

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

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OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

TUESDAY, DECEMBER 5, 2023

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, Chair of the Committee, presiding.

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

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

Chair DURBIN. This meeting of the Senate Judiciary Committee will come to order. Today we continue our work to restore the Committee's traditional oversight role, which I have tried to work on since I've become Chair.

Director Wray, your testimony marks the fourth time you've appeared before this Committee since January of 2021. I want to begin by thanking you for the work that you and more than 35,000 FBI employees do to protect America and uphold our Constitution.

I'm troubled that the FBI is facing baseless claims that you have been weaponized for political purposes and dangerous calls to defund the agency. There are people listening to that sort of rhetoric. This irresponsible charge has real consequences.

Just last month, a man from Tennessee pled guilty to a December 2022 plot to attack the Knoxville FBI Office and kill the agents involved in the investigation of his codefendant's participation in the January 6th insurrection.

This Committee plays a critical role in holding the FBI accountable to the American people. But I urge my colleagues to exercise this oversight in a responsible and respectful manner. I urge my colleagues, as well, not to engage in bullying or conduct unbecoming a Member of this Committee.

One of the central concerns that I would like to raise is the troubling increase in hate crimes in America, including antisemitic, anti-Arab, and Islamophobic attacks in the wake of the Middle Eastern conflict. The FBI must continue to respond swiftly to these threats.

In Illinois, we are still grieving the horrific murder of a 6-year-old Palestinian American, Wadea al-Fayoume, and the violent at-

tack on his mother by a man who targeted them simply because of their national origin.

And we send our support to Hisham Awartani, Tahseen Ali Ahmad, and Kinnan Abdalhamid, as they recover from their injuries in Vermont. These three young men of Palestinian descent were shot while walking to dinner. When they were attacked, two were wearing keffiyehs, a traditional Palestinian headdress.

The Jewish community has also experienced an historic surge in threats, vandalism, and attacks. For example, a Las Vegas man was recently indicted for making threatening calls to our Jewish colleague, Senator Rosen.

I strongly support the FBI's critical work in combating all of these threats. But there is a need for continued improvement, especially ensuring that more hate crimes are actually reported to law enforcement.

At the same time that the FBI addresses domestic threats, it must also respond to international actors. Just last week, the Justice Department unsealed the indictment of an Indian national accused of conspiring to assassinate a Sikh American on American soil at the direction of an Indian government official.

As I've said many times in this Committee, political violence in all forms is unacceptable. An attack on any individual based on their race, ethnicity, gender, sexuality, nationality, religion, or disability is not consistent with the values of America. Every community deserves to feel safe, and the FBI plays an important role in guaranteeing that sense of security.

The threat of violent extremism is heightened by the proliferation of guns in America. Since the enactment of the Bipartisan Safer Communities Act, the FBI has conducted more than 100,000 enhanced background checks for gun purchases under 21, keeping firearms out of the hands of prohibited people. There is more work to be done.

Director Wray, I want to thank you for hosting me yesterday at the FBI Headquarters for a demonstration of the FBI's use of Section 702 of FISA. There is no question that Section 702 is a critical tool for collecting foreign intelligence and protecting America. I appreciate the reforms you've put in place with the FISA Court, to address what the FISA Court called, "widespread and persistent violation of 702 rules."

I still remain concerned, though, about protecting the communications of innocent Americans from warrantless surveillance. I look forward to continuing to work with you to reauthorize 702 with the significant reforms we need to protect the privacy of innocent Americans.

I now turn to the Ranking Member, Lindsey Graham, for his opening remarks.

**OPENING STATEMENT OF HON. LINDSEY O. GRAHAM,
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator GRAHAM. Thank you, Mr. Chairman. Welcome, Inspector—Director. So, we really appreciate you coming. Now is a good time to have an honest talk with the American people, through the Committee, about the dangers we face, what the FBI is doing every

day, and how we can, you know, make you stronger in the face of a lot of threats.

You'll be asked about the FBI's role in monitoring religious organizations. The debacle called Crossfire Hurricane hangs in the air in the conservative world, and so we're going to move forward. You'll be asked some tough questions, and I appreciate you being here today.

So, Mr. Chairman, one thing that I will be talking about, among the list of threats, is a broken Border. Mr. Chairman, since President Biden has taken office, we've had 6.6 million encounters with illegal aliens at the Southern Border. That's larger than 33 States. And we're on pace—the last 7 days, we've been averaging about 9,500 a day. Play that out. We're looking at 3.4 million this year, at that rate. That puts us at 10 million, and that doesn't count the got-aways.

So, we're negotiating how to help Ukraine. Count me in for helping Ukraine. A robust package to help our Allies in Ukraine makes sense to me. Upping the ability of Taiwan to defend itself makes sense to me. Helping Israel makes all the sense in the world.

Border security is the fourth plank of this supplemental. We're wildly apart. The negotiations by Senators Lankford and Murphy—I appreciate their efforts. We've made great progress, I think, on asylum, but the Democratic Party seems to be unwilling to address the key problem: parole.

This statute is pretty clear. The Secretary at DHS has the ability to parole an individual—it's supposed to be an individual——

[Poster is displayed.]

Senator GRAHAM [continuing]. Based on a case-by-case basis, for urgent humanitarian reasons, or significant public benefit.

Mayorkas and people at DHS have used that provision to give parole to over 240,000 people from four countries alone: Cuba, Haiti, Nicaragua, and Venezuela. It is not meant to be used in that fashion.

Why are we at an impasse? The Biden administration refuses to follow the law as written, refuses to give up this concept of humanitarian parole, because it is their way of managing the Border.

Why are so many people coming now, compared to before? The belief is, Mr. Chairman, if you get to America, you've got a really good chance of never leaving. Catch-and-release is the policy.

If you apply for asylum, the initial screening test is way too low, and your case is to be heard years from now. You're released in the United States. You're paroled in the United States when we run out of bed space or they just want to parole people.

The Democratic governors and mayors of large blue cities are complaining. But their answer is, just more resources to process illegal immigration. You will not get a deal from the Republican Party unless we change the policies that are leading to 9,500—on average, a day—coming to our Border.

What are we looking for? Not H.R. 2. But we're looking for policy changes that will spread throughout the world and people will no longer risk their lives, their family's lives, pay thousands of dollars to human traffickers, to show up at our Border. That's what we're trying to do. You don't want to do that.

You clearly, as a party, do not want to change the policies that are attracting so many people. It's inhumane, I think, to lure people through this journey. It's not fair to the American people to be overrun in the fashion we are. Given the threats that exist in the world, it's exceedingly dangerous to have lost control of your Border.

I'm often asked at home, well, are they incompetent, or they want it this way—the Biden administration? I think there are a lot of smart people in the Biden administration. They want it this way. They want to be able to have the ability to use parole, humanitarian parole—and there's no such creature that allows for blanket admission into the country—as a tool to control the flow——

[Poster is displayed.]

Senator GRAHAM [continuing]. They're not interested in deterring the flow. They just want to control the flow, manage the flow.

We, on this side—there're some Republicans that won't vote for any aid to Ukraine, but they're in a distinct minority in the Senate, and I think the House is at least evenly divided.

If we had a Border security proposal as part of the supplemental that addressed our own national security needs here at home, I think you'd get a very large vote.

So, I don't need any more lectures about the need for Ukraine. I got it. I understand. You're right. I understand why we should help Israel. I understand why we should toughen up Taiwan. What you clearly don't seem to understand, or you're not going to accept—the situation at the Border is a national security nightmare in the making.

It's unfair to the Border communities to have to live like this. So, I have urged Governor Abbott, who's been on the tip of the spear, here—now it's moving to Arizona—to make it real to Senators who seem to object to making the policy changes. I know Chicago has had a lot of illegal immigrants sent there.

There are a lot of Senators who are refusing to fix the broken Border whose States are pretty much immune from the problem—in the sense that they're not having to deal with hundreds of thousands of people coming across and wreaking havoc on the Border towns.

Fentanyl is at an all-time high, coming into the country through our broken Southern Border, made in China for the most part. We're never going to stop the flow of fentanyl until we regain control of our Border.

So, to those who are following these negotiations, let me tell you where they're at. They're stuck. They're not going forward in a productive fashion until the Biden administration is willing to change the policies that're leading—last 2 days, 10,200.

Let me say that again. In the last 2 days, 10,200 people have shown up at the Border—those are the ones that we know about. The last 7 days, almost 9,500 on average. You're on track to do 3.6 million.

There will be no deal until you change the policies that lead to this problem. If that's too far for you, I'm sorry. It shouldn't be too far for America. The American people are demanding to regain control of a Border where we have lost control.

American people want to help Israel, generally speaking. They're a division on Ukraine, but I think Ukraine would carry the day with Border security.

There are so many threats that the Director will talk about, but people ask me in the hallway all the time, where are we on negotiating the Border? We're stuck. And there will be no deal until the policy changes that would lead to people not coming at the levels they're coming today is enacted. That's where we're at.

You seem to be comfortable, my friends on the Democratic side, with making small changes to a big problem, nibbling around the edges of this problem. It'd be like sending guns to Ukraine without any bullets. You're really robust when it comes to Ukraine, and I'm with you.

But when it comes to our Border, you're playing a game of doing the least amount possible to pick 10 or 12 of us off. It ain't happening.

Now, I've been involved in this issue for 20 years. This is not about immigration reform, and it needs to happen. It's about securing a broken Border at a time when the threats to our Nation are all-time high, and it started with Afghanistan.

The world is on fire, multiple fronts, and getting worse every day. There will be no assistance to other nations who are deserving until we assist our own Nation.

So, this attitude of doing the least you can, trying to pick 10 or 12 of us off, is not going to work. We're united over here. We're divided on Ukraine, but I would say two-thirds of our conference would vote for a package including Ukraine aid if it had real Border security.

And here's the problem you've got. I know what real Border security looks like. So does Senator Tillis. So does Senator Cotton. So does Senator Lankford. And so does everybody else over here. So, you're making a choice. You're putting your Nation at risk, and the consequence of this is going to be devastating to the world.

Chair DURBIN. Let me lay out the mechanics for today's hearing. After I swear in Director Wray, he has 5 minutes to provide an opening statement. Then we'll turn to Members. Each will have 7 minutes, and please try to remain within your allotted time. Director, would you please stand to be sworn?

[Witness is sworn in.]

Chair DURBIN. Let the record reflect that the Director has answered in the affirmative, and I now recognize him.

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

Director WRAY. Thank you. Good morning, Chairman Durbin, Ranking Member Graham, Members of the Committee. I'm proud to be here today representing the FBI.

The threats the Bureau's 38,000 men and women tackle every day are more complex and evolving more quickly than ever before. And we continue to work relentlessly to stay ahead of those threats and to outpace our adversaries.

For example, last year we disrupted over 40 percent more cyber operations and arrested over 60 percent more cyber criminals than the year before. Over the past 2 years, we've seized enough

fantanyl to kill 270 million people. That's about 80 percent of all Americans.

We're also focused on other threats that emanate from the Border and impact communities all over the country: things like violent gangs and human traffickers.

At the same time, given the steady drumbeat of calls for attacks by foreign terrorist organizations since October 7th, we're working around the clock to identify and disrupt potential attacks by those inspired by Hamas' horrific terrorist attacks in Israel.

And in recent years, we've seen an increase in hate crimes investigations, including a particularly big chunk involving threats to the Jewish community. That is a troubling trend we were focused on before October 7th—it's only gotten worse in the months since.

I could go on and on about the important work the FBI's dedicated professionals are doing across the entire spectrum of threats, each and every day, to protect their fellow Americans.

But in the time I have here this morning, I want to emphasize the importance of one tool, in particular, that is indispensable to our efforts to combat threats posed by foreign adversaries, one that will expire in just a few short weeks if Congress does not act. And that is FISA's 702 authorities for the FBI.

As this Committee knows, 702 allows us to stay a step ahead of foreign actors located outside the United States who pose a threat to national security. And the expiration of our 702 authorities would be devastating to the FBI's ability to protect Americans from those threats.

So, let me explain just a bit about what I mean by that. When an overseas cyber criminal breaches a transportation hub, a public utility, or even a children's hospital, 702 is often the tool we use to find victims and get them what they need to get their systems back up and running. And just as important, it helps us identify the next targets so they can defend themselves against an attack.

In just one recent cyber case, for instance, 702 allowed the FBI to alert more than 300 victims in every State and countries around the world. And I should add that many of those crucial victim notifications were made possible by our ability to conduct U.S. person queries of our existing 702 collection.

When it comes to foreign adversaries, like Iran—whose actions across a whole host of threats have grown more brazen, seeking to assassinate high-level officials, kidnap dissidents, and conduct cyber attacks here in the United States—or the People's Republic of China, which poses, in my view, a generational threat to our economic and national security, stripping the FBI of its 702 authorities would be a form of unilateral disarmament.

Or, take the elevated threat of international terrorism—702 is key to our ability to detect a foreign terrorist organization overseas directing an operative here to carry out an attack in our own back yard. And U.S. person queries, in particular, may provide the critical link that allows us to identify the intended target or build out the network of attackers so we can stop them before they strike and kill Americans.

Given the critical importance of 702, we are committed to being good stewards of our authorities. And to that end, I have ordered a whole host of changes to address unacceptable compliance inci-

dents—reforms, as you noted, Mr. Chairman, that many Members of this Committee have seen with their own eyes, in live demonstrations of our systems at FBI Headquarters.

We've improved our systems, enhanced training, added oversight and approval requirements, adopted new accountability measures. On top of that, we stood up a brand new Office of Internal Auditing that's been focused specifically on FISA compliance.

Most of the declassified reports that have come out over the past year or so involve compliance errors that predate those reforms. And I have been encouraged by the more recent data showing the significant positive impact that those reforms, those changes, have had.

The most recently declassified opinion from the FISA Court, for instance, shows a 98 percent compliance rate and observes that the reforms are—and I'm quoting the Court here—"having the desired effect." And the two most recent Department of Justice semi-annual reports likewise now show a greater than 98 percent compliance rate.

Now, we're proud of the progress we've made so far, but we are by no means done. We recognize that this is an ongoing effort and are determined to work with Congress to get it right, but—but, as we enter this critical phase of the renewal process, it is imperative that we not undercut the effectiveness of this essential tool with a warrant requirement, or some other restriction, that would paralyze us and our ability to tackle fast-moving threats like the ones I just described. Because crucial to our ability to use this information to actually protect Americans is our ability to review it promptly and efficiently.

And, to be clear, no court has ever held that a warrant is required for the FBI to query 702 data already lawfully in our holdings. In fact—in fact, every court that has considered 702 in its current form—the FISA Court, the FISA Court of Review, three different courts of appeals—has found 702 to be constitutional.

So, restricting the FBI's ability to collect under 702 or to review what's already in our collection, well, that would be a legislative policy choice.

And if that's the path that's chosen, what are we going to say to the family whose loved one's care was sabotaged when a hospital was taken offline by a foreign adversary and the FBI wasn't able to stop that cyber attack? What's the justification for not using every lawful tool to stop China from stealing our technology and undermining our freedoms? Because I can assure you the PRC is not holding back, and they're not tying their own hands behind their back.

And what if there were a terrorist attack that we had a shot to prevent but couldn't take it because the FBI was deprived of its ability under 702 to actually look at key information already sitting in our holdings?

Now, I was in FBI Headquarters 22 years ago, on 9/11. And over the years, I've spoken with families of victims of that horrific attack. Before that attack, well-intentioned policymakers had made the choice to build a wall preventing access to national security information sitting in our and our partners' holdings.

Well, I bring that up because allowing 702 to lapse or amending it in a way that undermines its effectiveness would be akin to laying bricks to rebuild another pre-9/11-style wall.

What could anybody possibly say to victims' families if there was another attack that we could've prevented if we hadn't given away the ability to effectively use a tool that courts have consistently deemed constitutional? Because let's not fool ourselves, that's what's at stake with the reauthorization of 702.

As the threats from foreign adversaries to our Homeland continue to evolve, the agility and effectiveness of 702 will be essential to the FBI's ability—really, our mandate from the American people, to keep them safe for years to come. And we owe it to them to make sure we've got the tools that we need to do that. So, thank you for having me, and I look forward to your questions.

[The prepared statement of Director Wray appears as a submission for the record.]

Chair DURBIN. Thank you very much, Director. I'll start the questioning.

Thank you for the visit yesterday to your Headquarters and the demonstration of, I think, true advancements in terms of 702 to try to avert any concern about constitutional issues.

I still have some of those concerns, as you might expect, and we have proffered an alternative to the current system that we think is reasonable. It has an emergency exception to it, as it should, because there are issues of grave national security that can't wait even for the process to continue.

And, second, when it came to victimization, we allow consent by the victim to go forward with the collection of information in those situations, as it should be.

