the current threat or most recent attack, but also looking to the future to prevent the next one.”<sup>8</sup>

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<sup>8</sup> Michael McGarrity & Calvin Shivers, *Confronting White Supremacy*, Statement Before the House Oversight and Reform Committee, Subcommittee on Civil Rights and Civil Liberties (June 4, 2019), <https://www.fbi.gov/news/testimony/confronting-white-supremacy>.

During this hearing, you testified that the Fusion Cell seeks to bring together people focusing on “crimes [that] could fit either into a domestic terrorism bucket or a hate crimes bucket,” “with the goal of trying to be proactive against some of the threats that are coming.”<sup>9</sup>

- a. Please provide a detailed explanation of the work the Fusion Cell has done since it was established in April 2019, including a summary of the categories of domestic terrorism and bias-motivation cases with which the Fusion Cell has been involved and the disposition of these cases.
- b. Please describe the operational and analytical capacity of the Fusion Cell, including—
  - i. How many agents, analysts, and other staff are assigned to the Fusion Cell;
  - ii. When the Fusion Cell is activated, deployed, or otherwise involved in a domestic terrorism or hate crime investigation;
  - iii. Whether the Fusion Cell engages in interagency coordination, including, but not limited to, the National Security and Civil Rights Divisions at the Department of Justice, U.S. Attorney offices, and the Department of Homeland Security; and,
  - iv. Whether the Fusion Cell partners with state and local law enforcement agencies and community organizations, and, if so, in which jurisdictions.
- c. When the FBI investigates bias-motivated violence as a hate crime, does the FBI also investigate the potential scope of the threat posed by the alleged offender, including, but not limited to, whether the alleged offender is also a domestic violent extremist, including a racially- or ethnically-motivated violent extremist, and whether the alleged offender has ties to racially- or ethnically-motivated violent extremist groups or organizations?
  - i. If so, please describe the statutory and investigatory tools the FBI uses to assess the potential scope of the threat posed by an alleged hate crime offender. In addition, please describe the subsequent steps the FBI takes upon making a determination that the alleged offender presents a domestic terrorism threat.
  - ii. If not, please explain why not.

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<sup>9</sup> *Oversight of the Federal Bureau of Investigation: The January 6 Insurrection, Domestic Terrorism, and Other Threats, Hearing Before the S. Committee on the Judiciary*, 117<sup>th</sup> Cong. 37:18-38:3 (2021) (statement of Hon. Christopher Wray, Dir., Fed. Bureau of Investigation) (“Wray testimony”).

- d. When state and local law enforcement investigate bias-motivated violence as a hate crime, is the FBI consulted, brought in, or otherwise involved to assist state and local law enforcement investigate the potential scope of the threat posed by the alleged offender, including, but not limited to, whether the alleged offender is also a domestic violent extremist, including a racially- or ethnically-motivated violent extremist, and whether the alleged offender has ties to racially- or ethnically-motivated violent extremist groups or organizations?
  - i. If so, please describe how the FBI assists state and local law enforcement in assessing the potential scope of the threat posed by an alleged hate crime offender. In addition, please describe the subsequent steps the FBI takes, with or without state and local law enforcement, upon making a determination that the alleged offender presents a domestic terrorism threat.
  - ii. If not, please explain why not.

**Response:** Hate crimes and DT incidents are often not mutually exclusive. A hate crime is targeted violence motivated by the offender's bias against a person's actual or perceived characteristics, while a DT incident is a criminal act, including threats or acts of violence made to specific victims, made in furtherance of a domestic socio-political goal. To address the intersection of the FBI counterterrorism and criminal investigative missions to combat DT and provide justice to those who are victims of hate crimes, the FBI formally created the Domestic Terrorism-Hate Crimes Fusion Cell in April 2019.

The Fusion Cell creates more opportunities for investigative creativity, provides multi-program coordination, helps ensure seamless information sharing, and enhances investigative resources to combat the DT threat. The Fusion Cell is a standing entity that covers all DT threat categories and does not need to be "activated" for it to function. The Fusion Cell has had significant successes. For example, in November 2019, the work of the Fusion Cell resulted in the arrest of Richard Holzer, a Colorado man who ultimately pleaded guilty and was sentenced to over 19 years in prison for federal hate crime and explosives charges for plotting to blow up a synagogue in Pueblo, Colorado. This was the first time in recent history that the FBI made a proactive arrest on a federal hate crimes charge.

**QUESTIONS FROM SENATOR GRAHAM**

Vladimir Kara-Murza, a prominent opposition activist in Russia, was poisoned in Russia in 2015 and again in 2017, and nearly died on both occasions. Following both poisonings, samples of his blood were accepted for testing by the FBI, and tests were performed, but the results of those tests and the FBI's assessment of the cause of Mr. Kara-Murza's poisonings have not been released to either interested Members of Congress or Mr. Kara-Murza. On July 5, 2018, Mr. Kara-Murza submitted a request pursuant to the Freedom of Information Act and Privacy Act (FOIPA) to the FBI (FBI FOIPA Request No. 1410820-000) for documents relating to his poisonings, including the results of tests performed by U.S. government agencies. Mr. Kara-Murza has been informed that 277 pages of documents responsive to that request have been referred by the FBI for review to other, undisclosed agencies of the federal government. Of those 277 pages, 251 have yet to be released to Mr. Kara-Murza pending consultation with other government agencies. Additionally, 15 pages of responsive documents have been withheld from disclosure by the FBI on varying grounds, including that they contain classified information. A further 562 pages that were released by the FBI have been redacted.