Since the enactment of the FISA Amendment Reauthorization Act of 2018, the FBI has been required to obtain a court order for U.S. person searches in a narrow subset of cases involving predicated criminal investigations unrelated to national security. Has the FBI ever obtained a court order in order to perform a U.S. person search of 702 data in this context?

Director WRAY. To the best of my knowledge, we have not. And that's partly because that's not the way we use 702.

Chair DURBIN. That's correct. The answer is zero. The Office of the Director of National Intelligence's Annual Statistical Transparency Report for 2020 revealed that this statutory requirement has been triggered approximately 100 times. Is that true?

Director WRAY. That, I can't speak to the number. I think the report in question may involve incidents that all occurred before the reforms that we just were talking about, but—

Chair DURBIN. I'd appreciate it if you'd take a look at that and answer for the record.

Let me take you to another topic that has been an issue discussed before this Committee and voted on, several different occasions, and that's CSAM, child sexual abuse materials. Recently, the National Association of Attorneys General sent a letter to Congress asking lawmakers to study the means and methods of artificial intelligence, or AI, being used to exploit children through generation of child sexual abuse material, or CSAM.

In the letter, the attorneys general described how AI could be used to create new images of children in sexual positions or otherwise overlay photos of unvictimized children on photos of abused children, to create CSAM.

To put this in simple terms, I don't know of any parent or grandparent who is knowledgeable in this area who hasn't warned their children, grandchildren, please be careful what you communicate on the internet and who you communicate it with.

You've highlighted the FBI's work to "identify, prioritize, investigate, and deter individuals and criminal networks from exploiting children," and you've noted that the proliferation of CSAM on the darknet is threatening. Director Wray, can you elaborate on what the FBI is doing to disrupt technologies used to exploit children? What obstacles are you facing related to this work?

Director WRAY. So, I think there is no mission set, no threat, that the FBI's men and women tackle that is more righteous and more at the heart of why we do what we do than protecting kids. And I know that last year we arrested something like 3,000 child predators and rescued something like 2,000 kids from exploitation, the vast majority of which is happening heavily online but then often leads to what's even worse, which is the actual hands-on abuse.

And certainly, as you noted, Mr. Chairman, technologies have continued to advance in a way that makes that threat even more pernicious, including AI, including the ability to create synthetic content, for example.

When you ask about challenges that we face, one of the biggest concerns that we have is that the companies, these technology companies, are increasingly moving in a direction where they are designing warrant-proof encryption. And what that means, to everybody listening at home, is that we're going to be in a situation where the abuse that's happening on those platforms—law enforcement won't have any ability, no matter how rock solid the warrant, to get access to the information we need to protect those kids and take down those monsters.

And the companies themselves are effectively blinding themselves to abuse that's happening on their own platforms. So, what we really need is for the companies to work with Congress, work with the executive branch, work with law enforcement to design their encryption in a way that makes sure that they maintain the ability to respond to, you know, rock-solid legal process, respond to warrants.

Chair DURBIN. So, why aren't they cooperating with us? Why are these companies resisting an effort to engage them in solving the problem?

Director WRAY. Well, you know, I can't speak for them in terms of their motivations. Obviously, these issues get into balances of privacy and security, and that's a long-standing debate.

Chair DURBIN. But when it comes to children, for goodness sakes, what is the privacy concern there?

Director WRAY. You got me. I will tell you that we get, from some of these companies, millions of tips we've had, historically, about child exploitation, and the idea that we would go into a model where those tips just evaporate—let's be clear: When the tips evap-

orate, the kids are still out there getting abused. The predators are still out there.

The only thing that's changed is our ability to do anything about it, because of the way in which the companies would be designing their encryption. So, it's a way for them to essentially—and, again, I can't speak to their motivation, but it's a way for them to essentially blind themselves to what's happening on their platforms and then, indirectly, then blind us to our ability to protect kids and go after predators.

Chair DURBIN. We're going to be bringing some leaders in the industry before this Committee next month. I hope we can ask these questions directly. But I will tell you, we passed overwhelmingly—unanimously, five different bills related to this issue, and I thought that was going to be an avenue to bring them to the floor.

The resistance from Big Tech to even pursue this issue, despite this overwhelming bipartisan vote, troubles me greatly. I want to believe they want to do the right thing. There's very little evidence of that. Senator GRAHAM.

Senator GRAHAM. Mr. Chairman, let's pick up on that real quickly. Do you agree that social media systems, as they're designed today, present dangers to American families?

Director WRAY. Sure.

Senator GRAHAM. Thanks. All right. I don't know where to begin, other than—is now a good time to fund the FBI below inflation?

Director WRAY. I think—

Senator GRAHAM. Just say no.

Director WRAY. No.

[Laughter.]

Senator GRAHAM. Good.

Director WRAY. I was about to say—

Senator GRAHAM. Yes, I got a—

Director WRAY [continuing]. Hell, no.

Senator GRAHAM. Yes, well, yes. No, no. You can say, hell, no, if you want to. I'll say it for you.

Chair DURBIN. Leading the witness.

[Laughter.]

Senator GRAHAM. Yes, that's right. Yes. Yes, I think that's pretty dumb, given what you've told us. How long have you been associated with the FBI?

Director WRAY. Well, I've been Director a little over 6 years, but I've been working with the FBI my whole career, really.

Senator GRAHAM. Let's put a fine point on where we're at today as America. How would you describe the threat matrix against America today, from your point of view, after having been at the FBI most of your adult life?

Director WRAY. So, what I would say that is unique about the environment that we're in right now, in my career, is that while there may have been times over the years where individual threats could've been higher, here or there, than where they might be right now, I've never seen a time where all the threats, or so many of the threats are all elevated, all at exactly the same time.

That's what makes this environment that we're in now so fraught and why funding our men and women, who are working

shoulder to shoulder with State and local law enforcement and other partners every day, makes it even more important, not less.

Senator GRAHAM. So, blinking red lights—analogy about 9/11. All the lights were blinking red before 9/11, apparently. Obviously, all of us missed it. Would you say that there's multiple blinking red lights out there?

Director WRAY. I see blinking lights everywhere I turn.

Senator GRAHAM. Okay. All right. Can't say it any better than that. Who's driving all these problems? Let's start with Iran. What is Iran trying to do to America?

Director WRAY. So, Iran, which is, of course, the world's biggest state sponsor of terrorism—let's start there. Iran, just in the last couple years, if you want to bring it home, here, to the——

Senator GRAHAM. I do.

Director WRAY [continuing]. Homeland—in the last couple years, Iran has tried to assassinate a former U.S. National Security Advisor on U.S. soil; has tried to kidnap and then tried to kill a journalist—American journalist and human rights activist, right smack in the middle of New York City; has conducted a cyber attack on a children's hospital in New England; and, for extra credit, as Director Rattcliffe and I announced in the fall of 2020, tried to interfere in the last Presidential election. So, that's just a start. So, if that's not enough to——

Senator GRAHAM. Other than——

Director WRAY [continuing]. Convince people——

Senator GRAHAM [continuing]. That, they've been pretty good, the—right? Okay. Let's look at—you said we found enough fentanyl to kill 80 percent of American people?

Director WRAY. And that's just in the last 2 years.

Senator GRAHAM. Okay. Do you think we missed some fentanyl?

Director WRAY. Absolutely.

Senator GRAHAM. Okay. What role does China play in the fentanyl problems America has?

Director WRAY. Well, I'd start with, China supplies most of the precursors to the cartels in Mexico, which then leads to the fentanyl that comes here. And that's been talked about a fair amount, and it's a huge problem. But in addition to that, China is also responsible for an awful lot of the pill presses, manufacturing of the pill presses, which, of course, are also used.

And, in addition to that, a lot of people don't know this, but China is also responsible for an awful lot of the precursors for the meth that's manufactured south of the Border, as well.

Senator GRAHAM. Do you see that getting better?

Director WRAY. I do not.

Senator GRAHAM. Let's talk about Russia. What are they up to?

Director WRAY. Well, besides their unconscionable aggression in Ukraine, Russia has one of the most advanced, most widespread cyber—offensive cyber programs in the world. They have invested in it very heavily and have used it in different ways against us and our Allies.

They have intelligence officers here in the United States—too many, by any measure.

They also provide safe haven to cyber criminals who, whether they're working for the Russian government or not, are conducting

cyber attacks against, you know, us and our Allies all over the world. So, that's just a start.

Senator GRAHAM. Okay. Let's go to international terrorist organizations. One of my concerns is, after Afghanistan, we sort of put international terrorism on steroids. Are you concerned that international terrorism threats to the Homeland are rising as the Border continues to be broken?

Director WRAY. I am concerned that we are in an elevated threat environment, a heightened threat environment from foreign terrorist organizations, for a whole host of reasons. And, obviously, their ability to exploit any port of entry, including our Southwest Border, is a source of concern.

You know, there's a lot of discussion about numbers, and numbers are important, but let's not forget that it didn't take a big number of people on 9/11 to kill 3,000 people. So, while numbers are important, numbers don't tell the whole story. And we have seen an increase in KSTs—so-called KSTs, Known or Suspected Terrorists, attempting to cross, you know, over the last 5 years.

Senator GRAHAM. Would you say—kind of putting a fine point on this topic—that right now is the largest threat we face as a Nation from international terrorist organizations since 9/11?

Director WRAY. Well, it's certainly higher than it's been in a long, long time, let me put it that way. Because if you just look post-October 7th, and—well, I thought the threat was elevated before October 7th, but post-October 7th, you've seen a veritable rogues' gallery of foreign terrorist organizations—

Senator GRAHAM. So, let's—let—

Director WRAY [continuing]. Calling for attacks against us.

Senator GRAHAM. Okay. So, October the 7th was devastating to our friends in Israel. So, your testimony before this Committee—since October 7th, the urging of foreign terrorist organizations to attack America has gone up. Is that fair to say?

Director WRAY. Yes. The threat level has gone to a whole other level since October 7th.

Senator GRAHAM. Okay, folks. You're on notice. What are we going to do about it? Finally, what should we be doing differently, with all these bad actors? I think it's fair to say we've lost deterrence. Do you have any idea, quickly, of what we could be doing differently?

Director WRAY. Well, certainly deterrence requires consequences, and so consequences need to be imposed on bad actors in a variety of ways, to ensure deterrence. Consequences are also part of disrupting, even without deterrence—disrupting and degrading bad actors' abilities to harm us.

Chair DURBIN. Senator Whitehouse.

Senator WHITEHOUSE. Good morning, Director Wray. How are you?

Director WRAY. Fine, thank you.

Senator WHITEHOUSE. I seem often to have to use our time together to go over old business, for which I apologize, but such is the responsiveness of the Department. I wanted to talk to you about Charles McGonigal today. He's an FBI agent who is interesting in two respects.

First, he's pleading guilty—or has pled guilty to offenses regarding his undisclosed receipt of \$225,000 from a foreign national, and he awaits sentencing for the crimes to which he pled, coming up in February.

The second interesting thing, is that he led the New York Counterintelligence Division during the time that it was widely reported that New York FBI agents and former New York U.S. Attorney Rudy Giuliani were pressuring Director Comey to intervene in the Hillary Clinton campaign and do it damage, which, as we unfortunately know, Director Comey did, with press conferences that violated DOJ rules and procedures.

So, my experience is that when somebody is in the presentencing mode of a criminal plea, that's a very good time to get information from them and cooperation from them. I don't know what happened in the New York Field Office during that period, but there's a very good chance that McGonigal does.

I will put into the record three letters.

One is me to Attorney General Garland, February 7, asking about this.

The second is Office of Legislative Affairs at DOJ, back to me, giving something of an answer to this.

And the third is a letter off DOJ's website, reflecting the plea agreement between the Southern District of New York and the attorneys for Charles McGonigal.

[The information appears as submissions for the record.]

Senator WHITEHOUSE. So, at this point, what I asked in the letter was that somebody independent of the FBI take a look to see if there were FBI shenanigans during that period in that Office.

And I've received no confirmation that anything is going on. The plea agreement reflects no signal or sign of cooperation, which as you know is often a feature in plea agreements and sentencings. So, there's no sign that he was asked to cooperate outside of the plea.

I have been unable to determine whether or not the Inspector General is even eyeballing this to see if somebody independent from the FBI, somebody in the Department, should take a look.

What do you know of the status of this, and are you—would it make sense—would it not make sense, let me put it that way, to have an independent set of eyeballs have a look at what McGonigal knows about what took place in that Office at that time, while he is in this helpful position of being subject to sentencing?

Director WRAY. Well, Senator, I appreciate you raising the topic. So, a couple things. First, our Counterintelligence Division, of course, are the people who identified McGonigal's wrongdoing, pursued it, arrested him, and are very focused on trying to determine, in all the ways you would imagine, what, if anything, he might've impacted through his misconduct. That's one.

Second, there are, I think, two U.S. Attorney's Offices involved, both New York—Southern District of New York—and, I think, the District of Columbia, as well—so, two cases that are presentencing and that his cooperation, if you will, could be potentially relevant to.

And we are—I can tell you I want to be a little bit careful on how far I can go on this, but I will tell you we have involved the

Inspector General, as well, because we, like you, want to make sure we understand the full scope of what Mr. McGonigal did and what he knows.

Senator WHITEHOUSE. So, the DOJ Inspector General is involved or has been notified?

Director WRAY. Has been——

Senator WHITEHOUSE. Engaged with?

Director WRAY [continuing]. Engaged, is——

Senator WHITEHOUSE. Yes.

Director WRAY [continuing]. Is—yes.

Senator WHITEHOUSE. Okay. Well, that's good to hear. Let's go back to 702 for a moment. I understand that 702, which was originally designed, sort of, for a counterterrorism purpose, has also been deployed against the international fentanyl trafficking apparatus. Is that correct? And has 702 been important in combating the international fentanyl trafficking apparatus?

Director WRAY. 702 has been important in the fight against the scourge of fentanyl, more so, I would say, by our Intelligence Community partners—the CIA, for example, in their work overseas to pursue some of the foreign dimensions of the fentanyl crisis, which, of course, then have massive ramifications for communities all over the United States.

Senator WHITEHOUSE. So, that's a success of 702?

Director WRAY. It is a success of 702.

Senator WHITEHOUSE. You also mentioned the role of 702 in reaching out to victims of crime, of potential foreign intelligence operations. Could you elaborate, in our last minute together, a little bit more on the role of 702 in supporting the Government's role in letting Americans and American companies find out that they are the victims or have been the victims of criminal and intelligence attacks and helping them work through the consequences as victims?

Director WRAY. Well, in the short time we have, what I would say is, 702, especially the ability to run queries on IP addresses, email addresses, things like that, is—statistically, right now, the biggest place in which it's used is cyber attacks.

So victims, overwhelmingly, victims of Russian, Iranian, Chinese, others' cyber attacks here in the United States, 702 is what allows us to figure out which company is being targeted, maybe what the entry point is, where the bad guys are going, and allows us to then, armed with that information, rush out to those companies and alert them so that they can take steps to mitigate it before it gets potentially exponentially worse.

And we find that there are a lot of instances where we're coming to companies who didn't even know they'd been breached yet. And if we hadn't had 702, both they and we would've been unwitting.

Senator WHITEHOUSE. If you could share with us some actual instances—make this a question for the record. Obviously, you have to do some scrubbing to make sure that everybody's comfortable with the information being released.

But I think the more we can know about actual ways in which actual individuals, even if they have to be anonymized, were helped, and we see the factual circumstances, that would be useful. Thank you. Thanks, Chairman.

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

Senator GRASSLEY. You testified before the Senate Intelligence Committee that the Richmond Field Office anti-Catholic memo was, quote, “a product by one Field Office,” end of quote. You testified before the House Judiciary Committee that the memo was “a single product of a single Field Office,” end of quote.

But the Richmond memo says two other Field Offices of the FBI were involved and that that information had been redacted in versions provided to the Congress. Why did the FBI redact that critical information? And, second, did you review the unredacted version before giving your previous testimony?

Director WRAY. So, Senator, I think that this notion that other Field Offices were involved is a garble. And let me explain why I say that. The only involvement of the two other Field Offices was the Richmond authors of the product included two sentences, or something thereabouts, referencing each of these other Office’s cases. And they sent those sentences about the other Offices’ cases to them, not the whole product, and asked them, hey, did we describe your case right? That’s all the other Offices had. So, it was a—

Senator GRASSLEY. Well, then—

Director WRAY [continuing]. Single Field Office’s product. And I—

Senator GRASSLEY. Did you—

Director WRAY [continuing]. Stand by that.

Senator GRASSLEY. Did you review the unredacted memo before giving your previous testimony?

Director WRAY. I have reviewed the unredacted memo. Exactly when I reviewed it, I can’t, as I sit here right now, tell you.