29. In January 2018, or at any other time, did you, or any other official of the Department of Justice, discuss Mr. Kara-Murza or his poisonings with Sergey Naryshkin, Alexander Bortnikov or Igor Korobov?

**Response:** The FBI Lab has essentially exhausted its capabilities and has been unable to identify the specific poison or compound that was utilized on Mr. Kara-Murza. Additional testing conducted at the FBI Lab for potential agents and known variants utilized in other high-profile incidents also yielded negative results. The Lab has preserved the remaining sample to allow for further testing at a facility with capabilities/certifications exceeding those currently available at the FBI Lab. That said, the FBI's Washington Field Office has already relayed this information to Mr. Kara-Murza personally and has made it known that they will do what they can to get him a copy of the full FBI Lab report as soon as its completed.

The FOIA litigation is ongoing, so all exemptions and actions are still subject to change. The documents released, to this point, were not particularly heavily redacted. The most substantial redactions are of: (1) classified information/intelligence source and method information protected by the National Security Act of 1947; and (2) information that would identify confidential source(s) and/or any information provided by such a source. There were other exemptions cited, including for privacy and law enforcement sensitive information.

**QUESTIONS FROM SENATOR LEE**

30. Director Wray, can you please tell us how the FBI is obtaining the geolocation and cell phone data of Americans who were in DC on January 6<sup>th</sup>?

**Response:** The FBI has only sought January 6th-related geolocation and cell phone data through legal process, including, as appropriate, search warrants, grand jury subpoenas, and statutorily authorized emergency disclosures.

31. What specific authorities is the FBI relying on to access this data?

**Response:** Please see the response to question 30.

32. Has the FBI obtained probable cause warrants to secure this data?

**Response:** Please see the response to question 30.

33. Is the FBI using facial recognition technology to identify Americans who were in DC on January 6<sup>th</sup>? If so, what authority is the FBI relying on to employ this technology against American citizens?

**Response:** The FBI's Facial Recognition (FR) technology is limited to producing investigative leads; no identifications are made. FR results are prohibited by FBI guidelines for use as the sole basis of an arrest or other law enforcement activity.

34. If you cannot answer these questions because of the nature of the ongoing investigation, will you commit to attending a classified briefing on these issues?

**Response:** The FBI has deployed its full investigative resources in response to the attack on the U.S. Capitol on January 6th, and as part of the investigations, the FBI has used location data and FR technology. The FBI has only sought or accessed January 6th-related geolocation and cell phone data through legal process, including, as appropriate, search warrants, and statutorily authorized emergency disclosures. As has been disclosed in public charging documents, geolocation data has been cited as a way that the FBI has been able to corroborate other information – such as a tip from the public based on the FBI's "Seeking Information" posters – about a person's participation in the attack. In the process of obtaining cell tower data, the FBI uses what is sometimes referred to as an "exclusion list" to sift out mobile devices authorized to be in a location in order to focus on those devices that were unauthorized, and therefore more likely to be related to the breach.

The FBI practices highly responsible use of FR technology and remains committed to privacy and civil liberties protections in its use. FBI internal policy prohibits the results of FR searches to be used as the sole basis of an arrest, positive identification, or other law enforcement action. The FBI only relies upon FR results for "lead" information that requires further investigation to determine if the person identified is, in fact, the subject associated with the investigation. FR technology has assisted the FBI and authorized law enforcement users in

identifying, arresting, and convicting dangerous criminals and terrorists, locating missing and endangered children, and protecting our nation's borders.

**QUESTIONS FROM SENATOR BOOKER**

35. Our nation is confronting a rising national security threat in domestic terrorism perpetrated by white supremacists and other far-right extremists. We know the majority of terror attacks in this country since 9/11 have been perpetrated by right-wing extremists, and the majority of those have been white supremacists.

When you last testified before this Committee in 2019, you said that “a majority of the domestic terrorism cases that we’ve investigated are motivated by some version of what you might call white supremacist violence.” And at last week’s hearing, you testified, “I elevated racially motivated violent extremism, the vast majority of which is what you would call white supremacist violence, to our highest threat priority, where it has stayed.”

- a. Given your testimony that the “vast majority” of “racially motivated violent extremism” incidents are perpetrated by white supremacists, can you provide a more specific breakdown of exactly what a “vast majority” means?

**Response:** In Fiscal Year 2020, the FBI, along with law enforcement partners, arrested 180 DT subjects, and 84 of those arrests were of RMVE subjects. Of those 84, 75 arrests – representing the vast majority – were of RMVEs advocating for the superiority of the white race.

- b. Can you provide this Committee with data regarding the number of domestic terrorism incidents perpetrated by white supremacists, including relative to all categories of domestic terrorism incidents and relative to the FBI’s category of “Racially or Ethnically Motivated Violent Extremist” incidents?
- c. According to the FBI’s data, how many violent attacks, and how many fatalities, since 2000 are attributable to “Racially or Ethnically Motivated Violent Extremists”?
- d. According to the FBI’s data, how many violent attacks, and how many fatalities, since 2000 are specifically attributable to white supremacists?
- e. What steps have you taken to elevate the FBI’s efforts to address the threats posed by “Racially or Ethnically Motivated Violent Extremism”?

**Response:** Between 2015 and 2020, there have been at least 26 fatal attacks perpetrated by DVEs, resulting in a total of 83 deaths, as follows:

- RMVEs were responsible for 19 attacks, resulting in 72 deaths. Of those: 11 attacks and 52 deaths were the result of attacks perpetrated by RMVEs who advocate for the superiority of the white race; and 8 attacks and 20 deaths were the result of attacks perpetrated by RMVEs motivated by racism and injustice in American society, the desire for a separate Black homeland, or religion-themed reasons.

- AGAAVEs were responsible for 5 attacks, resulting in 5 deaths. Of those: 3 attacks and 3 deaths were the result of attacks perpetrated by MVEs; one attack and one death were the result of an attack perpetrated by SCVEs; and one attack and one death was the result of an attack perpetrated by an AVE.
  - An Abortion-Related Violent Extremist was responsible for one attack and 3 deaths.
  - A DVE with a personalized violent extremist ideology (“All Other DT Threats”) was responsible for one attack and 3 deaths.
- f. Beyond those actions, what steps have you taken to elevate the FBI’s efforts to address the threats posed by white supremacist violence specifically?

**Response:** In June 2019, the FBI elevated the RMVE threat to the highest threat priority, on the same level as the Islamic State of Iraq and al-Sham (ISIS) and Homegrown Violent Extremists (HVEs). This designation means that all 56 FBI Field Offices are required to collect and distribute intelligence on RMVE threats and to produce intelligence products on trends they are seeing in this realm. Elevating the threat has had a positive impact on disruptions. Since 2019, arrests in the RMVE threat category have nearly doubled, and nearly every FBI Field Office has an ongoing investigation in this category.

36. During the Trump Administration, the FBI changed the way it classified and tracked domestic terrorism incidents. Violent incidents involving white supremacists were folded into a catch-all category of “Racially or Ethnically Motivated Violent Extremists.” This change would seem to make it harder to track incidents of violence perpetrated by white supremacists and potentially obscure the seriousness of that threat. Chair Durbin and I, as well as other members of this Committee, have written a number of letters to you raising this issue over the last two years, including most recently in a letter signed by 10 members of this Committee on February 24, 2021.

- a. Why did the FBI change its longstanding approach to tracking domestic terrorism incidents involving white supremacist violence and fold them into the broader category of “Racially or Ethnically Motivated Violent Extremist” incidents?
- b. When this change was made during the Trump Administration, did anyone at the White House direct, request, or suggest that the FBI eliminate the white supremacist category?
- c. When this change was made during the Trump Administration, did anyone at the Department of Justice direct, request, or suggest that the FBI eliminate the white supremacist category?
- d. Which official(s) directed the FBI to reorganize its domestic terrorism threat categorizations?

- e. Can you make a commitment to review this classification system for domestic terrorism incidents, rescind it, and reinstate the longstanding practice of tracking white supremacist violence as a distinct category of domestic terrorism incidents?

**Response:** Since 2018, the FBI has used the term “Racially or Ethnically Motivated Violent Extremism,” (RMVE) because it focuses on the violence and motivation, not First Amendment-protected activity. This change was made as part of the FBI’s annual Threat Review and Prioritization (TRP) process. The large majority of the FBI’s RMVE investigations involve RMVEs who advocate for the superiority of the white race; but there are some RMVE threat actors who use political reasons – including racism or injustice in American society, the desire for a separate Black homeland or starting a “race war,” or draw on aspects of religion, including elements of Christianity, Islam, and Judaism – as justification for their use or threat of force or violence. Integrating all types of racially or ethnically motivated violence into one threat category allows FBI Field Offices the latitude to collect intelligence and allocate resources to combat all RMVE threats, regardless of ideological motivation. More importantly, the FBI’s internal threat-naming conventions do not dictate what Domestic Terrorism agents investigate; instead, the intelligence and violent criminal conduct dictates what is investigated. The FBI will continue to challenge, review, and evaluate intelligence to ensure it is appropriately identifying and categorizing threats.

37. In February 2020, you testified before the House Judiciary Committee that hate crimes are “a close cousin of domestic terrorism.” From an investigative perspective, what is the relationship between hate crimes and domestic terrorism? What steps has the FBI taken to specifically target the linkages between the two and combat these terrible acts?

**Response:** Hate crimes and DT incidents are often not mutually exclusive. A hate crime is targeted violence motivated by the offender’s bias against a person’s actual or perceived characteristics, while a DT incident is a criminal act, including threats or acts of violence made to specific victims, made in furtherance of a domestic socio-political goal. To address the intersection of the FBI counterterrorism and criminal investigative missions to combat DT and provide justice to those who are victims of hate crimes, the FBI formally created the Domestic Terrorism-Hate Crimes Fusion Cell in April 2019.