Senator GRASSLEY. Okay. In July of this year, I made public what’s now known as the Biden Family 1023 FBI Document. I’ve also written you several letters about the same, most recently, I think, October 24. That letter of October said, in part, that the confidential human source in the Biden Family 1023 was not connected to known sources of Russian disinformation.

That confidential human source is also reportedly a high-paid, long-term, long-running FBI source that the FBI has used in many investigative matters, according to former Attorney General Bill Barr. Barr said that 1023 was deemed sufficiently credible for further investigation.

On May 31 of this year, Chairman Comer and I had a call with you. On that call, you told us that the Biden Family 1023 is related to an ongoing investigative matter. Now, very clearly these data points show indicators of credibility. Question for you. This FBI 1023 was serialized on June 30, 2020, over 3 years ago. When were you first made aware of 1023?

Director WRAY. Well, I don’t know that I could give you the exact date, but I can tell you that I learned of the 1023 much, much, much more recently than anything around 2020, that’s for sure.

Senator GRASSLEY. This is a public document. You have an obligation to tell this Committee what you knew about it, when you knew about it. And if you can’t give us that information, I guess I’d better go on.

Are there additional FBI-generated 1023s that reference a bribery scheme involving the Biden family? And, if so, how many, and what are their dates?

Director WRAY. Well, Senator, now you're asking questions that relate directly to Special Counsel Weiss' ongoing investigation, and respectfully, I can't really discuss anything related to that investigation. I would refer you to him for that.

Senator GRASSLEY. The 1023 references alleged texts, financial records, and audiotapes that prove some sort of scheme involving money with Biden people. These are discrete documents that can be obtained, if they exist.

When a high-paid, long-used Federal confidential human source provides the FBI with evidence that three types—different types of records exist that prove a crime involving a political official, then standard FBI practice is to take steps to obtain that evidence. Would you agree with that, what I've said so far about the FBI policy? And if not, why not?

Director WRAY. Well, certainly I would expect people to do appropriate follow-up on anything in a 1023. But obviously every one of those instances is very fact specific and case specific, case—

Senator GRASSLEY. So—

Director WRAY [continuing]. Dependent.

Senator GRASSLEY. Okay. That answer's okay. So, then, based upon what you just told me, did the FBI seek these records in this matter?

Director WRAY. Well, let me separate into two different things, here. When it comes to the investigation being led by Special Counsel Weiss, which is being supported by our Baltimore Field Office, that one I'm not going to be able to discuss because it's an ongoing investigation.

When it comes to the assessment that occurred in—being run out of the Office of—our Field Office in Pittsburgh and the U.S. Attorney, Mr. Brady, as selected by Attorney General Barr, to look at all of this back in the earlier period you're talking about, my understanding is that there was agreement among the team about what steps needed to be taken and with the closing of that assessment.

Senator GRASSLEY. Have you communicated with White House officials or used a third party to do so about anything relating to the 1023 as it involves people in the Biden family? And, if so, who and when?

Director WRAY. No.

Senator GRASSLEY. Okay. I want to go to sexual misconduct by the FBI. On October the 5th, 2022, I sent you a letter and later made FBI records public that showed widespread sexual misconduct in FBI against females. The data also showed that hundreds of FBI personnel retired to avoid discipline and that senior high-level officials received reduced punishment, if any at all.

On October the 6th, the FBI told the Associated Press that it intended to respond to me first and declined to provide sexual misconduct data to the press at that time.

It's over one year later, and the FBI has failed to provide this data to me. The FBI's blatant lack of action indicates it isn't taking misconduct against women in the workplace seriously. Why has the

FBI failed to provide that very important data to this Committee, and when will it finally be produced, as you told the—as the FBI told the Associated Press you were going to?

Director WRAY. Well, first let me say I could not disagree more strongly that we don't take it seriously. I can tell you I take misconduct—sexual misconduct against our own employees, extremely seriously. And we've put in place all sorts of new procedures and policies to deal with that and to communicate in no uncertain terms how strongly I feel about that.

As to the responsiveness to your letter, let me follow up with my team and find out where that stands. But I do want to make sure that there's not any confusion—none—about how seriously I take this topic.

Senator GRASSLEY. Okay, then, where's the data, if that's what you're going to be willing—to take it so seriously? I—

Director WRAY. I will follow up with you about your letter.

Senator GRASSLEY. Okay.

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

Senator KLOBUCHAR. Thank you very much, Mr. Chair. Thank you so much, Director Wray, for being here.

I want to start out with hate crimes. And you and I have talked about them before. I have, I know, thanked you and your agents in Minnesota for their work in solving what was a clear hate crime, with a prison sentence, of a bombing of Dar Al-Farooq Islamic Center in my home State back in 2017.

And we know that, since that time, we've seen increases in hate crimes. Reports show a 216 percent increase, since October 7th in requests for help and reported bias incidents against Muslims. Another report showed a 388 percent rise in antisemitic incidents, since this time last year.

We know the facts.

We know what happened in front of that restaurant in Philadelphia.

We know that in Illinois, a 6-year-old Muslim boy was targeted and fatally stabbed for being Palestinian American.

In Los Angeles, a criminal broke into the home of a Jewish family, threatened them, and screamed about killing Jews.

In Vermont, a Palestinian student from Brown University whose parents had him stay in the U.S. rather than returning home, for safety reasons, was shot, along with two of his friends.

In New York, a woman was assaulted at Grand Central terminal, and when confronted, the assailant said it was because you are Jewish.

In Brooklyn, a father and his 18-year-old son were allegedly assaulted by another parent for being Palestinian.

And last week three suspects were arrested for a 40-minute spree of attacks on Jewish New Yorkers.

This is concerning for everyone, should—everyone: Democrat, Republican, Jewish, Muslim, Christian, anyone in this country. I know that you care about this very much, because I saw the work that your agents did in Minnesota.

And I want to get more details on what the FBI is doing and what the Justice Department is doing to detect, deter, and investigate these crimes. And then also the effect of social media. And

I know there are limitations on what we can do. I have some strong views on this. But could you also talk about that?

Director WRAY. Well, I appreciate your long-standing interest in this topic, and I know how important it is to you, and not the least of which because of the attacks that have occurred in your home State.

Certainly, we have seen an increase in hate crimes, and there're lots of different numbers out there, but I'll just give two for this purpose.

You know, one is, in 2022, we saw the highest increase, I think, in hate crimes reported that we'd seen since maybe 2008. And we don't have full data for 2023 yet, but we expect it to keep going up.

Second data point: post-October 7th, just since October 7th, we have—opening, I think, 60 percent more hate crimes investigations post-October 7th than compared to the comparable period pre-October 7th—and that's on top of that already escalating increase that I mentioned.

As I testified in my opening statement, the biggest chunk of those are threats against the Jewish community. But there are, of course, attacks—and you've mentioned several of them—against others, as well.

What are we doing about it? A few different things.

We've elevated civil rights, especially hate crimes, to national threat priority, and that's been true for the last couple of years. And so that brings with it more investigative resources of all shapes and sizes.

Second, we're trying to do a lot to engage in outreach both to law enforcement and the communities, because one thing we know about hate crimes is that they're chronically underreported. And there are lots of reasons for that, but—so, trying to get better data, better fidelity of the data, allows us to track the trend better but also to ensure that we're finding the cases that need to be pursued.

Even when a hate crimes charge, a Federal hate crimes charge, is not available, the FBI doesn't just walk away from the case. We provide forensic support, in some cases, even testimony and other things in State prosecutions if State charges are being used.

So, those are a few of the things. In our outreach efforts, I would say we also have tried to do things that are targeted at specific communities. So, for example, in New York, we tried to reach out to parts of the Jewish community in New York with outreach both in Yiddish and Hebrew, and not just in English, for example. So, that's just a flavor.

Senator KLOBUCHAR. Thank you. I wanted to turn to fentanyl. We all know that there is so much work that has to be done at the Border and so much work that has to be done in the ports of entry, mail—a bill that Senator Portman and I passed a while back.

But we also know that one-third of drug cases have direct ties to social media. And we had a kid in Minnesota who died after taking a fentanyl-laced pill that he thought was Percocet, to help his migraines, purchased on Snapchat.

And the Judiciary Committee actually voted, with the Chairman's leadership, to advance a bipartisan bill, with Senators Shaheen and Marshall, to require social media companies to report fentanyl and other dangerous drug sales on their platforms—it's

called the Cooper Davis Act. And could you talk about how this could be helpful in taking on these cases?

Director WRAY. Well, I think what you've put your finger on is the degree to which online activity is inextricably intertwined with the fentanyl epidemic. And that's in a variety of ways, and I know Administrator Milgram at DEA, for example, has a number of initiatives focused on this, as well.

Certainly, we, on the FBI's end, are focused on, for example, darknet marketplaces, and we have a whole—something called JCODE, which is focused on dismantling darknet marketplaces of fentanyl and other dangerous narcotics.

Senator KLOBUCHAR. Okay. Thank you. And one other kids' issue. You noted the importance of protecting kids. You noted in your written testimony that the FBI has recently reported a massive increase in sextortion cases, where kids and teens are being coerced into sending explicit photos and videos, only to be blackmailed or threatened for financial gain. In 2022 alone, these scams resulted in at least 20 victims committing suicide.

And my bill with Senator Cornyn, the SHIELD Act, includes a threat provision, and other things, that would update and modernize our laws when it comes to revenge porn and sextortion cases involving kids.

While we are advancing this bill, sadly, we have been opposed by some Members of this Committee, and I've found it incredibly frustrating because they won't meet with me to try to make any changes to it, and I'm trying to change that.

What threats do young people receive? How do you think we could make the tools that you have to take on this crime better?

Because I'm going to just start going to the floor and taking this on. Our colleagues can object if they would like, and I know Senator Cornyn has been very helpful. But I think it's just absolutely ridiculous when you look at these numbers. Please answer. Thank you.

Director WRAY. Well, I can't speak to specific legislative proposals, but what I can tell you is that sextortion is a rapidly escalating threat. And, as you say, there've been way too many teenagers victimized, and they don't know where to turn.

And so having this discussion in a forum like this—people like you and Senator Cornyn raising awareness about it—that by itself is hugely valuable.

As to what we need, I will tell you, I come back to the answer I gave earlier to Chairman Durbin about the threat, if you will, of the proliferation of warrant-proof encryption. If companies are going to take responsibility for what happens on their platforms, then part of taking responsibility includes the ability to, when presented with a warrant, following all the due process that that entails, they will provide the information so that law enforcement, not just FBI but other agencies, can take action to rescue the kids and take down the predators.

Chair DURBIN. Thank you, Senator—

Senator KLOBUCHAR. Thank you very much. I'll ask my remaining questions on carjacking and 702—which I thank you for your work on that, we can't let it lapse—in writing. Thank you.

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

Senator CORNYN. Director Wray, let me start with some basic concepts. If you walk into the Supreme Court of the United States, over the arches in the entryway there are inscribed the words, "Equal Justice Under Law." I think there's a perception, unfortunately, that we are not living up to that ideal in a number of respects.

Senator Whitehouse mentioned the shameful treatment of Hillary Clinton—somebody who I do not support from a political standpoint—but who was subjected to the release of derogatory information of an investigation that Director Comey and the FBI conducted involving her. And the fact that he usurped the authority of the Attorney General when it comes to charging decisions and made the statement he did.

I think there's also a perception that President Trump was not treated fairly during his time of office, particularly because of the opposition research, things like the Steele dossier, the "Russiagate" investigation, all of which ended up in basically amounting to no charges being filed.

I want to just say, personally, I appreciate your willingness to take on the important task of restoring and rebuilding the reputation of the FBI. I believe the FBI is an indispensable institution in our Government. But it's also a big, unwieldy institution. I think you have about 35,000 people who work at the FBI, somewhere like that, right?

Director WRAY. It's actually closer to 38,000.

Senator CORNYN. Thirty-eight thousand. And I'm personally convinced that, overwhelmingly, these are good, patriotic, hardworking people, sacrificing, putting themselves in harm's way in order to protect the rest of America.

But, like any other large organization, there're going to be some bad apples, people who abuse trust and who misbehave. Can you just take a minute and describe what steps that you have undertaken at the FBI to try to restore the FBI's reputation as an institution that the American people can trust to pursue equal justice under the law?

Director WRAY. Well, I appreciate the question. Let me start with a statement of principle that I hold near and dear and then explain a little bit more concretely what that means.

My message from Day One, and probably said every day since I've been in the job, is that we need to make sure that we're doing the right thing in the right way in everything we do.

And that means the importance of process and following our rules. That does not mean—and sometimes this is frustrating to people of all shapes and stripes—that does not mean we can guarantee the result or the outcome that somebody would like in a case.

So, how do I implement that principle? I have directed all sorts of changes. In relation to the Crossfire Hurricane matter, for example, in that one matter alone, I directed over 40 corrective measures, went above and beyond anything the Inspector General recommended, and have implemented dozens of changes since then.

You mentioned the Hillary Clinton email matter. There, too, I accepted every recommendation by the Inspector General, then went above and beyond.

In terms of personnel, I've installed an entirely new leadership team from when I started.

As far as accountability, which is a topic that, of course, is important to a lot of people, within the tools that we have available to us and the circumstances that are available to us, I have taken action. What can I do?

I can, in the right circumstances, remove somebody from the chain of command. And I have.

I can, when the circumstances support it, have somebody's security clearance revoked. And I have.

I can, when the circumstances warrant it, refer somebody to the Inspector General or the Hatch Act Office of Special Counsel or others like that. And I have.

What I can't do is prosecute people, and that gets to the heart of what you referenced at the very beginning in terms of my predecessor's handling of the Hillary Clinton matter. I'm very sensitive to the fact that part of the reason I'm in this job is because of the distinction between the FBI Director's role and a prosecutor's role.

And a lot of the criticism that the FBI has endured over the last few years has, if you look closely, revolved around frustrations about whether this person was prosecuted or not, and what they were prosecuted for. And that ultimately is not the FBI Director's or the FBI's choice.

Senator CORNYN. If I can ask you about 702. There's already been some discussion about that. I've referred to Section 702 of the Foreign Intelligence Surveillance Act as perhaps one of the most important laws that the American people have never heard of. And I know we have talked a lot about it.

But there is a concern that the tools, including FISA, Foreign Intelligence Surveillance Act 702, is—can be abused and that it can be used to target U.S. citizens. Let me just ask you directly, is it possible to target, lawfully target an American citizen under Section 702?

Director WRAY. Well, I think so-called reverse targeting, targeting of Americans through the end run of 702, is expressly prohibited.

Senator CORNYN. That's my understanding of the law, as well. As a matter of fact, the Foreign Intelligence Surveillance Act is exactly that. It targets foreigners. Correct? Outside of the United States?

Director WRAY. Yes.

Senator CORNYN. But if a would-be terrorist calls an American citizen in the United States, then you necessarily will know who's on both ends of that conversation. Correct?

Director WRAY. Well, whether it's telephony or even just, you know, electronic communication, but—which is more often where we see it.

Senator CORNYN. It could be an email, it can be a text, it can—

Director WRAY. Correct.

Senator CORNYN [continuing]. Be—

Director WRAY. Correct.

Senator CORNYN. And then if, for example, you want to investigate that American citizen, isn't it true that you have to go to the Foreign Intelligence Surveillance Court and demonstrate probable

cause to conduct a further investigation of that American citizen as a target?

Director WRAY. Yes. At that point, then that's, of course, the route that we pursue, which is part of why—to your comment at the beginning about how little people have heard of 702—is because, unlike the warrant stage, when you're actually pursuing somebody for prosecution, for example, 702 is most used and most useful at the stage when you're at the very beginning, trying to figure out, what the heck do we have here? What direction does this need to go? Is this something we need to pursue?

And so that's why people, including prosecutors, don't even hear about it that much. Because it's when it's most useful to protect Americans from threats.

Senator CORNYN. I think you've called it the crown jewels or perhaps words to that effect?

Director WRAY. Yes.

Senator CORNYN. How would you describe the importance of Section 702? And what would be the consequences of willfully blinding ourselves to the threats of foreign actors?

Director WRAY. I think blinding ourselves through either allowing 702 to lapse or amending it in a way that guts its effectiveness would be reckless at best, and dangerous and irresponsible at worst. The reality is, the whole reason we have 702, focused on foreign threats from overseas, is to protect America from those threats.

It's not to admire foreign threats from afar and study them and think about them. It's to know what they are and to make sure they don't hurt Americans, here—American businesses targeted with cyber attacks, American victims targeted for assassination or terrorist attacks. That's why we have it.

The FBI's piece of 702—we are the only intelligence agency with the authority to operate domestically, and so where the rubber really meets the road—even though our slice of 702 as a percentage is quite narrow, that narrow slice, in some ways, is the most important slice. Because that's what protects people here, that all of us are sworn to protect.