The Fusion Cell creates more opportunities for investigative creativity, provides multi-program coordination, helps ensure seamless information sharing, and enhances investigative resources to combat the DT threat. The Fusion Cell has had significant successes. For example, in November 2019, the work of the Fusion Cell resulted in the arrest of Richard Holzer, a Colorado man who ultimately pleaded guilty and was sentenced to over 19 years in prison for federal hate crime and explosives charges for plotting to blow up a synagogue in Pueblo, Colorado. This was the first time in recent history that the FBI made a proactive arrest on a federal hate crimes charge.

38. According to a recent FBI report, hate crimes increased by almost 20 percent during the Trump Administration. The same report also noted that hate-motivated murders—mostly perpetrated by white supremacists—climbed to their highest level in 28 years. In your

assessment, what factors account for this dramatic increase in hate crimes during the years of the Trump Administration?

**Response:** In 2019, the FBI and DHS assessed RMVEs, primarily those advocating for the superiority of the white race, likely would continue to be the most lethal DVE threat to the Homeland. Both agencies had high confidence in this assessment based on the demonstrated capability of RMVEs in 2019 to select weapons and targets to conduct attacks, and the effectiveness of online RMVE messaging calling for increased violence. Additionally, other DVEs likely would continue to engage in non-lethal violence and other criminal activity, and DVE reactions to socio-political events and conditions could increase attacks. The year 2019 represented the most lethal year for DVE attacks since 1995, with five separate DVE attacks resulting in 32 deaths, 24 of which occurred during attacks conducted by RMVEs advocating for the superiority of the white race. Themes like “gamification” and “accelerationism” partly inspired some of the attacks in 2019 and likely will continue to inspire future plots. Gamification is a term where fatality counts in attacks are referred to as “scores,” as the actor desires to accomplish “achievements” or high kill counts. Messaging from RMVEs espousing the superiority of the white race has furthered this narrative by framing previous attacks as resulting in a “score.” Additionally, widely disseminated propaganda on online forums and encrypted chat applications that espouse similar themes regarding kill counts could inspire future attackers to mobilize faster or attempt increasingly lethal and more sophisticated attacks. These online forums and chat applications also reference accelerationism, a belief amongst some neo-Nazi and/or fascist RMVEs that the current system is irreparable, without apparent political solutions, and hence violent action is needed to precipitate societal collapse to start a race war.

39. At the hearing, we discussed the diversity of the FBI’s workforce, and you indicated that you would be willing to provide specific information to the Committee after the hearing. Please provide aggregate data about diversity at the FBI at the following levels:

- a. Applications to work at the FBI;
- b. The overall FBI workforce;
- c. By branch, division, and/or office, as available; and
- d. The FBI’s leadership.

Please provide data, if available, about how these numbers have changed from 2000 to present.

**Response:** The FBI appreciated the opportunity to provide a briefing to your office on diversity, which is a Director Priority Initiative. Four years ago, extensive data analysis showed the diversity of the FBI’s Special Agent cadre lagged significantly behind the nation’s demographics. Since this time, the FBI has spent considerable time and effort to identify and remove any inadvertent barriers that could result in disparate treatment of female and minority candidates. For example, the FBI significantly revised the Special Agent recruitment process, mitigated risks of disparate impact of testing on candidates, and helped candidates be better

prepared for the process. As a result, in 2020, 44% of the FBI's Special Agent applicants were minorities. In 2020, 26.6% of the FBI's workforce were minorities; 31.9% of professional staff employees were minorities; 22.8% of intelligence analyst employees were minorities; and 18.6% of Special Agent employees were minorities. As of 2020, 13.8% of the FBI's leaders in Senior Executive Service were minorities. The FBI will continue to use technology- and data-driven strategies to strengthen its recruiting and hiring program to ensure a full-staffed and diverse workforce.

**QUESTIONS FROM SENATOR GRASSLEY**

40. News reports have suggested that after the attack on January 6, the FBI acquired electronic records from people at the scene. Reportedly, that included members of Congress given their proximity to the event. Are those news reports accurate and, if so, has the FBI acquired the content of those communications or is the data limited to location data?

**Response:** The FBI has deployed its full investigative resources in response to the attack, and as part of the investigations, the FBI has used location data. The FBI has only sought or accessed January 6th-related location data through legal process, including, as appropriate, search warrants, grand jury subpoenas, and statutorily authorized emergency disclosures. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

41. At a Rules and Homeland Security Committee hearing, witnesses testified that they believed the January 6 attack was “coordinated.” Do you agree that it was coordinated beyond small groups? In the context of an attack like this, what does “coordinated” mean? For example, how many attackers communicated with each other before and during the attack?

**Response:** These investigations are on-going, but the FBI has seen indications of some small cells of individuals alleged to have been conspiring and communicating with each other prior to their involvement in the attack. According to publicly available court documents, the Department of Justice has charged a number of defendants involved in the attack on the U.S. Capitol with conspiracy, either to obstruct a congressional proceeding, to obstruct law enforcement during a civil disorder, and/or to injure an officer. In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

42. As you know, the FBI operates approximately 200 Joint Terrorism Task Forces (JTTF) within the U.S. These Task Forces are our nation’s front line of defense against terrorism, both international and domestic, and exist to coordinate and share information with local, state and federal law enforcement. How many of these Task Forces issued joint intelligence bulletins warning of the possibility for unrest at the Capitol on January 6, 2021.

**Response:** Throughout 2020, the FBI issued multiple external intelligence products, including multiple Joint Intelligence Bulletins (JIBs), to federal, state, and local partners. These products contained the FBI’s assessment and warning of credible threats of violence from DVEs related to the election and the transition process, the elevated threats posed by AGAAVEs, and the potential for DVEs to exploit First Amendment-protected activities. However, there was no JIB published specific to the possibility for unrest at the U.S. Capitol on January 6 2021.

43. What type of mutual aid agreements does the FBI have with other law enforcement agencies in the National Capitol Region? Are these mutual aid agreements sufficient as they are currently written?

**Response:** The FBI maintains strong liaison relationships with local partners and provides specialized response to incidents when partner agencies request authorized assistance.

44. What is the total number of FBI international terrorism investigations, homegrown violent extremism investigations, and domestic terrorism investigations? In addition, please answer the following:
- Of terrorism investigations of all types, how many are white supremacists?
  - Of terrorism investigations of all types, how many are jihadists?
  - How many investigations are classified as antigovernment extremists?
  - How many as anarchist extremists?

**Response:** The FBI is conducting approximately 4,000 international terrorism (IT) investigations and approximately 2,700 DT investigations; approximately 1,000 of the IT investigations involve HVE subjects. Of the DT investigations, approximately:

- 18 percent involve RMVEs, with more than 80 percent involving RMVEs who advocate for the superiority of the white race;
  - 34 percent involve AGAAVEs, with approximately: 16 percent involving SCVEs, 32 percent involving AVEs, and 51 percent involving MVEs;
  - Less than one percent involve Animal Rights/Environmental Violent Extremists;
  - Less than one percent involve Abortion-Related Violent Extremists;
  - 11 percent involve “All Other DT Threats”; and
  - 34 percent involve civil unrest or antiriot laws.
45. During yours and AD Jill Sanborn’s testimony the following day, you each repeatedly said that “some” white supremacists were involved in the Capitol riot. When the FBI opens an investigation, it captions a case with certain numbers and letter combinations that track the type of investigation. A caption of “266” refers to a domestic terrorism investigation. A caption of 266H refers to antigovernment extremism. A caption of 266N refers to white supremacism. How many 266H and how many 266N subjects do you have from the Capitol riot?

**Response:** As of April 2022, of the approximately 775 subjects arrested for their participation in the violent unlawful entry of the Capitol on January 6th, more than 55 percent require additional investigation to determine the primary motivation or ideology. Approximately 26 percent are categorized as AGAAVEs, under 17 percent are categorized as “All Other DT Threats,” and approximately two percent are categorized as RMVEs who advocate for the superiority of the white race.

46. How many Capitol rioters were armed?

**Response:** The FBI has arrested multiple subjects who unlawfully entered the U.S. Capitol with weapons such as bear spray, Tasers, and other weapons of opportunity, including a crutch and a fire extinguisher. Since January 6th, but stemming from the events of that day, at least four subjects have been arrested for federal firearms charges, including: unlawful possession of a firearm on Capitol Grounds/Building; possession of an unregistered firearm; possession of unregistered ammunition; and possession of large capacity ammunition feeding devices. Investigations are on-going and additional subjects may be charged with firearms violations. In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

47. You said in your hearing testimony that the Capitol riot was domestic terrorism. I agree. Were the months of attacks on the Portland courthouse domestic terrorism? Were the federal offenses charged in Portland limited to vandalism?

**Response:** Regardless of ideology, the FBI will aggressively pursue those who seek to hijack legitimate First Amendment-protected activity by engaging in violent criminal activity such as the destruction of property and violent assaults on law enforcement officers that occurred on January 6th and during protests throughout the U.S. during the summer of 2020. The majority of the investigations the FBI has opened related to the unrest during the summer of 2020 are being handled as DT investigations through the JTTFs and worked with the same dedication and comprehensive approach that the FBI brings to all of investigations. Related to the unrest in Portland, Oregon, the FBI continues to investigate violations of federal law within the FBI’s purview, specifically focusing on violent actors using the civil unrest to mask their activities. The FBI arrested multiple individuals involved in violence and federal criminal activity in Portland during the summer of 2020 for charges including assaulting a federal officer and destruction of federal property.

48. In response to my questioning, you indicated that you are taking steps to improve your anarchist extremism program, including developing sources and a better understanding of tradecraft. Specifically, what steps have you taken to improve this program?

**Response:** The FBI continues to improve its understanding of DT subjects, including those categorized as AVEs, a subset of the AGAAVE threat category. The AGAAVE threat category is a top priority for the FBI, and thus all Field Offices are required to proactively work to better understand the threat in the office’s area of responsibility, identify intelligence gaps, and

investigate associated violence and criminal activity. Based on an assessment of increasing violent criminal activity from AVEs, the FBI has increased its national targeting efforts and is further leveraging human and technical sources to address this threat. For example, to obtain information about the threat and address intelligence gaps, FBI Field Offices have issued multiple Collection Priorities Messages recommending their squads proactively canvass their confidential human sources to collect threat reporting related to violence and criminal activity.