Senator CORNYN. Thank you.

Chair DURBIN. Thanks, Senator Cornyn. Senator Coons.

Senator COONS. Thank you, Chairman Durbin. Thank you, Director Wray. I look forward to continuing that conversation about Section 702, a topic on which I have not firmly made up my mind how to vote. So, I am open to your input.

I just wanted to start by thanking you, and the men and women of the FBI for your service to our Nation and the protection of the rule of law—and specifically thank the FBI for your work in my community in the past year. You've worked with State and local prosecutors on civil rights violations, on robbery, on cyber stalking, on kidnapping cases.

And as someone who had a decade responsible for a local law enforcement entity before coming here to the Senate, I greatly respect and appreciate the role the FBI plays: the Academy, the resources you provide, and the professionalism in Wilmington, Delaware, and throughout our whole country.

Let me go to that 702 conversation. The proposal put forward by Senators Warner and Rubio would prohibit the running of U.S. person queries designed to find evidence of a crime without first obtaining a court order, but could still perform warrantless queries where the search is reasonably likely to retrieve foreign intelligence information. What do you think of that compromise? Would it head off the significantly negative consequences you've laid out if we fail to reauthorize Section 702?

Director WRAY. I think the bill put forward by Senators Warner and Rubio provides a path that we can work together on. The reality is that pursuing 702 information for evidence of a crime, as has been demonstrated, or evidence of a crime only, is extremely rare, because that's not the main purpose for which we use it.

And many of the instances—the very few instances in which that has been implicated are actually instances where it was used to find Brady information, exculpatory information to turn over to the defense. So, it is a path that I think merits further exploration.

Senator COONS. I'm aware of specific examples in my home community where FBI agents came and visited a significant company that was unaware that they had been hacked and was able to take prompt action because of that. And I'm familiar with the unique ways in which your domestic authorities complement some of the ability we need as a Nation to defend against foreign threats.

You also highlighted in your testimony that there were significant past FISA compliance violations at the Bureau and that you've been dedicated to taking action to clean house and to address those. Talk to me briefly, if you would, about holding personnel accountable for past misuse of FISA data and how that has unfolded.

Director WRAY. Well, in addition to a whole host of other reforms we've put in place, we rolled out new accountability measures designed to make sure that we are capturing not just intentional or reckless compliance violations, of which there have been very, very few, and none since 2018, but even, which has been the vast majority of the compliance incidents we've had—even negligent or careless errors. We want to make sure that we have accountability for that, too.

Now, that's a different kind of accountability, just because the state of mind of the employee is different, and that's somebody who is coachable.

But we have procedures now that, even for that much more good-faith noncompliance, they temporarily, at least, lose access to FISA information, and there's a whole host of remedial training and so forth, that goes—and then there's escalating consequences if they don't learn their lesson, and it builds from there. That's a short oversimplification, but that gives you a flavor of the measures that we've put in place.

Senator COONS. The core concern I have, frankly, is that a future administration or Director might still be able to misuse authorities in this Section. I have not previously voted to extend the authorization of Section 702.

But the reforms proposed in this legislation, the actions you've taken, have me weighing. What, if any, assurances could you provide that the rules and the system will hold if we reauthorize 702,

even if the Bureau happened to be led by an appointee who doesn't share your commitment to reform?

Director WRAY. Well, we've put in place a number of things that would be extremely challenging to unwind, for one. We created—I created a whole new Office of Internal Auditing, for example, and brought in a former agent who had gone on to be a Big Four accounting firm partner, to try to work with yet another Big Four accounting firm to help us build a, what I expect to be, a world-class internal auditing program focused specifically on FISA compliance.

In addition, there are external looks and oversights. Most of the problems that have been identified over the years have been identified by things like the Department of Justice's reviews. Of course, there's been Inspector General reviews. The Court takes a look.

And that's part of why I understand why people might say, well, gee, Director, you talk a good game, but we've had problems in the past. And why should we think it's different this time?

And what I would say to you is, don't just take my word for it. Look at what the Court, the same Court that's rightly taken us to task in the past, has said. That Court—the same judge, in fact, that's been perhaps most scathing is the one that found 98 percent compliance and has all sorts of language in the opinion about the reforms actually having the impact that we're looking for.

So, why is this time different? Because the Court, the Department, others taking a look at this and who have been not shy about citing problems in the past, they've found this progress.

Senator COONS. Thank you. Two other issues I'm going to raise briefly. First, the importance, the urgency of the Nonprofit Security Grant Program. As your testimony highlights, antisemitic and anti-Muslim hate crimes have risen sharply in the United States following Hamas' October 7th attacks in Israel, and I think it's urgent that we add several hundred million dollars to the Nonprofit Security Grant Program, whether in the supplemental or in our regular appropriations process.

And I'm hoping that my colleagues, many of whom co-sponsor the Platform Accountability and Transparency Act, will recognize that the huge wave, globally, of views of Hamas' circulated social media content in the wake of October 7th deserves a tough look about whether the algorithms used by social media platforms promoted this content, whether it was targeted to certain groups.

A last point I'll make in closing, Director, is that your written testimony says that economic espionage and foreign intelligence gathering by the PRC “present,” and I think I'm quoting, “the greatest long-term threat to our Nation's ideas, innovation, and economic security.” I couldn't agree more. I think it's critical that our response to IP theft by the PRC and other players be coordinated.

I'm glad to learn the FBI is leading investigations for the DOJ and the Commerce, Disruptive Technology Strike Force, in collaboration, and I am urging our Caucus Leader to take up and confirm the nominee for the Intellectual Property Enforcement Coordinator, Deborah Robinson, a position that has been vacant for far too long. Director, thank you for your testimony today, and for your service.

Chair DURBIN. Thanks, Senator Coons. Senator Lee.

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

In a report issued, declassified in August of 2021, the Director of National Intelligence stated, quote, "FBI personnel conducted multiple queries of an individual who had the same last name as the FBI personnel conducting the query."

And on further investigation, what they learned was that this query was made after this analyst at the FBI had a conversation with his own mother and his mother expressed suspicions about his father having an affair, cheating on her, having an affair with another woman.

And so, as a result of that, they looked into it, and this particular analyst admitted that he ran the queries because of this tip from his mother that his dad was having an affair. And because I've got a lot of material to cover, I'd appreciate it if you could give me a yes-or-no answer to this. Was that analyst terminated?

Director WRAY. I'm not sure that I can recall the specific instance that you're talking about, so I'll have to go look at that and follow back up with you on that.

Senator LEE. And do you know whether the analyst's security clearance would've been revoked?

Director WRAY. Again, same answer. But let me check into that, and we'll circle back to—

Senator LEE. Okay. Let me ask it—

Director WRAY [continuing]. Whatever we can share.

Senator LEE. Let me ask it to you this way. Yes or no, would abuse of Section 702 by an FBI employee, would that be something that would warrant the revocation of security clearance?

Director WRAY. Well, certainly abuse. I think we'd have to know what the circumstances were.

Senator LEE. Misuse of—

Director WRAY. Sometimes people have used terms like abuse in this discussion when it's been something other than what I would call abuse, but there've been—

Senator LEE. Yes.

Director WRAY. That's why we have this accountability procedures that have cascading—

Senator LEE. This example—

Director WRAY [continuing]. Consequences.

Senator LEE [continuing]. That I've given you is abuse. I assume you would not disagree with that.

Now, the September 2023 PCLOB report disclosed two additional intentional incidents, intentional wrong searches from 2022.

One instance from 2022 in which two analysts conducted queries seeking information about a person who was a potential tenant of a rental property owned by one of the analysts.

And another instance, from 2022, in which an NSA analyst conducted queries on two occasions seeking information about two individuals that the analyst himself had met through an online dating service.

Were the FBI employees who conducted those two illegal searches, were they terminated?

Director WRAY. Well, you lost me there for a minute. You referred to an NSA analyst?

Senator LEE. Yes. Yes. So, an NSA analyst. Do you know whether anyone at the NSA was disciplined for that? And if they worked at the FBI, would they be subject to discipline?

Director WRAY. Well, I don't want to get into hypotheticals, but as far as NSA analysts, I think that would be a question for NSA.

Senator LEE. Now, were FBI employees involved in those? And if they had been, would their security clearances have been terminated?

Director WRAY. Again, I don't want to get into hypotheticals, but we have both a disciplinary process, which is separate from the security clearance——

Senator LEE. Yes.

Director WRAY [continuing]. Process, and somebody who takes, who engages in a——

Senator LEE. I——

Director WRAY [continuing]. Compliance violation related to——

Senator LEE. I—I understand.

Director WRAY [continuing]. 702 could be relevant to both.

Senator LEE. I understand. I——

Director WRAY. Yes.

Senator LEE. I would hope that the default answer would be, yes, they'd be subject to having their security clearance stripped and be subject to dismissal.

Now, in an April 2022 opinion, the Foreign Intelligence Surveillance Court noted the following searches of Americans' communications: 19,000 donors to a particular congressional campaign; 133 Americans participating in civil unrest and protests in the summer of 2020; and Americans who were in the vicinity of the Capitol, not necessarily inside the Capitol, but in the vicinity of the Capitol on January 6, 2021.

The DNI's semiannual assessment of Section 702 disclosed illegal queries conducted in 2019 to 2020, quote, "using only the name of a U.S. Congressman."

The FISA Court disclosed two particularly egregious searches from 2022.

In June of 2022, an analyst conducted four queries of 702 information using the last names of a U.S. Senator and of a State senator, without further limitation.

On October 25, 2022, a staff's operations specialist ran a query using the Social Security number of a State judge who had, quote, "complained to FBI about alleged civil rights violations perpetrated by a municipal chief of police," closed quote.

Were the FBI employees who conducted those illegal searches terminated? Or did they have their security clearances stripped? Yes or no?

Director WRAY. Again, I don't know that I can speak to specific instances. But what I can tell you—and I think this is important to this exchange—is that all of the instances you just listed off, all involve conduct that occurred before the reforms that we've put in place.

Senator LEE. Before you reformed—before the reforms you put in place, reforms the text of which we don't even have access to. Reforms that you've put in place.

I've been on this Committee for 13 years. During the entirety of those 13 years, I've expressed concerns to FBI Directors appointed by Presidents of both political parties and three different Presidential administrations.

Every darned one of them has told me the same thing: "Don't worry about it." "We've got this taken care of." "We've got new procedures." "It's going to be different now."

It's never different. You haven't changed. And you keep referring to these policies, these new procedures. We haven't seen that. We're not even allowed to have access to it.

And we have absolutely no reason to trust you, because you haven't behaved in a manner that's trustworthy. You can't even, as we sit here, tell me that people who intentionally, knowingly, deliberately violated the civil rights of American citizens, that they were fired. Or that they had their security clearance stripped.

You know, in 2022, the FBI and other agencies searched Americans' communications over 200,000 times—only 16 of which were evidence-of-a-crime-only searches that returned information. I'd like to ask you to give a yes-or-no answer to these questions. Were the three related batch queries, consisting of over 23,000 separate queries, relating to the events of January 6th. Were those evidence-of-a-crime-only queries? Yes or no?

Director WRAY. I don't know the answer to that. What I——

Senator LEE. The answer——

Director WRAY. What——

Senator LEE. The answer is no. I——

Director WRAY. What I——

Senator LEE. I do know the answer. The answer is no. Were the 141——

Director WRAY. What I——

Senator LEE [continuing]. Queries for the activists arrested in connection with the George Floyd protests here in Washington, DC, evidence-of-a-crime-only queries?

Director WRAY. Those were noncompliant queries, and again, they all predate the reforms that we've put in place, which—before we——

Senator LEE. Which echo other reforms that other FBI Directors have——

Director WRAY. Which——

Senator LEE [continuing]. Told me about, every darned year.

Director WRAY. If I may——

Senator LEE. How about the 19,000 donors to a political campaign? The answer there is "no."

What about the query for a sitting Member of Congress? The answer there is "no."

What about the query involving a U.S. Senator, which, for all we know, could be any one of us? The answer is "no."

And so what does that tell me? Well, what I'm hearing and what these data points all point to is that a warrant requirement or prohibition relating to, quote, unquote, "evidence-of-a-crime-only queries" would not have been something that would have prevented any of the most egregious examples of the abuse that we've seen under Section 702.

So, the FBI is already required to obtain a court order, in some circumstances, before accessing the contents of Americans' communications in the context of 702. They're already required for that, in some circumstances.

Since 2018, how many times has that requirement been triggered, according to Government reporting? Do you know?

Director WRAY. Are you talking about the so-called (f)(2)?

Senator LEE. Yes.

Director WRAY. Yes. How many times has it been triggered?

Senator LEE. Yes.

Director WRAY. I think there've been two instances where—I think is maybe the number.

Senator LEE. Hundred—

Director WRAY. Yes.

Senator LEE. One hundred and three. One hundred and three times—

Director WRAY. Yes.

Senator LEE [continuing]. It's been triggered.

And out of those 103 identified times the FBI should've obtained a court order, how many times did the FBI actually obtain one? Do you know?

Director WRAY. That, I think the answer is none.

Senator LEE. Zero. So, you're telling me that the FBI has completely ignored the limited court order requirement that it's already subjected to.

You have the audacity to come here, and you told us that getting, adding a warrant requirement to 702—even for queries involving U.S. persons on U.S. soil—that that would amount to some sort of unilateral disarmament.

That—you have a lot of gall, sir. This is disgraceful.

The Fourth Amendment requires more than that, and you know it.

I know every single time, for centuries, even prior to the founding of this country, there were similar protections built into the laws of the United Kingdom before we became a country. Even then, the Government was making the same darned argument you're making today. Which is, it's too hard. It's making it hard for the Government.

That's why we have a Constitution, sir, and you must comply with it.

Director WRAY. Mr. Chairman, may I respond briefly?

When you ask, why are things different this time, I would point you, again, to the findings of the Court and the Department, themselves, both of which have not been shy about identifying some of the same instances that you cited in our colloquy.

They, themselves, have observed the effectiveness of the reforms, which is why the pre-versus-post date of the reforms becomes very significant. So, that's number one.

Second, as to your claims about constitutionality, I would point you back to what the caselaw actually shows on this subject, which is that no court has found 702 in its current form to be unconstitutional. And every court to have looked at it has found it to be constitutional. And—

Senator LEE. Well—

Director WRAY [continuing]. Last point——

Senator LEE [continuing]. How lucky for you——

Director WRAY. Last point.

Senator LEE [continuing]. Because no one has standing to do that. No one knows when they're being surveilled. That is—that is not an argument, sir.

Director WRAY. Last—last point, Mr. Chairman, is that, in some of the instances—and you went through a number, in your questions—in some of the instances, in particular that I know about, those are instances where the queries were run in order to get to a public official, Member of Congress, to warn them about foreign influences targeting them——

Senator LEE. Yes——

Director WRAY [continuing]. And a warrant——

Senator LEE [continuing]. We call those——

Director WRAY [continuing]. Would not have enabled that——

Senator LEE [continuing]. We call those consent searches. And consent searches do not require a warrant, sir. And you know that.

There is nothing that you have done that is not entirely within the FBI's control and supervision. You're asking me to believe something that is not believable, because your agency has made it unbelievable. And I refuse to accept it.

Chair DURBIN. Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Mr. Chairman. Thank you for being here today, and thank you to you, and the thousands of FBI agents who are right now out there trying to keep us safe.

I think we've often failed to express our gratitude to law enforcement, and I know how dedicated and hardworking they are. So that is something that should go without saying, but it's worth saying.

Mr. Director, I want to focus on election interference, which is, in my view, one of the most pressing and important threats to our democracy. That election interference threatens, particularly, the Presidential election in 2024. There's a lot of talk about the dire effects, potentially of the outcome in 2024, and the countries of China, Russia, other foreign adversaries—we're not talking here about Hamas or a terrorist organization—nation-states interfering in our election process to pick winners that are more favorable to them.

There's no secret here, no mystery about who would be more favorable to Vladimir Putin or to Xi, in Ukraine or Taiwan. And I'd like to know from you whether you view election interference by these nations as a potential threat in the coming Presidential election.

Director WRAY. We're keenly focused on the risk that foreign adversaries, whether it's Russia, whether it's China, whether it's Iran or others, would seek to interfere in our elections.

Senator BLUMENTHAL. You've said that all threats are elevated at exactly the same time. This one seems to me much more elevated than we've seen in any recent election. Am I right?

Director WRAY. I think it's fair to say that they are elevated from where they were before, and just to elaborate just slightly on that point, obviously we saw—and it's not disputed—that the Russians tried to interfere in the 2016 election, and then continued.

But what we've seen since then is other adversaries attempting to take a page out of the Russians' playbook.