49. The Trump administration is the first to designate a foreign white supremacist group as terrorists: the Russian Imperial Movement. Further, the Trump Administration added the threat from domestic terrorism including racially motivated violent extremists in the 2018 updated National Strategy for Counterterrorism. Under the Trump administration in 2019, the FBI first moved white supremacist extremism to top threat status, with homegrown violent extremism and the Islamic state. Until that time, only the threat from jihadists had been rated a top threat. Is it accurate to say that no resources were decreased from fighting white supremacism during the Trump Administration?

**Response:** In June 2019, the FBI elevated the RMVE threat to the highest threat priority, on the same level as the Islamic State of Iraq and al-Sham (ISIS) and Homegrown Violent Extremists (HVEs). This designation means that all 56 FBI Field Offices are required to collect and distribute intelligence on RMVE threats and to produce intelligence products on trends they are seeing in this realm. Elevating the threat has had a positive impact on disruptions. Since 2019, arrests in the RMVE threat category have nearly doubled, and nearly every FBI Field Office has an ongoing investigation in this category.

The FBI currently has multiple units singularly focused on tackling the DT threat at all levels from the operational, strategic, and analytical perspectives. The FBI continues to evaluate and reallocate resources in the Counterterrorism Division at FBI Headquarters to meet any evolving operational needs and focus on the most significant terrorism threats, including DT. The FBI conducts regular strategic threat assessments to prioritize and allocate resources in a dynamic fashion.

The number of DT investigations has increased steadily over the past several years, and after the events of January 6th, the number of investigations has grown exponentially. In the last year alone, the number of domestic terrorism investigations has doubled. The FBI does not anticipate this phenomenon waning in the near term. The FBI has done what it can to address the increased volume internally by surging personnel from other critical counterterrorism, national security, and criminal areas. In 2021, the surge accounted for a 260% increase in DT personnel.

50. In questioning the day after your testimony, AD Sanborn indicated the FBI does not review public source information in domestic terrorism investigations. It seems this would seriously hamper the FBI's ability to detect riots before they occur and that this likely contributed to the FBI's inability to foresee the 2020 riots and the Capitol riot. I understand that the Privacy Act prohibits the collection of information that is not for a criminal investigation. However, I do not understand the text to restrict the FBI's ability to look for evidence of public criminal activity. It seems in order to comply with the law,

the FBI should not collect open source information that is irrelevant to a crime, but would still be free to look on the internet for evidence of potential criminality. Please describe the steps you are taking to ensure agents can review public source information for evidence of crimes such as organizing and incitement to riot.

**Response:** The *Attorney General's Guidelines for Domestic FBI Operations* (AGG-DOM) establishes a set of basic principles that serve as the foundation for all FBI mission-related activities, including online investigations. The AGG-DOM prohibits the FBI from “investigating or collecting or maintaining information on United States persons solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or laws of the United States.”

In accordance with those guidelines, the FBI may review, observe, and collect information from open sources as long as the FBI activities are done for a valid law enforcement or national security purpose and in a manner that does not unduly infringe upon the speaker's or author's ability to deliver his or her message. The FBI does not have the authority to persistently and passively examine the World Wide Web, Internet traffic, and social media conversations. The core requirement is that the authorized purpose must specifically be tied to federal criminal or national security purposes, usually to further an FBI assessment or predicated investigation, with due regard to the First Amendment.

51. I noticed that your written testimony for this hearing was similar to written testimony used in the Worldwide Threats hearings at the end of last year. However, you removed a written reference to China as a serious threat (though you alluded to this threat verbally). Is China a serious national security threat?

**Response:** There is no country that poses a more severe counterintelligence threat to the United States than China. The FBI has active investigations across all 56 field offices and a new investigation is opened approximately every 12 hours. The counterintelligence threat from China is a whole-of-government approach, wherein professional intelligence services as well as non-traditional collectors, Chinese companies, and Chinese R&D entities collect sensitive information, acquire technology, and conduct malign foreign influence activities to pursue China's economic, technology, military, and diplomatic goals. Recent Chinese economic espionage cases indicated that China seeks to acquire U.S. science and technology by stealing the material. Some examples include self-driving car schematics stolen from Apple, integrated circuits stolen from Analog Devices, and turbine data files stolen from General Electric.

**QUESTIONS FROM SENATOR HAWLEY**

52. In its investigation of the January 6 riot, has the FBI solicited in any way any customer information from Bank of America or any other financial institution including, but not limited to, customer names or transaction histories?

**Response:** The FBI has deployed its full investigative resources in response to the attack, and one aspect within the investigations is if, and how, the attacks were funded. The FBI is using lawful methods in its investigations, and there has been no sweeping collection of financial records or any voluntary disclosure of financial records outside established lawful processes.

Financial institutions are regulated by the Bank Secrecy Act, which legally obligates those institutions to know their customers and report suspicious activity via the Suspicious Activity Report (SAR) process. The USA PATRIOT Act expanded the SAR requirements to help combat domestic and global terrorism. Because of these obligations, and the potential for terrorists and criminals to use and misuse the financial system, the FBI routinely engages with the financial sector to educate them on the threats they face to help them better monitor their data and customer activity for what they determine to be suspicious activity.

In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

53. In its investigation of the January 6 riot, has the FBI requested customer information from Bank of America or any other financial institution as part of a formal inquiry such as a subpoena or search warrant as outlined in 12 U.S. Code § 3402?