Which is why, for example, I point to the press conference that Director Ratcliffe and I did, in the fall of 2020, about the Iranians' efforts to interfere in that election.

More recently, we've had an indictment involving the Chinese government attempting in a very aggressive way to interfere in a particular congressional candidacy. First trying to dig up dirt on the candidate. Then, when they couldn't find it, to make up dirt on the candidate. And then, when they couldn't find that, openly talking about how to inflict physical violence on the candidate. That's—

Senator BLUMENTHAL. So, you—

Director WRAY [continuing]. A pretty stark form of election interference.

Senator BLUMENTHAL. You are focused, rightly, on this problem as an urgent and exigent one for the United States of America. Correct?

Director WRAY. Yes, sir.

Senator BLUMENTHAL. And what can we do, in Congress, to support this effort? What additional powers do you need? Do you need more resources?

It seems to me that our democracy is on the line here. And all of the speech-making, all of the rhetoric that we're expressing today go for naught if we lose our democracy because China, Russia, Iran, these nation-states have a free field to interfere with our election.

Director WRAY. Well, I think there's a couple things.

There's, on the money side, in terms of appropriations, we are not in an environment where any of the threats that we're seeing, as part of my exchange with Senator Graham, are going backward. They're all elevated and increasing. So, now is not a time to go backward in terms of the funding of the FBI across cyber counter-intelligence and a whole host of other issues.

But, second, we've talked about 702—702 is, of course, focused on foreign adversaries, many of these same intelligence services and their ability to engage in malicious foreign intelligence operations.

And that's why reauthorizing 702 in a form where it can be used is important to that threat, among a whole host of other foreign threats.

Senator BLUMENTHAL. There are now Fifth Circuit decisions. The courts are making decisions that, if upheld, would create additional obstacles to your enforcement against foreign interference. Are you concerned about the Fifth Circuit saying, in effect, that you can't communicate with social media to alert them to threats?

Director WRAY. Well, of course, as you know, this is the subject of ongoing litigation. The findings of the lower courts in that litigation are things that are hotly contested through the Department's filings. And as you know, the Department has asked the Supreme Court to not only stay that injunction but to grant cert, and it has done both.

I will say, and I think this is important for people to know, it is not seriously disputed that our foreign adversaries have tried—and are continuing to try to interfere in our elections. And it is not

seriously disputed that those foreign adversaries are using social media, including U.S. social media platforms, as part of that effort.

And historically our work in this space has enjoyed widespread, bipartisan support, and, in fact, President Trump himself, rightly, in 2018 or 2019, issued an Executive order on this very subject, calling it a national emergency.

SSCI, the Senate Intelligence Committee, on an overwhelmingly bipartisan basis, identified much the same and called for more engagement—more engagement with social media companies, not less. The key, the key, is making sure that it's done in the right way. And that's what we're committed to do—focus on the hidden hand of the foreign actor, not on the content itself posted.

Senator BLUMENTHAL. But just so everyone is aware, Director Wray, Facebook announced, and I'm quoting, "that the threat sharing by the Federal Government in the U.S. related to foreign election interference has been paused since July," end quote.

That is a profoundly troubling change that threatens our national security. The FBI and other law enforcement and intelligence agencies are, in effect, handicapped. They are straitjacketed by this ruling. And on that score, and on so many other areas where election interference is not just imminent, it's ongoing, it's real and urgent, a clear and present ongoing threat to our democracy.

And I hope that my colleagues will heed your warning. It's expressed in characteristically understated terms, but I think it is a profoundly important warning to this Committee and to the country.

Let me ask about, just in the brief time I have left, hate crimes, the rising incidents. I am deeply disturbed, as are many of my colleagues, about what's happening on college campuses. Free speech has a place, obviously, on campuses. Intimidation, physical threats, violence do not. Are you satisfied that the leadership of our colleges and universities are doing enough to stop violence and physical intimidation?

Director WRAY. Well, it's hard to paint with a broad brush. I know that we are working more closely than ever with leadership of universities, to try to increase their awareness and their resolve on this subject.

And we now have campus liaison responsibilities assigned to a specific agent in every Field Office, to try to—as part of that effort. And certainly, we have seen transnational repression, for example, from some of these same foreign adversaries we were just talking about, occurring on campuses and not just in other parts of America.

Senator BLUMENTHAL. Have you seen——

[Gavel is tapped.]

Senator BLUMENTHAL [continuing]. Hamas do that?

Director WRAY. I'd have to think about that one, whether specifically——

Senator BLUMENTHAL. Maybe you can respond——

Director WRAY. Yes.

Senator BLUMENTHAL [continuing]. In writing. Thank you, Mr. Chairman.

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

Senator CRUZ. Thank you, Mr. Chairman. Director Wray, welcome.

As you know, I am deeply concerned about the conduct of both the Department of Justice and the FBI, particularly in the last 3 years during the Biden administration. I think the Department of Justice has been profoundly politicized under Attorney General Merrick Garland, and I think the FBI has, as well.

And, unfortunately, I think you've been unwilling to stand up to senior career officials in the FBI who've allowed the FBI to be politicized. I'll tell you I regularly speak with FBI agents across the country who are unhappy about the integrity of the institution being weakened because DOJ is being treated as a political weapon.

I want to talk, in particular, about the investigation into multiple allegations of corruption concerning Hunter Biden and Joe Biden, because the Department of Justice has, I think, from the outset tried at every step to stop investigation into corruption from Joe Biden.

As you're aware, a WhatsApp text message was sent to Henry Zhao, a senior Chinese Communist, from Hunter Biden that reads as follows: "I'm sitting here with my father, and we would like to understand why the commitment made has not been fulfilled. Tell the Director that I would like to resolve this now before it gets out of hand. And now means tonight. And, Z, if I get a call or text from anyone involved in this other than you, Zhang, or the chairman, I will make certain that, between the man sitting next to me and every person he knows and my ability to hold a grudge, that you will regret not following my direction. I am sitting here waiting for the call with my father."

Now, Democrats and those in the media trying to defend the White House repeatedly say, there is no direct evidence of Joe Biden's involvement in his son's corruption. Well, this is a text that is direct evidence, that is stating that it is his father that is going to retaliate.

Now, an IRS whistleblower, Gary Shapley, testified before the House of Representatives that the natural step he wanted to follow was to determine whether Joe Biden was, in fact, sitting next to his father when this threat was made to extort millions of dollars from a Chinese Communist.

And what the IRS whistleblower testified is that when he tried to find out whether Joe Biden was sitting next to Hunter, that the DOJ blocked getting the GPS data on Joe Biden's phone. Did the FBI try to ascertain where Hunter Biden was and where Joe Biden was when this text was sent?

Director WRAY. Well, I think the questions you're asking go to the ongoing investigation being led by Special Counsel Weiss. And so I'm not going to be able to discuss what is or isn't in scope for that.

Senator CRUZ. Look, there's been testimony under oath from the IRS whistleblower that you did not seek the GPS data. And you're right. David Weiss, the Special Prosecutor, is in charge of it. And it is David Weiss and his underlings who, according to the IRS whistleblowers, have alleged that they're the ones trying to stop

the investigation. They allowed the statute of limitations to run on many of the most serious violations.

Not only that, IRS whistleblower Shapley testified that on September 3, Assistant U.S. Attorney Lesley Wolf explicitly told investigators that, despite having probable cause to search, quote, “there is no way a search warrant would be approved when the evidence in question was located inside of Vice President Biden’s guesthouse.” Wolf stated that, quote, “the optics prevented such a search.”

Is the FBI—do they make a routine practice of allowing partisan political optics to prevent investigating serious evidence of corruption?

Director WRAY. My instructions to our people, on this and on every other investigation, are that we are to follow the facts wherever they lead, no matter who likes it, no matter what political influence there—

Senator CRUZ. Then why didn’t you—

Director WRAY [continuing]. May be out there.

Senator CRUZ [continuing]. Get the GPS data on where Hunter Biden and Joe Biden were?

Director WRAY. Again, Senator, with respect, I can’t discuss—

Senator CRUZ. But it’s not—

Director WRAY [continuing]. An ongoing investigation.

Senator CRUZ [continuing]. With respect. And, Director Wray, you and I have gone round and round on this, because I understand, anytime you’re asked about this, the answer is, it’s an ongoing investigation.

Of course, the investigation isn’t ongoing. You’re not doing the work. You’ve got whistleblowers pointing out that you’re not doing the work, and you are hiding behind the skirts of the Attorney General.

Look, the whistleblower also testified that the Attorney General, when he came before Congress—go to the next chart—came before Congress, lied under oath to this Committee. The Attorney General testified to this Committee, in response to my questioning, “I have pledged not to interfere with the Hunter Biden investigation. I have carried through on that pledge.”

The IRS whistleblowers have alleged the Attorney General lied under oath—a felony. Was the Attorney General telling the truth when he said this? Do we have the chart? We don’t have the chart.

Was the Attorney General telling the truth when he said, “I have pledged not to interfere with the Hunter Biden investigation and I have carried through on my pledge”?

Director WRAY. Again, I can’t speak to the Attorney General’s testimony. I can only tell you what my instructions have been to our people, and I expect—

Senator CRUZ. Has there been—

Director WRAY [continuing]. Those to be followed.

Senator CRUZ [continuing]. Political interference in the investigation into Hunter Biden and Joe Biden?

Director WRAY. Not that I have experienced.

Senator CRUZ. Were the investigators allowed to investigate whether Joe Biden was complicit in the corruption?

Director WRAY. Again, there is an ongoing investigation—

Senator CRUZ. I'm asking you about——

Director WRAY [continuing]. Being led——

Senator CRUZ [continuing]. Corruption from DOJ. Were they allowed to investigate Joe Biden? Or is the whistleblower telling the truth that DOJ said, Joe Biden's off limits—no questions about the “big guy”?

Director WRAY. And as to what is in scope or not in scope of the ongoing investigation, I would refer you to Special Counsel Weiss. That is not me hiding behind anything, Senator. That is a long-standing policy that has been in place——

Senator CRUZ. Director Wray——

Director WRAY [continuing]. Through multiple administrations——

Senator CRUZ [continuing]. You have a responsibility.

Director WRAY [continuing]. Going back years and years and years.

Senator CRUZ. You have a responsibility to the FBI, not to allow it to be a partisan tool and a partisan weapon. The testimony—and, by the way, the FBI's done nothing——

Director WRAY. And I have not, and I will not.

Senator CRUZ. Have you opened an investigation into whether the Attorney General lied under oath to Congress and whether the Attorney General obstructed justice?

Director WRAY. I'm not going to go down that road here.

Senator CRUZ. I know you're not. That's the point.

Nobody thinks you've opened an investigation, because you're not willing to. And the amazing thing is, Director Wray, I've known you 30 years. You're not a partisan Democrat. You're simply sitting blithely by while career partisans in your agency allow it to be weaponized. And you are damaging the FBI, and you are damaging the Department of Justice.

Let me ask you, also—the whistleblower testified that investigators wanted to execute a search warrant on a storage unit used by Hunter Biden. And instead, they tipped off Hunter Biden's lawyer before the search warrant was carried out.

Is it typical FBI practice to tip off the subject of a search warrant before the search warrant, so they can remove any evidence that's incriminating?

Director WRAY. What is typical is that when you're dealing with an individual who has a protective detail, it is typical for agents to be in contact with the subject's——

Senator CRUZ. Does the protective detail——

Director WRAY [continuing]. Protective detail.

Senator CRUZ. Does the protective detail guard the storage unit?

Director WRAY. Again, I can't speak to the storage unit specifically. But I can tell you, is that——

Senator CRUZ. Why——

Director WRAY [continuing]. When it comes to——

Senator CRUZ. Why would the FBI tip off the subject of a search warrant about the storage unit that was going to be searched, beforehand? Does that not undermine the very essence of an investigation that DOJ is purporting to undertake?

Director WRAY. Again, I'm not going to be able to discuss specific investigative steps that were——

Senator CRUZ. But who is?

Director WRAY [continuing]. Taken in this——

Senator CRUZ. If you're not, nobody answers these questions. And it's why people are furious with the coverup, because you don't believe the FBI is accountable to Congress or to the American people.

Senator HIRONO [presiding]. Your time is up. Director Wray has requested a 5-minute recess. Five minutes.

Director WRAY. I'll just—let me just, Senator, if I might, just quickly respond and then——

Senator HIRONO. Respond.

Director WRAY [continuing]. Go to the break. Thank you.

I understand why this is frustrating. I do. But it is also the case that these policies that I am referring to, about my inability to discuss ongoing investigations—and certainly internal deliberations related to ongoing investigations—are policies that have not only been in place for many, many years, through multiple administrations of both parties.

But—but, in fact, these are policies that were actually strengthened under the last administration and that my predecessor was faulted, in a fairly scathing Inspector General report, for not following. And so I keep that in my mind——

Senator CRUZ. When you see corruption, you have an obligation——

Director WRAY [continuing]. When I——

Senator CRUZ [continuing]. To call it out.

Director WRAY [continuing]. Engaged in this job. Thank you.

Senator CRUZ. You have an obligation to call out corruption.

Senator HIRONO. The hearing will recess.

[Whereupon the hearing was recessed and reconvened.]

Chair DURBIN [presiding]. The Committee will resume. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman.

All I can say is, phew. Good to have you back.

So, Director Wray, you testified that no court has held that the Fourth Amendment applies to 702 searches. But in 2019, the Second Circuit explained that 702 U.S. person queries, quote, “does have important Fourth Amendment implications,” end quote, and it remanded that case for further review.

I know that you testified that you have put in place various protections and accountability features to prevent the misuse or abuse of 702, but my understanding is that, prior to your putting in place these kinds of protections, there was something in the order of 2 million U.S. citizen inquiries under 702, and then that has gone down to some 200,000. That's still a lot of queries.

So, my colleague Chris Coons asked, you know, while you have these protocols in place and courts have said you're doing a good job with regard to abuse of 702, but really, what is to prevent another administration from removing these protocols?

And, in fact, I know that during the Trump years, that his administration, they interpreted the words “derived from” in a very broad way under FISA.

So I do think that there are a number of us who are concerned about another administration not having—not paying as much at-

tention to abuses as you have testified. And even now, I also have some concerns relating to the U.S. citizen queries under 702.

But let me turn to another matter. You did note that there is a heightened environment for foreign terrorism. In your testimony, though, you note that the top domestic terrorism threat we face continues to be from racially motivated violent extremists and anti-government or anti-authority violent extremists.

Can you explain how the tech companies—and a lot of this is people who have been, typically, radicalized online. Can you explain how the tech companies could be better partners in rooting out domestic violent extremism?

Director WRAY. Well, some of this goes to the exchanges that we've already had about the encryption issue. And when individuals, we have found historically, move to discussing truly operational, actual violent activity, they tend to move to encrypted platforms, which if those encrypted platforms are not designed in a way to be responsive to a warrant, then that activity, just like the child exploitation we talked about earlier, would be beyond reach. So, we need companies to work with us on that. So, that's one.

Second, the companies have their own terms of service and actions that they can take. And on their own platforms are actions that they could take to help reduce abuse.

But most importantly, I think, on social media platforms, we need people who are on those platforms who are Americans who see threats of violence—again, this is what this is about, threats of violence—to alert law enforcement if they see them.

Senator HIRONO. Certainly we can do that, but as you say, just as with the reporting of hate crimes, et cetera, these are all very underreported.

And I think that there are concerns about possibly limiting the liability protections under Section 230. Would that be another way to get these platforms to pay attention to content on their platforms?

Director WRAY. Well, without weighing on a specific legislative proposal, what I would say is that these are gigantic companies now with all kinds of activity—some very positive, some very negative—that happens on their platforms.

And just like any industry, it makes sense to me that they should take responsibility—

Senator HIRONO. Mm-hmm.

Director WRAY [continuing]. For what happens on their platforms—their duties, unlike ours, unlike this Committee's—their duties are to maximize profit for the shareholders. Nothing wrong with that being their duties. But that's a very different responsibility than all of us have to protect the American people.

Senator HIRONO. It does sound as though we need to make some changes to Section 230 liability protections, and I think we need to go there.

Senator HIRONO. Let me turn to another important issue, sex trafficking. It remains a real issue in Hawaii and to other Native peoples.

And in Hawaii, for example, sex trafficking disproportionately impacts the Native Hawaiian community to the point where Native

Hawaiian women and girls represent 67 to 77 percent of sex trafficking victims, and 37 percent of child trafficking cases in Hawaii.

And earlier this year, the FBI launched Operation Not Forgotten, to help solve cases of missing and murdered indigenous people. I think that is a really important step for the FBI to take.

And prior to that, you also have in place Operation Cross Country, which is a 13-year program highlighting some of these issues. Can you tell us a bit more about what these programs do and what you're—what you hope to accomplish through these programs?