**Response:** Please see the response to question 52.

54. If the FBI has obtained financial records from Bank of America or any other financial institution pursuant to a warrant, subpoena, or other legal process, please provide a copy of the legal process or, in the alternative, please reproduce verbatim the request(s) in the legal process to which the financial records were responsive.

**Response:** Please see the response to question 52.

55. Please describe with specificity the categories of any financial records, as defined in 12 U.S. Code § 3401(2), that the FBI has obtained from Bank of America or any other financial institution in conjunction with its investigation of the January 6 riot, and the number of Bank of America customers, or the customers of any other financial institution, whose financial records were provided to the FBI.

**Response:** Please see the response to question 52.

56. Has the FBI notified any Bank of America customers or customers of other financial institutions that they may have been subjects of investigation in conjunction with the January 6 riot? If so, how many?

**Response:** Please see the response to question 52.

57. What other consumer-facing retail institutions, technology platforms, or telecommunications companies has the FBI corresponded with regarding its investigations of the riot at the U.S. Capitol on January 6<sup>th</sup> or security activities in preparation for the Inauguration?

**Response:** The FBI maintains strong private sector partnerships and ongoing communications regarding threats, violence, and malign foreign interference. The FBI routinely engages with the technology sector to educate them on threats, and the events of January 6<sup>th</sup> and the lead-up to the Inauguration are no different. In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

58. Has the FBI notified any telecommunications company customers that they may have been the subject of investigation in conjunction with the January 6 riot? If so, how many?

**Response:** In order to protect the integrity of all investigations, as a general policy and practice, the FBI does not comment on the status or existence of any potential investigative matter. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

59. What call logs or metadata, if any, has the FBI sought through legal process or otherwise collected from telecommunications company customers in conjunction with the January 6 riot?

**Response:** The FBI has deployed its full investigative resources in response to the attack, and as part of the investigations, the FBI has used telecommunications data. The FBI has only sought or accessed January 6<sup>th</sup>-related telecommunications data through legal process, including, as appropriate, search warrants, grand jury subpoenas, and statutorily authorized emergency disclosures. Given that this question relates to hundreds of ongoing investigations and pending prosecutions, it would be inappropriate to provide further information at this time.

**QUESTIONS FROM SENATOR WHITEHOUSE**

60. Who would be the most knowledgeable about the supplemental background investigation for then-Judge Brett Kavanaugh, particularly any communication with the White House?

**Response:** The FBI serves as an investigative service provider (ISP) for federal background investigations (BI). This means that the FBI responds to requests from the Office of White House Counsel and other government entities to conduct BIs of candidates for certain positions. The FBI, as an ISP, provides the collected information to the requesting entity to assist the entity in its decision-making process concerning the candidate's suitability for federal employment and access to classified or sensitive information. The FBI division responsible for conducting BIs is the Security Division.

With regard to positions requiring Senate confirmation, the FBI follows the standard process established pursuant to a March 2010 memorandum of understanding (MOU) between the Department of Justice and the White House. That process requires the FBI to promptly notify the requesting entity if it becomes aware of new information (received prior to a candidate assuming a nominated position) that raises questions of the candidate's suitability or trustworthiness.

Serving in its ISP role, the FBI conducted then-Judge Kavanaugh's background investigation at the request of the Office of White House Counsel in connection with his nomination to serve as an Associate Justice of the Supreme Court of the United States. The BI was completed and results disseminated to the Office of White House Counsel on July 18, 2018. On September 12, 2018, the FBI received information from a Senate office, which the FBI forwarded to the Office of White House Counsel on September 13, 2018, pursuant to the MOU. On September 13, 2018, the FBI was asked by the Office of White House Counsel to conduct supplemental background investigations, specifically, limited inquiries. The FBI completed the limited inquiries on October 4, 2018, and provided the results to the requesting entity.

61. Who would be the most knowledgeable about the information channel provided to Senate Republicans for information about the Crossfire Hurricane investigation?

**Response:** The Department of Justice under the prior Administration determined it was in the public interest to release to Congress documents and information regarding the Crossfire Hurricane investigation to the extent consistent with national security interests and with the January 7, 2020, order of the Foreign Intelligence Surveillance Court.

62. As of February 26, 2021, more than 280 people have been arrested for their involvement in the insurrection on January 6.<sup>10</sup>

- a. Congress defined domestic terrorism as criminal acts occurring “primarily within” the U.S. that are “dangerous to human life,” violate federal or state criminal laws, and “appear ... intended” to “influence the policy of a government by

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<sup>10</sup> Tal Axelrod, *More than 300 charged in connection to Capitol riot*, The Hill, Feb. 26, 2021, <https://thehill.com/policy/national-security/540801-more-than-300-charged-in-connection-to-capitol-riot>.

intimidation or coercion.” 18 U.S.C. § 2331. How many of the people arrested for their acts on January 6 does the FBI consider “domestic terrorism subjects”? If the answer isn’t “all of them,” why isn’t it?