Director WRAY. Well, so, these programs are designed to both rescue victims of human trafficking and to take down the predators who engage in the human trafficking. And we take a very victim-centered, victim-focused approach.

So, in addition to rescuing the victims and arresting the predators, our Victim Services personnel try to engage with the victims to connect them up to social services and things like that, so that we recognize that it's a long road of recovery for them, even after they're rescued from the trafficking itself. And we're trying to help get them on the right path that way.

Part of the reason things like Operation Cross County are kind of combined the way they are is to raise awareness for victims and witnesses, and deterrence for predators.

Senator HIRONO. I know that Operation Cross Country resulted in the finding of some six missing children in Hawaii. I've asked you this before, regarding focusing on Native Hawaiian women and girls who are trafficked, and—is Operation Not Forgotten in Hawaii?

Director WRAY. Is it in Hawaii?

Senator HIRONO. Is it in Hawaii? Does it—

Director WRAY. I think Operation Not Forgotten is a—

Senator HIRONO [continuing]. Is there a presence in Hawaii?

Director WRAY [continuing]. Operation Not Forgotten is—if I recall the name correctly, there is very specific operations in Hawaii that our Honolulu Field Office and Division are conducting. And they do some great work in the human trafficking space, and I'm proud of the work they've done for your community, in fact, the citizens—your constituents of the State of Hawaii.

Senator HIRONO. Thank you. I appreciate the effort, and I'm glad that some of my colleagues have asked you about what more we can do regarding the rise in antisemitism in our country, especially on our college campuses. Thank you for whatever you can do to assist in that regard. Thank you, Mr. Chairman.

Chair DURBIN. Thanks, Senator Hirono. Senator Hawley.

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

I noticed with interest in your written testimony that you said, and I'm quoting you now, "The FBI uses all tools available at its disposal to combat domestic terrorism"—which now apparently includes the crime of being Catholic. Let's talk a little bit about the FBI's egregious targeting of Catholic Americans.

You have repeatedly been asked about the memo generated by the Richmond Field Office, we now know in collaboration with multiple other Field Offices, about recruiting sources in Catholic churches.

You have repeatedly said that no human sources were approached. This is you on July the 12th, in the House. You were asked directly by Jim Jordan, do you think that priests ought to be approached to give information on parishioners? You said, “no,” sir. No, sir.

You went on to say, we do not recruit, open, or operate human sources. We do not report on religious organizations. You went on to say, this product—meaning the Richmond memo—has not resulted in any investigative action.

But now we know that, in fact, FBI agents did approach a priest and a choir director, to ask them to inform on parishioners. So, were you lied to when you gave this testimony? Or were you lying to Congress?

Director WRAY. Neither. So, your question conflates two different things. There’s the intelligence product itself, which the Richmond Field Office created. It was written by, as our inspection found, by analysts in Richmond, reviewed by people in Richmond, and captioned, “Richmond Field Office Product.”

Separately from that, there was an investigation of a specific individual who was amassing Molotov cocktails and posting about killing people.

And it does not surprise me that there were people who knew that subject in that investigation, that is, the guy building the Molotov cocktails and trying to kill people—that people talked to the witnesses who knew that person.

And I think the product, the Richmond intelligence product which cites that investigation, is actually pretty transparent about exactly what I just said.

Senator HAWLEY. No, I don’t think so at all. In fact, the only reason we know this is a whistleblower has come forward and told the House, under oath, that the FBI went and interviewed priests and choir directors in the Richmond area.

The House goes on to say that the FBI has repeatedly refused to disclose this information. The only reason we know it is because a whistleblower came forward with it. Just like the only reason we know about this memo is because a whistleblower came forward with it.

How many other parishes around the country have priests or choir directors that’ve been approached? By the way, are Catholic choirs now, are they—are they breeding grounds for domestic terrorism? Is this your latest theory? How many other parishes have FBI agents approached priests and choir directors to ask about parishioners?

Director WRAY. Look, Senator, we do not and will not conduct investigations based on anybody’s exercise of their constitutionally protected——

Senator HAWLEY. You have done——

Director WRAY [continuing]. Religious——

Senator HAWLEY [continuing]. So, and your memo——

Director WRAY. No, sir.

Senator HAWLEY [continuing]. Explicitly asks for it.

Director WRAY. No——

Senator HAWLEY. Your memo labels traditional Catholics as racially and ethnically motivated violent extremists in need of inves-

tigation. You have a list of churches—a list in the memo. You’ve repeatedly said, we don’t target churches. We don’t list churches. They’re listed in the memo. So, how many other parishes have you gone to, to talk to choir directors, for heaven’s sake?

Director WRAY. As I’ve—

Senator HAWLEY. Do you know the answer to that question?

Director WRAY. No, I don’t know the answer to that question. But I can tell you that we don’t investigate people for their exercise of their constitutionally protected—constitutionally protected religious expression.

Senator HAWLEY. I ask—

Director WRAY [continuing]. That particular intelligence product is something that, as soon as I saw it, I was aghast. I had it withdrawn.

Senator HAWLEY. Really? You were aghast?

Director WRAY. I was.

Senator HAWLEY. Oh, really?

Director WRAY. Yes, sir.

Senator HAWLEY. And what have you done about it? Did you fire the people who wrote it?

Director WRAY. No, I had it withdrawn—

Senator HAWLEY. Have you fired anybody involved in it?

Director WRAY. Senator, if you would give me a chance to answer—

Senator HAWLEY. That’s a—

Director WRAY [continuing]. Your question—

Senator HAWLEY [continuing]. Yes or a no. It’s not hard. Have you fired anyone involved in the writing of that outrageous memo, about—

Director WRAY. Senator—

Senator HAWLEY [continuing]. Which, frankly, you’ve repeatedly misled the public? Yes or no?

Director WRAY. The individuals involved in that product—

Senator HAWLEY. Have you fired—

Director WRAY [continuing]. Were not—

Senator HAWLEY [continuing]. Anyone?

Director WRAY [continuing]. Just a minute—were not found to have engaged in any intentional or bad-faith conduct, and, in fact—

Senator HAWLEY. Really?

Director WRAY. In fact, Senator, a number of the individuals involved—

Senator HAWLEY. So, the answer’s no.

Director WRAY. A number of the individuals involved in writing that product in the Richmond Office were themselves Catholic. So, the notion—

Senator HAWLEY. Oh, I see. So, therefore—

Director WRAY [continuing]. That they are targeting—

Senator HAWLEY. Oh.

Director WRAY [continuing]. Their own faith—

Senator HAWLEY. Oh. So, they—

Director WRAY [continuing]. Is nonsense.

Senator HAWLEY [continuing]. Have a get-out-of-jail-free card. I see.

Director WRAY. They——

Senator HAWLEY. I see. So, you're——

Director WRAY. I did not say that.

Senator HAWLEY [continuing]. Immune, and they're immune. So, we shouldn't ask questions about it. You haven't done a darned thing. You haven't fired anybody.

In fact, what the House found is—what is it? You admonished them. They were admonished, and their respective supervisors were told to engage with the Human Resources Division to ensure that deficiencies are addressed.

Oh, I feel much better. They've been sent to bed without food. Good heavens, Director. This is one of the most outrageous targetings.

You have mobilized your division, the most powerful law enforcement division in the world, against traditionalist Catholics—whatever the heck that means—and you just told us you have not fired a single person.

I mean, here, it gets worse. Your Richmond Field Office, they thought there was nothing wrong with this. The House interviewed the head of the Richmond Field Office. He testified. It's all here in the public report. I refer you to it—pages 12, 13, 14. He testified he saw no problem with this. He said he thought it was fine.

In fact, we have internal memoranda of the members of the Field Office high-fiving. One peer reviewer, another member of the Field Office, wrote, "I think this is a great product. I really enjoyed the read."

Do you have a problem with systemic bigotry against Catholics in the FBI?

Director WRAY. No.

Senator HAWLEY. What are you going to do about this? Are you going to fire these people or not?

Director WRAY. Those individuals have all been admonished, and it is all going into their——

Senator HAWLEY. Admonished.

Director WRAY. If you would let me finish my answer. It is all going into their annual performance reviews. It has direct impact on their compensation, among other things.

Senator HAWLEY. Oh, I see. Oh, I see. I see. So, the 60 million American Catholics who, we now—who now learn that your FBI has recommended that priests be recruiters and informants—your FBI has gone to priests, choir directors. But we're to feel better because you've admonished them for their wrongdoing.

Director WRAY. You, again, are conflating two different things. When——

Senator HAWLEY. No, I'm not.

Director WRAY [continuing]. We are——

Senator HAWLEY. I am taking your testimony, where you said you do not—you said categorically—categorically, you said, we do not—we do not go to priests and ask them about their parishioners. You said, we do not. You didn't say, we haven't. You didn't say, we won't. You said, we don't.

As it turns out, you do. And you kept it from the public. You deliberately misled Congress about it, and the only reason we know about it is because a whistleblower came forward.

Director WRAY. I just fundamentally——

Senator HAWLEY. That's the truth.

Director WRAY [continuing]. Disagree with your characterization.

Senator HAWLEY. Well, there's no characterization. The facts are the facts. And I fundamentally resent the fact that you have violated—if not the spirit, if not the letter, certainly the spirit of the First Amendment, and used your law enforcement agency against Catholics in this Nation.

Let me ask you about one other thing. Last time you were here, you had to leave early to take a jet to your vacation in the Adirondacks. Now, let me just ask you this. The whistleblower tells us that you also maintain a home in Atlanta, to which you fly on a regular basis. I'm told by this whistleblower from the FBI that you use the FBI jet to make that travel. Is that correct?

Director WRAY. All of my travel, personal or work related, is required to be done on FBI planes. That is long-standing policy. It goes back——

Senator HAWLEY. He——

Director WRAY [continuing]. Well over a decade.

Senator HAWLEY. I'll take that as a yes. The whistleblower also says that you regularly require the jet, which is based in Manassas, to be flown to DC because, and I quote now, "Wray doesn't like to sit in traffic." Is that accurate?

Director WRAY. No, that's not accurate.

Senator HAWLEY. He also says that you pay only the lowest-cost commercial ticket for that Atlanta-to-DC trip, which is, I don't know, what, 200 bucks or something, when, of course, it costs 20—\$30,000 to operate the jet. Is that correct?

Director WRAY. The reimbursement that I provide is reimbursement that is set by OMB policy, and I——

Senator HAWLEY. So, that's a yes?

Director WRAY [continuing]. Follow that policy, which goes back over a decade and I think has been chronicled in a GSA report from back in, like, 2013.

Senator HAWLEY. You'll provide——

Director WRAY. All of these issues——

Senator HAWLEY [continuing]. All the records to this Committee of your travel and relevant use——

Director WRAY. I'll provide——

Senator HAWLEY [continuing]. Of the FBI jet?

Director WRAY [continuing]. Whatever information is appropriate. Absolutely.

Senator HAWLEY. Well, appropriate. I mean, everything that we ask for?

Director WRAY. I—we will follow up with you about providing information.

Senator HAWLEY. Thank you, Mr. Chair.

Chair DURBIN. Senator Butler.

Senator BUTLER. Thank you, Mr. Chair. Thank you, Director Wray, for returning. I associate myself with the comments of my colleagues in appreciating you for your service and those who serve under your leadership for doing the work to protect the country. I have a couple different topics I'd like to talk with you a little bit about.

One is concerning what it is that your team might be learning and/or seeing as trends, now, post the *Dobbs* decision, where, after 50 years of precedent set by *Roe v. Wade*, we got a *Dobbs* decision where the preliminary data has been showing that there's been an increase in attacks against medical clinics that provide abortion-related healthcare.

In my own State of California, this dangerous behavior has reared its head as of late, where three men who were involved in conspiring to firebomb a reproductive health clinic.

Talk to me a little bit, Director Wray, and just share with the American public what the FBI, your agency, has been doing post-*Dobbs* decision. What trends are you seeing relative to the threats facing reproductive health clinics?

Director WRAY. Sure. Happy to take that on. Some things you will probably expect. Some things you might not expect.

In the category of things that you might expect, certainly we continue to see violence against a variety of establishments, motivated by views on abortion. And you've mentioned a few cases in your question, and we pursue those cases through—on the criminal side through the FACE Act.

And in some instances, if there's more of a terrorism angle, we might be pursuing explosive charges or what have you, through our Joint Terrorism Task Force. That part, you would probably expect, and that continues apace.

What you might not expect, though, is that of the investigations that have been opened based on tips and leads and activity that we've seen since the leak of the *Dobbs* decision, is that actually we've seen a huge uptick in violence against pro-life facilities, not just abortion clinics and so forth.

And we just recently had a case where we had an individual who had tried to firebomb a pro-life facility in Madison, Wisconsin, and our folks did some great work with DNA off of a burrito, to be able to apprehend the suspect. And so, we've seen violence on both sides of the issue.

And the reason I bring that up is because it's important for Americans to understand that I don't care—we don't care what side of the abortion issue you're on, you don't get to engage in violence to express your views. That's where—that's where we get involved, and that's where the line gets crossed.

Senator BUTLER. Are there—let me move to a different topic. There has been a lot of conversation, a lot of questions asked of you today that you've responded to relative to the increase in hate crimes directed toward the Jewish community, directed toward the Muslim community. And I, too, join my colleagues in the concern and appreciate the work of the FBI in those areas.

And the last time you were before this Committee, I asked you specifically about hate crimes directed toward the LGBT+ community. There's data that continues to illuminate the fact that there's increased hate crimes directed toward the AAPI community in the country. And it has, continues to be noted and documented—the rise in hate crimes directed toward Black Americans in the country.

Here's my question. What are the—what is the work the FBI is doing directed toward hate crimes, generally? What are you doing,

what can you do, and what can we do as a Congress, as a Committee, to better equip you to help to increase both the reporting as well as the prevention of these crimes directed, motivated, by hate?

Director WRAY. Well, I can speak more to what we can do and what we are doing, both on the investigative side—we're making a conscious point of trying to work with our law enforcement partners to find the cases, to pursue them, even if Federal charges, because of the particularities of what the Federal statute requires, even if Federal charges are not easily prosecutable.

If State charges are brought, then we don't just check out. We, FBI, continue to help our State and local partners to ensure that there's accountability and justice brought through State charges.

We have elevated civil rights crimes, including specifically hate crimes as the highest priority within those, to a national threat priority over the last couple years, and that has increased the amount of resources we can devote to it. In addition, you mentioned reporting and prevention.

One of the things we know about hate crimes, really across the whole spectrum of victims, is that they are underreported. And so one of the things that we're doing, and other public figures could do, is to try to reach out to individual communities to educate them about hate crimes and where they can go to report it.

So if they're a witness, a victim, they know where to go and what to do about it.

We also engage with local law enforcement, because sometimes they don't necessarily recognize what to do with individual fact patterns that might become a hate crime.

So, those are some of the things that we're doing to try to increase the fidelity of the statistics on this, because that helps us identify trends and figure out how to allocate resources and investigative priority. So, it's investigative, it's support, it's outreach, it's education, raising awareness.

Senator BUTLER. The last question that I have, Director Wray—thank you for that.

Since I've been a Member of this body, you've—this is the second time that I've got the opportunity to talk with you, and in each time, each instance, you have raised your concern and heightened awareness about the potential threat of violence directed toward this country from other nation-states.

I want to talk a little bit about attacks on our electric grid. Particularly in the past few years, the U.S. has seen a record surge in the number of attacks on the electric grid and physical attacks, including two bombings in my State in San José, California, last winter that left thousands of residents without power.

I know you know the details, and so I'll skip the storytelling, but, Director Wray, what updates can you share about the FBI's investigation into the recent string of physical attacks on our electric grid. And what steps have you taken to improve and coordinate the data collection, relative to protecting our physical infrastructure?

Director WRAY. Well, of course you're asking about the physical attacks on the electric grid. Obviously, there are also a whole range of cyber attacks on the electric grid, as well. But just focusing on

the physical attacks, we have seen an increasing number of attacks on substations, and things like that, for a variety of motivations.

So, for example, you know, in Baltimore, we had a fairly well-known case not that long ago of a couple of individuals who were attempting to cause chaos. These were racially motivated violent extremists who wanted to essentially cause this cascading power failure, attacking five substations in the Baltimore area. And thankfully we were able to disrupt that attack.

But we've also seen people attacking substations for non-ideological reasons, including—I think out in the Pacific Northwest somewhere, there was a case that individuals were trying to facilitate a robbery, and they wanted to bring down the power grid to essentially enhance their ability to conduct a robbery. So, there was a financial motive in that instance. And we've also had, like, just straight-out vandalism.

So, there's a bunch of different motivations, but what they have in common is a targeting of the electric grid, of the substations. And so we are working more and more closely not just with DHS but the Department of Energy and other regulatory partners to try to give them better information so that they can figure out how to better harden their infrastructure.

Senator BUTLER. Thank you. Thank you, Mr. Chair.

Chair DURBIN. Thank you, Senator Butler. Senator Cotton.

Senator COTTON. Director Wray, in your written statements, you mentioned antisemitic attacks, and in your opening statement this morning you said that the FBI seeks to mitigate them quickly. Has there been an increase in antisemitic attacks since the October 7th atrocity against Israel?

Director WRAY. Yes. And what's striking about that is that that's coming on the heels of what we were already seeing, even before October 7th, as a significant uptick, not just of hate-fueled attacks but specifically antisemitic hate-filled attacks as a portion of those.

And by far and away the biggest chunk of the tips and leads which are coming in fast and constantly to us, post-October 7th—the biggest chunk by far involve threats to the Jewish community. We've seen bomb threats to synagogues, you know, threats to attack the Jewish community on campuses, and other places. We've had multiple arrests.

And so it is a real problem. And as I think I testified maybe recently, what's so jarring about those attacks is that the Jewish community in this country is, like, 2½ percent of the American public, and yet they represent something close to 60 percent of all religiously based hate crimes. And they have the unique distinction of being targeted by Sunni terrorists, Shi'a terrorists, domestic terrorists, inspired terrorists. And so we are acutely focused on the threats to the Jewish community, which very much needs our help.

Senator COTTON. Thank you. I share your concerns about those threats and the disproportionate nature of the threats to Jews in America. Federal civil rights laws do protect Jews from these antisemitic hate crimes and acts of violence, to include their criminal provisions. Is that right?

Director WRAY. Yes.

Senator COTTON. I want to focus on one particularly egregious incident of such antisemitism.

On Thanksgiving Day, a pro-Palestinian mob showed up at the home of Michael Tuchin in Los Angeles. Mr. Tuchin is no random private citizen. He is the president of the American Israel Public Affairs Committee, also known as AIPAC, one of the strongest supporters of the American-Israel alliance and somewhat—an organization with broad bipartisan support in Congress. The—this mob was there for no other reason than that Mr. Tuchin is Jewish and that he is the president of AIPAC and a supporter of Israel.

The mob set off smoke bombs with dense black smoke, to make him and his family think their house was on fire. They blared sirens. They dumped fake blood and infant-sized body bags in his driveway. They vandalized cars that were parked in the driveway. They distributed flyers around the neighborhood with Mr. Tuchin's photo and a message there would be, quote, "no peace," end quote, for him as long as AIPAC supports Israel.

When a neighbor tried to intervene during a lengthy wait for the police to arrive, one member of this mob attacked the neighbor with a metal pole. Director Wray, has the FBI made any arrests in these hate crimes in Los Angeles that have been so widely publicized in the media?

Director WRAY. Well, I don't know if it's part of the same investigation, but I know, for example, post-October 7th, we have had arrests of individuals in L.A., in the L.A. area, specifically individuals who were threatening, for example, the ADL CEO, and a number of people in the ADL leadership.

And a lot of the cases that we've been advancing, post-October 7th, involve threats that sound very similar to the one you're describing. If I—

Senator COTTON. These go beyond threats. They showed up at his home on Thanksgiving Day and vandalized his home and attacked a neighbor. The organization is known as the People's City Council of Los Angeles, who post videos and photos up on their account along with the message, quote, "No peace for these baby killers. F-AIPAC. Hashtag Free Palestine."

Director WRAY. Yes.

Senator COTTON. To be clear, they didn't use the PG version of the four-letter expletive starting with F, in their social media post. So, are you aware of the FBI either conducting arrests in this, against this mob at Mr. Tuchin's house—or even investigating?

Director WRAY. As I sit here right now, I don't know specifically. We've had so many investigations, as I said in our earlier exchange, that are focused on threats or more than threats against the Jewish community, all around the country. Let me follow up and see if we can get more information—

Senator COTTON. Good.

Director WRAY [continuing]. To you on that specific case.

Senator COTTON. I would very much appreciate that, because it is the case that, you know, the history of our Federal civil rights laws, especially the criminal provisions of them, go back to a time when local authorities refused to protect the civil rights of their people. This is paradigmatically in the post-Civil War era, when local Democratic officials in the South wouldn't protect the rights of free Black slaves.

But color me very skeptical that notorious Democrat George Gascón, the prosecuting attorney for the County of Los Angeles, is going to zealously pursue criminal charges against this mob that showed up at Mr. Tuchin's home and assaulted one of his neighbors.

So, I would very much appreciate you following up with me, personally, to know that the FBI is, at a minimum, investigating this mob and the violent attack on one of Mr. Tuchin's neighbors.

And I hope they'll do so zealously, using some of the many techniques that have been used in, for example, the prosecutions of Donald Trump, where the Department of Justice has gone so far as to subpoena people who retweeted or liked Donald Trump's social media posts. Or the investigations into the January 6th rioters, where facial recognition technology and cell phone location data has been used.

If these are good enough for those investigations, I think they should be good enough for this investigation, as well—which, again, I don't think that George Gascón is going to zealously pursue.

Director WRAY. Well, as I said, we will follow up with you directly about this particular matter. I will tell you, in the meantime, that my instructions to our people are very much along the lines of my comments here today, which is, the Jewish community needs us, and we need to be leaning forward.

Senator COTTON. Well, thank you for that. And, as I said, citing their social media accounts where they post photos and videos of it, these are not criminal masterminds. This should not be a tough case for anyone to crack. I'm sure the LAPD would be happy to investigate and arrest if they thought Mr. Gascón would actually pursue charges.

Absent that, I hope that the FBI and the Department of Justice uses the full extent of Federal criminal civil rights laws to make sure that this pro-Hamas mob faces legal consequences. Thank you.

Chair DURBIN. Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman. And, Director Wray, good to see you, again. And you know I never fail to mention that Georgia is proud of you, and we love seeing you when you come back home. Hope you will, again, soon.

You and I have spoken before about the dangerous increase in the frequency of sextortion crimes targeting children—young children who are lured or targeted to share compromising or explicit photos and then blackmailed or bullied or worse on the basis of that content. Senator Blackburn and Senator Grassley and I have, together, moved legislation through this Committee aimed at helping prevent the sexual abuse of children online.

Your Field Office in Atlanta recently, again, highlighted sextortion as a particular concern in Georgia. The Atlanta Field Office said that these schemes have increased in frequency by 700 percent since 2021. Can you please provide an update on the FBI's overall efforts to investigate and prevent these crimes targeting children online?

Director WRAY. So, this is a rapidly emerging threat to the youth of America. It's not—when I say rapidly emerging, it's not that it's brand new, as you and I have discussed. It's been emerging for some time.

But what's newer is that it's really bursting into prominence in the last, let's say, year and a half, in particular. And that—that's mostly a bad thing, because of how prevalent it is. But it is also a reflection of potentially a little bit of a good thing, which is growing awareness. And we need more awareness of this.

What is the FBI doing? We're aggressively investigating these cases. We just had, recently had a case, for example, where a—a very tragic case in Michigan, where a young teenager, male, committed suicide because he was basically in one of—exactly one of these kinds of cases, was essentially egged on when he couldn't pay the money, and he was explaining he didn't have the money—egged on to kill himself, and he did.

And we pursued, in that case, the wrongdoers, who were all the way over in Nigeria. We worked with our Nigerian partners, got the individuals involved arrested, had them brought back, extradited back to the U.S. to face trial here, as a way of demonstrating that you are never beyond our reach and that we're going to pursue these cases, really, to the far corners of the globe.

But the second thing, and part of the reason I bring up that case as an example, is that it's very important to raise awareness. Because I think a lot of the kids who are falling victim to this, when they get targeted, they don't—they don't think they have a choice. They feel like they're trapped and stuck and then turn to tragic consequences, like suicide.

So, raising awareness is not just raising awareness for parents but it's raising awareness for teenagers, so that they know there's something they can do. So, we're working with NCMEC, for example.

But in that Michigan case, to their great credit, the young man's parents sort of embraced the idea of using his case, his tragic death, as a way to try to prevent other kids from falling victim to the same thing. And it's really deeply moving that they would try to find some good that they can achieve through the just heart-breaking loss of their son.

Senator OSSOFF. Thank you, Director Wray. And that is obviously a top concern for parents in Georgia, and so is the opioid crisis and how it impacts high school students.

Several news outlets reported recently that multiple students overdosed on fentanyl in one Gwinnett County high school, that none of the students knew they were consuming fentanyl. One was reportedly using a vape pen.

Earlier this year, students in Lee County, in Southwest Georgia, reportedly hospitalized, again, after using a vape that was reportedly laced not just with THC but also with fentanyl.

Thankfully, all of the students survived. Can you lay out for my constituents back in Georgia what the FBI is doing to protect children and adolescents from opioids, from fentanyl, and, increasingly, as we see, the inadvertent overdose by students who are either vaping or perhaps think they're taking some other drug or a counterfeit prescription drug?

Director WRAY. Well, of course, you're rightly flagging that one of the really pernicious parts of the crisis, the fentanyl scourge that we're dealing with right now, is that it's getting pressed into or incorporated into all sorts of other things.

So, you've got—it's bad enough for the people taking it intentionally because they're addicted. But the people who are unwittingly taking it, whether it's in their prescriptions or something else, is a huge problem.

So, what is the FBI doing? Well, I'd start with what I said in my opening, which is, just in the last 2 years, the FBI has seized 200—enough fentanyl to kill 270 million Americans. That's essentially 80 percent of the American public. And that's just our work—obviously, we have lots of partners doing great work, too, in just the last 2 years. So, that's a start.

A few other things we're doing—we are targeting the cartels. We have over 300 investigations focused on the cartel leadership and them, as the source of supply. We are focusing on the distribution side of it, here in the U.S., violent gangs—our Safe Streets Task Forces are focused on those.

We are targeting the professionals, in effect the healthcare profession, where they become part of it, pill mills and things like that, that are also part of the problem, through our Prescription Drug Initiative.

We are also targeting the darknet marketplaces, where an awful lot of this stuff is being trafficked. We have a whole thing called JCODE, with lots of other agencies, that we lead, that is dismantling darknet marketplaces of opioids.

And then, from an awareness perspective, we are doing things like we worked with DEA to create a movie called, "Chasing the Dragon," that was shown in schools. And we've got other sort of outreach, awareness-raising that's focused on schools and youth and educators, to try to get at it on the demand side, too.

Senator OSSOFF. Thank you, Director Wray. And with my remaining time, you've touched on this in response to a number of Members. But Georgia's Jewish community, Georgia's Muslim community both expressing to me their deep anxiety at this moment, the increased level of threat, the increased explicit threats, the increased perception of threat and fear.

Can you please provide some reassurance to my Jewish and Muslim constituents about how seriously the FBI is taking community protection? And, by the way, thank you to your Field Office in Atlanta and Special Agent Farley for the work that they've done to help reassure my constituents, as well.

Director WRAY. So, we are working those cases both through our Joint Terrorism Task Forces but also on the criminal side, through our Civil Rights Program, as hate crimes. So, we've got, sort of, both engines, if you will, in the FBI focused on it.

We also have created—I created in 2019 a domestic terrorism-hate crimes fusion cell, which brings together expertise to try to anticipate where the threats are going.

We have opened, I think, 60 percent more hate crimes investigations, post-October 7th, than we had before October 7th—and it was escalating pretty fast before October 7th, too.

And we've got all of our Field Offices, as you mentioned with SAC Farley in Atlanta, not just pushing the investigations but engaging in a lot of outreach to affected communities in their areas—both to reassure them, as you say, but also to kind of raise aware-

ness, like, hey, we're here. If you see something, we want to know about it, because there are things we can do to help.

Senator OSSOFF. Thank you.

Chair DURBIN. Thank you, Senator Ossoff. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman.

Mr. Director, it seems to me that some people should not have power. I don't care how smart they are. I don't care how experienced they are. They just don't have enough maturity or morality or ethics to exercise power.

And I am talking, of course, about your predecessor. You have been a significant improvement. Unlike my experience with you, and what I've observed is, and unlike your predecessor, you're not egomaniacal, and you're not egocentric, and you're not a self-aggrandizer. You don't run around like your predecessor, going, look at me, look at me. You don't leak to the press like the Titanic. And I know that's a low bar, but I appreciate it.

You talk a lot about 38,000 women and men in the FBI, the vast majority of whom do an extraordinary job. And I agree with that. Most of those women and men that you're talking about are in your Field Offices. I'm not saying there aren't some in the Washington Office.

But the problems we've had with the FBI over the past decade—you've alluded to them—have come primarily out of the Washington Office.

I listened carefully to your recitation of your efforts to clean that up. But I think most fair-minded Americans still wonder if there has been real accountability in all cases. And that's the spirit in which I'm going to ask you these questions. Who made the decision at the FBI to raid Mar-a-Lago for those documents?

Director WRAY. I'm not—I'm not sure there's a specific person that made the decision. It was the investigative team that was on that investigation, working with the prosecutors on the case.

Senator KENNEDY. Why didn't you just do a consent to search and avoid all the drama?

Director WRAY. Well—

Senator KENNEDY. Not you, but whoever made the decision.

Director WRAY. Yes. Well, let me try it this way, because obviously we are talking now about not just an ongoing investigation that's not just an ongoing investigation that's being led by a Special Counsel. But an ongoing investigation being led by a Special Counsel that's in front of a court with likely very strong views about what it is I can say publicly, which gets at some of your gracious comments about public commentary about cases.

But I think if you, in that particular instance, if you look at the affidavit in support of the search warrant and, more importantly, the pleadings that were filed by the prosecutors in the case, they lay out, in a very detailed way, all the efforts that were made to ensure compliance, short of proceeding to a search, as well as, as now has been charged, actual obstruction of justice.

And so, in my experience, again, speaking more generally now, both as a line prosecutor and now as FBI Director, when it comes to obtaining classified information, retrieving it, we typically pursue the least intrusive means possible. But if those don't work, and certainly if there's obstruction of justice, which in this case has

found by a probable cause standard by the judge, then it's pretty typical to resort to a search warrant.

Senator KENNEDY. Of course, as you know as well as I do, the FBI cannot censor Americans' speech—talks about abridging speech, that our First Amendment does. At one time, I think it was during your tenure, the FBI had 80 FBI agents working with social media, encouraging social media to take down accounts and remove, quote, “disinformation and election interference.”

A district court found that the FBI and other agencies asked social media platforms to remove content and to change their moderation policies in a way that violated the First Amendment. And it went up to the Fifth Circuit.

The Fifth Circuit limited the injunction, but here's what the Fifth Circuit said. The FBI, quote, “likely coerced the platforms into moderating content and encouraged them to do so by effecting changes in their moderation policies,” end quote, in violation of the First Amendment.

The FBI agreed with the plaintiffs that, quote—I'm quoting the Fifth Circuit, “Federal agencies—Federal agents ran afoul of the First Amendment by coercing and significantly encouraging social media platforms to censor disfavored speech, including by threats of adverse government action like antitrust enforcement and legal reforms.” That's serious. Is the Fifth Circuit wrong?

Director WRAY. Well, as you may know, first off, let me just say the opinions talk about a whole bunch of other executive agencies besides the FBI, and I'm not going to speak to what the other agencies entered into, but as far as the—

Senator KENNEDY. Well, you weren't the only one. It was—

Director WRAY. But there—

Senator KENNEDY [continuing]. The White House. It was—

Director WRAY. But just—

Senator KENNEDY [continuing]. Homeland Security. But—

Director WRAY. But—

Senator KENNEDY. But—but your folks were there, too, all 80 of them—80 agents.

Director WRAY. Well, but—

Senator KENNEDY. Combing social media every day. Calling Twitter. Calling Facebook. Take that down. Get rid of that account. And it wasn't just on election interference. It was on COVID vaccines. It was on lockdowns.

Director WRAY. So, a couple things. And I appreciate the opportunity to clarify this. So, first, on things like COVID vaccines and stuff like that, the FBI had no role in telling anybody to take anything down.

In fact, as you may know, the FBI was the only agency, back at that time—and the only agency in the entire Intelligence Community to reach the conclusion, to moderate confidence, that the origins of the pandemic were most likely a lab leak in China. We were the only agency.

So, we most certainly were not encouraging anybody to communicate differently on that.

Second, even on the topics we did communicate with social media companies about, from everything I've seen, we, in fact, did not instruct anybody to take that information down.

As to the Fifth Circuit's opinion—as to the Fifth Circuit's opinion, as you may also know, we actually hotly contest a lot of the findings, and not just the legal conclusions but the actual factual findings.