- b. At least 16 people arrested following January 6 appear to have links to the Proud Boys, a racist far-right gang<sup>11</sup> which the FBI has designated as a violent extremist group.<sup>12</sup> At least 10 of the defendants have alleged ties to the Oath Keepers, which the Anti-Defamation League calls an “anti-government right-wing fringe organization.”<sup>13</sup> Has the FBI categorized all of those arrests as arrests of “domestic terrorism subjects”? If not, why not?

**Response:** As of April 2022, of the more than 775 subjects arrested for their participation in the violent unlawful entry of the Capitol on January 6th, more than 55 percent require additional investigation to determine the primary motivation or ideology. Approximately 26 percent are categorized as AGAAVEs, under 17 percent are categorized as “All Other DT Threats,” and approximately two percent are categorized as RMVEs who advocate for the superiority of the white race.

These investigations are ongoing, but to date, individuals who self-identify as associated with the Proud Boys and Oath Keepers have been arrested. For example:

- In February 2021, six individuals associated with the Proud Boys were indicted with conspiring to obstruct or impede an official proceeding and to impede or interfere with law enforcement during the commission of a civil disorder, among other charges.
- In February 2021, six individuals associated with the Oath Keepers, some of whose members were among those who forcibly entered the U.S. Capitol on January 6 were arrested for conspiring to obstruct Congress’ certification of the result of the 2020 Presidential Election, among other charges.
- In April 2021, two individuals associated with the Oath Keepers were indicted in federal court in the District of Columbia for conspiring to obstruct Congress, among other charges.

Additional information related to the defendants charged in federal court in the District of Columbia related to crimes committed at the U.S. Capitol on January 6, 2021, as well as links to the court documents referenced above and, *inter alia*, related superseding indictments, are available at: [www.justice.gov/usao-dc/capitol-breach-cases](http://www.justice.gov/usao-dc/capitol-breach-cases).

<sup>11</sup> *The Capitol Siege: The Arrested And Their Stories*, NPR, Feb. 24, 2021,

<https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories>.

<sup>12</sup> *FBI Categorizes Proud Boys As Extremist Group With Ties To White Nationalism*, NPR, Nov. 20, 2018,

<https://www.npr.org/2018/11/20/669761157/fbi-categorizes-proud-boys-as-extremist-group-with-ties-to-white-nationalism>.

<sup>13</sup> *The Capitol Siege: The Arrested And Their Stories*, *supra* note 2.

63. The ATF investigates almost every federal gun or arson case, including many cases that involve violent extremist groups, such as white supremacy violent extremists. For example, in October 2020, an ATF investigation led to the arrest of twenty-four people, including alleged members of the Aryan Circle, a white supremacist prison gang, on charges related to shootings, stabbings and killings in eleven states.<sup>14</sup>

- a. Would the FBI count the ATF's October 2020 arrests of white supremacists as arrests of "domestic terrorism subjects"? If not, why not?
- b. How would the FBI become involved in an ATF investigation of a domestic extremist group?
- c. Should every case involving a violent extremist group be treated as a domestic terrorism case and handled by the FBI Counterterrorism Division? If not, why not?
- d. What steps does the FBI take to ensure that it captures activity by domestic violent extremists that is investigated by other federal law enforcement agencies in order to accurately assess the threat these groups pose?
- e. What steps does the FBI take to ensure that it shares intelligence about domestic violent extremists with other federal law enforcement agencies? What steps does the FBI take to ensure that other federal law enforcement agencies share intelligence about domestic violent extremists with the Bureau?

**Response:** The FBI works closely with its federal, state, local, tribal, and territorial law enforcement partners to investigate and disrupt domestic terrorism. The front line of the counterterrorism mission in the United States is the FBI-led Joint Terrorism Task Forces (JTTFs). The FBI maintains about 200 JTTFs nationwide across all 56 FBI Field Offices and in many satellite Resident Agencies, with the participation of over 50 federal and over 500 state, local, tribal, and territorial agencies, including the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The ATF is also a member of the FBI's NJTTF, which serves to enhance communication, coordination, and cooperation between federal, state, and local government agencies by providing a point of fusion for terrorism intelligence and by supporting the JTTFs nationwide. These relationships are critical to effective information sharing and the leveraging of local expertise and experience in FBI investigations.

The eGuardian system is the FBI's case management system for handling initial threat information of counterterrorism, counterintelligence, cyber incidents, criminal complaints, events, and suspicious activities received from federal, state, local, tribal, and territorial law enforcement agencies, and the Department of Defense. Threat information is then migrated to the FBI's internal Guardian system where it is evaluated to determine whether the information meets the criteria for an assessment, already exists in FBI holdings, or is for situational awareness only. Starting in 2019, the FBI implemented a process to specifically identify reports of possible DT incidents to enhance program management and operational oversight. The FBI

<sup>14</sup> Juan A. Lozano, *24 indicted in probe of white supremacist prison gang*, ABC News, Oct. 15, 2020, <https://abcnews.go.com/US/wireStory/24-indicted-probe-white-supremacist-prison-gang-73636966>.

received approximately 675 referrals of possible DT incidents in 2019. Although reports are not available within the eGuardian system to identify the disposition of each referral, as of 2019, approximately 20 percent of the FBI's DT investigations were opened based on information and referrals from FBI partners.

The FBI does not refer DT incidents where there is an indication of federal criminal activity to other partners, as the FBI would be the lead investigative agency for those matters.