And the Department has sought Supreme Court review, asked them to vacate the injunction. The Supreme Court's not only vacated the injunction but granted cert, so I probably should——

Senator KENNEDY. Let me——

Director WRAY [continuing]. Leave it at that.

Senator KENNEDY [continuing]. Stop you a second. I've gone way over. I want to ask you one last question. We had a—we had a controversy during the election about Mr. Hunter Biden's laptop. And at that time, you had 80 agents interfacing with social media, doing whatever they were doing.

The FBI had the Hunter Biden laptop, got it on December 9, 2019. The New York Post story, which a lot of the social media companies, at the suggestion of Government, took down—the story came out on 10/14/2020. Why didn't the FBI just say, “Hey, the laptop's real”? Why didn't you just tell everybody, “The laptop's real. We're not vouching for what's on it, but it's real. This isn't a fiction”?

Director WRAY. Well, as you might imagine, the FBI cannot, especially at a time like that, be talking about an ongoing investigation.

Second, I would tell you that at least my understanding is that both the FBI folks involved in the conversations and the Twitter folks involved in the conversations, both say that the FBI did not direct Twitter to suppress that——

Senator KENNEDY. But others——

Director WRAY [continuing]. Particular story.

Senator KENNEDY [continuing]. Were, in Government.

Director WRAY. Well I can't, again, I can't speak to others in Government. That's part of the point that I was trying to make. Because the Fifth Circuit's opinion——

Senator KENNEDY. Yes, sir, but you're the FBI. You're not part of the White House and part of Homeland Security. You're not supposed to be political. You see all this controversy going on. Why didn't the FBI say, time out, folks. We're not——

[Gavel is tapped.]

Senator KENNEDY [continuing]. Getting in the middle of this, but the laptop's real?

Director WRAY. Again, we have to be very careful about what we can say, especially in the middle of an election season. Because that's precisely some of the problems that led to my predecessor's negative findings from the Inspector General.

Senator KENNEDY. Did you hear a gavel?

Chair DURBIN. Thank you——

Senator KENNEDY. I heard a gavel.

Chair DURBIN [continuing]. Senator Kennedy—thank you, Senator Kennedy. Senator Booker.

Senator BOOKER. Mr. Chairman, I just want to say that Senator Kennedy is Santa Claus of spirit. But he is the Grinch when it comes to stealing my time. But it's good to see him, as always.

Senator KENNEDY. I'm sorry.

Senator BOOKER. Director Wray, it's good to see you again.

I just want to say at the top, it's often—I don't get often enough to say it to you, but having years and years of working with FBI agents, especially in New Jersey, I just know that you represent an organization of extraordinarily noble people who do things on a daily basis to protect us and to keep us safe that most Americans don't know about. And in this time of year especially, just that heroism, I just want to recognize it at the top.

I listened in my office to a lot of the earlier questioning, and I'm just really grateful for how much of an emphasis you've been putting on the safety and security of Americans to racist and religious hate.

It was literally hours after the October 7th attacks—I was in Israel, that I reached out to my colleagues in the Democratic caucus and said that we have to get more money for the Nonprofit Security Grants. And I'm glad that there seems to be bipartisan movement to that.

I appreciate the comments of a lot of my colleagues, especially Tom Cotton. Michael Tuchin, I know him well, and what happened at his house is galling. But as you said, it's indicative of a lot of the violence. In fact, when it comes to antisemitism, it's the top form of religious hate and the hate violence we see.

I want to drill down a little bit about the violence that we're seeing and the threats on the Muslim community, because there's a lot of issues with trust when it comes to the FBI and the Muslim community.

And having seen, when I was mayor of the City of Newark, unjust surveillance and the erosion of a lot of that trust, not of the FBI, in particular, but of law enforcement in general, I just want to know from you, what are you doing? What steps are you taking to try to be restorative of trust, to make sure, at a time of vulnerability, where Muslims are being targeted with hate, and the Arab community in the larger context is, what are you doing to especially build that trust, to know that you, as an agency, can be relied upon for their safety?

Director WRAY. Well, I appreciate your comments and your focus on the issue. Certainly, we, through every one of our Field Offices, have as a point of emphasis community outreach. And within community outreach, there are specific communities that they make a conscious point of trying to build bridges with. The Muslim community, the Arab-American community, are specific parts of that.

The good news is that it didn't take October 7th and the aftermath for us to start doing that. I've been to all 56 Field Offices twice, each of them—many of them three times. And I've seen with my own two eyes the relationships that they've built with the Muslim and Arab-American communities in their areas. And so we've just continued to try to double down on that, post-October 7th, to make sure that they know we're there for them if they experience threats or violence.

There have been tips and leads, reports of threats that have come in. The Chairman mentioned the attack—unconscionable attack against the 6-year-old boy in his area. But we've had other attacks, as well.

So, we're trying to make sure that they know we're there for them. I will tell you, on a personal level, as somebody who was in FBI Headquarters on 9/11, I have never forgotten, as a young leader in the Justice Department at the time, couldn't have been more than 4 days, maybe, after 9/11—President Bush, in the middle of all the tension that existed at the time, making a conscious point of speaking, I believe it was at a mosque, and making clear that we're at war with terrorism. We're not at war with Islam.

Senator BOOKER. Thank you.

Director WRAY. And that really always kind of moved me, that he had made that step at that time. Because it would've been the easy thing to do, not to do that.

Senator BOOKER. I'm grateful for that, as well. And grateful for your visits. I imagine Newark was a three-visit place, not a two-visit place.

Director WRAY. I think my third visit is imminent.

Senator BOOKER. Okay. That's good to know.

The Executive Order 14110 directed Federal law enforcement agencies to produce a report on the use of AI in the criminal justice system and recommend best practices for law enforcement.

The report builds on Executive Order 14074, which directed the Attorney General to issue best practices, policy changes, and procurement guidelines for advanced law enforcement technologies, including facial recognition, other biometric technology, and predictive algorithms.

Can you provide the Committee with an update on the reporting requirements, including an estimate for when you expect to release the guidance on advanced law enforcement technologies in light of the fact that the deadline set in the EO has passed?

Director WRAY. Let me circle back with you on that. I know we have an entire team of people working very closely with the Department and others on this issue. And I wasn't aware that there was a deadline that we'd missed, so let me see if there's some garble in the process. But I will make sure we circle back to you on it.

Senator BOOKER. Yes. And, finally, I have found every interaction I've had with you directly or your office, on 702, really compelling. I—from sitting in classified briefings to talking to administration officials, and your comments at the top of the hearing were, again, very, very compelling. I think you heard that this is an issue that is, in both parties, there are a lot of concerns.

And, you know, when Mike Lee was speaking, he talked about a lot of the violations of what we would both agree is just egregious violations of what 702 should be about—the reforms that have been put forward and the work that's been done to correct for them.

But I'm concerned. You know, I trust you. But I learned when it comes to leadership, there's a difference between time tellers and clock builders. Time tellers are those people that their leadership is so powerful, everybody knows the time, and it goes accordingly.

But the best leaders are those that help to build mechanisms that, no matter who's the leader, the protections, the security, the knowledge is there.

And so, when you hear some of these egregious mistakes, can you tell us in testimony now that you're pretty confident that the

abuses that were talked about so openly here in this hearing, that those abuses cannot and will not happen, going forward?

Director WRAY. I can pledge to you and to this Committee that we have put in place new measures that exceed anything that's ever been in place before, that we are focused on a goal of getting to 100 percent compliance.

But I can also tell you that—and I understand why we've, we've brought this on ourselves, to some extent. And I hear that. I hear that in Senator Lee's comments. I understand why that is there.

But that's why I point to the Court itself, and the Department itself, looking hard at our compliance, post all these reforms, because these are the same people and the same kinds of documents that have discussed all these problems of the past. They're the ones now saying they're seeing 98 percent compliance, and these are reforms that we've had in place since really only just the middle of 2021.

So, it's not just, take my word for it. I get that. It's, you know, trust but verify. And there's a verification piece that's occurred here, and we think that, to the extent that there's a desire to cement those reforms for the long run——

Senator BOOKER. My time——

Director WRAY [continuing]. That's what——

Senator BOOKER. My time is——

Director WRAY [continuing]. Legislation could do. Yes.

Senator BOOKER. Yes. My time is expired. And I'll just say, in conclusion—and I know you know this intellectually, but I actually know you feel this in your heart.

My lived tradition is the African-American experience. And clearly the FBI has a very bad history with the Black community in the 50s, 60s, before that.

The assurances are critical, and I still have, like the Chairman said in his opening remarks, some concerns about, how do we ensure that the most sacred ideals of our country aren't violated by law enforcement, especially for communities that have seen historic targeting? So, thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Booker. Senator Blackburn.

Senator BLACKBURN. Thank you, Mr. Chairman. And thank you for being here.

The last few weeks, I've been demanding some answers on Jeffrey Epstein's crimes and trying to get these flight records—I've offered amendments to a subpoena, trying to get that—and kind of been stonewalled on it.

But I think having transparency around Jeffrey Epstein's conduct and this massive sex trafficking ring that he built is important. And, of course, you've had the Chairman, Senator Hirono, Senator Ossoff—all who have mentioned our concerns with what is happening with CSAM, what is happening with sex trafficking.

But in light of this, I, in looking at some of the survivors from the Epstein issues, there are disturbing allegations that the FBI failed to investigate the sex trafficking allegations.

And, indeed, one survivor says that the FBI, even after she brought forward, repeatedly, content about his conduct, that the FBI refused to investigate her claims, even though she said the al-

legations were there on both the sex trafficking and the child sexual abuse material.

And I want to know why, or what awareness you have of the FBI's failure to investigate these claims, and I want to get you on the record, since numerous survivors have said the FBI did not show up to help them. What, specifically, has the FBI done to investigate the claims that Epstein's—and others, participated in, produced, possessed, and distributed CSAM?

Director WRAY. Well, first let me say I recall very well that you have a very specific and long-standing interest not just in child sexual exploitation but in human trafficking, as a cousin of that. And we appreciate your focus on it and your support of the importance of that part of our mission.

As to the Epstein case, specifically, I will tell you it's been a while since I looked at that case. Obviously, we worked together with prosecutors to bring charges—

Senator BLACKBURN. Yes.

Director WRAY [continuing]. Before he—

Senator BLACKBURN. I realize—

Director WRAY. Yes.

Senator BLACKBURN [continuing]. That.

Director WRAY. Yes.

Senator BLACKBURN. But what we need from you is a complete investigation of why the FBI did not take this up, and then getting to the bottom of what is appearing to be an enormous sex trafficking ring and listening to these survivors.

You know, and as I said, I've tried to get a subpoena on the flight logs, which I think is important to this. I think people need to know who was on those planes and how often they were on those planes. I think people who invest in companies would want to know if they're people from their C-suite. And as we go through this, should those logs be made public? They've been heavily redacted.

Director WRAY. Well, as I said, it's been a while since I've looked at the specific case. I can tell you that we've been increasing, year over year, both the number of agents focused on these kinds of cases, the number of—

Senator BLACKBURN. Well, we need to—

Director WRAY [continuing]. Victims we've rescued, and the—

Senator BLACKBURN [continuing]. Look at this—yes.

Director WRAY. And so on to this—

Senator BLACKBURN. Yes.

Director WRAY [continuing]. Specific case, let me offer to have my—let me get with—

Senator BLACKBURN. Okay.

Director WRAY [continuing]. My team and figure out if there's more information we can provide to you.

Senator BLACKBURN. That would be great.

Director WRAY. Yes.

Senator BLACKBURN. We have never—even through the Ghislaine Maxwell trial—we never got to the bottom of this. And we have these survivors who say, oh, there is so much more. They swept it under the rug. And that is wrong, and you need to right that wrong.

Let me ask you about some of the disturbing allegations that have come out of Special Counsel Jack Smith's political crusade against President Trump. And we've seen a heavily redacted search warrant.

Here you go with the first page. Here you've got a page that's in print, another in print, another in print, Attachment B, in print, all about the subject account, page 3 that I'm going to come back to in a minute, and then look at the rest—redactions, redactions, redacted, fully redacted, fully redacted, fully redacted, there, and there.

So, that's not very helpful—when things are so heavily redacted you can't get to the information.

Now, Tennesseans are very concerned about two tiers of justice and weaponizing of the government.

But what we see from this search warrant—and here it is, on page—let me go to page 2, first. That gives you what they're getting from the subject account, which is Trump's account. And you're going to see that on page 1 and page 2, and the information that is there. They're wanting to get at his Twitter account, everybody that had access to it and all the information.

Well, then when you go to page 3, they are going to subpoena all data and information that is associated with this, and anybody that reposted information on this, that favorited or retweeted posts by the account, as well as all tweets that include the user name associated, all synced, all contacts, and this covers October 2020 to January 2021. Are you aware of this?

Director WRAY. I've seen some of the media reporting about it. But obviously this is a matter that's being led by the—

Senator BLACKBURN. Do you agree with this?

Director WRAY. Well, again, this is an ongoing investigation being led by a Special Counsel, and there are all kinds of court restrictions that apply.

Senator BLACKBURN. Has somebody approved a search warrant for everybody that was retweeting or reposting from the Ayatollah's account? Have they gone to his account, prior to October 7th, and looked at that? This is such an invasion of Free Speech. And as we talk with you about social media and what is going on with social media, we're concerned about this.

You know, if I liked a tweet from President Trump—if anybody on this side of the dais retweeted a tweet from President Trump, according to this, Jack Smith could go pull everything affiliated with our Twitter account, if anything that came from @realDonaldTrump showed up in our feed. Do you think that this is an infringement of my Free Speech?

Director WRAY. Well, let me say this. I certainly understand the concern, but what I would tell you—

Senator BLACKBURN. I would hope so.

Director WRAY. All right. But what I would tell you is that this investigation is being led by the Special Counsel. It's not appropriate for me to comment on that ongoing investigation. It's also under the supervision of a court, which includes the—

Senator BLACKBURN. Ongoing investigation—

Director WRAY [continuing]. Includes the search warrant—

Senator BLACKBURN [continuing]. Is code word for, we are stonewalling. And we hear this from you all repeatedly, and it's really quite frustrating.

Director WRAY. No, ma'am, and I understand why it's frustrating, but that policy about not commenting on ongoing investigations is one that goes back decades, Republican and Democratic administrations——

Senator BLACKBURN. Yes——

Director WRAY [continuing]. It's not something that's——

Senator BLACKBURN [continuing]. These investigations——

Director WRAY [continuing]. Just invented.

Senator BLACKBURN [continuing]. Are not coming to completion. Thank you, Mr. Chairman.

Chair DURBIN. Senator Blackburn, before you leave, I want to make a point for the record, since I understand you made some statements about the Jeffrey Epstein flight logs.

There's a Fox reporter in the hallway who asked me about this, and I said I had not spoken to you one time about this issue. I think you'll back me up on that, I'm not mistaken—I didn't know that this was even a subject of your amendments, which, if you'll recall, you were the first on the list until the 2-hour rule was invoked.

I don't know anything about this request on your part. I'll be happy to discuss it with you. But I haven't done any discussion with you, to this point. Correct?

Senator BLACKBURN. Mr. Chairman, I know, and I think you're fully aware that I had two amendments, one——

Chair DURBIN. I wasn't——

Senator BLACKBURN [continuing]. Dealing with Epstein and Sotomayor. I brought it up previously. We have——

Chair DURBIN. You do——

Senator BLACKBURN [continuing]. Such an issue in this Nation with the sex traffic and human trafficking rings that have proliferated across this country, and it is damaging the lives of women and girls.

We have got to step up and help them. Getting to the bottom of what happened with this Jeffrey Epstein case is going to be an important thing to do. And it should be at the top of this Committee's to-do list, as we fight some of this proliferation of CSAM.

Chair DURBIN. There were 122 amendments, I believe, filed. I did not know that you had——

Senator BLACKBURN. A hundred and seventy-seven.

Chair DURBIN. Hundred and seventy-seven amendments filed.

So, I have to confess I didn't know that you offered that amendment. Happy to discuss it with you. But I want a point on the record. You and I have never personally discussed this. Have we?

Senator BLACKBURN. We talked briefly on the floor at the conclusion.

Chair DURBIN. You never mentioned what the subject matter of your amendment was. You said you wanted to offer your amendment——

Senator BLACKBURN. In Committee, I brought up the subject matter of my amendments.

Chair DURBIN. Not in my presence.

Senator BLACKBURN. Three weeks prior. Yes, sir. It was—I'll pull the transcript for you.

Chair DURBIN. I wish you would.

Senator BLACKBURN. Thank you.

Chair DURBIN. I wish you would.

Thank you, Mr. Wray, for being with us today. And you have, perhaps, some questions in writing coming your way very shortly. Hope you can respond to them promptly. Thank you again.

[Whereupon, at 1:11 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]



Department of Justice

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FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

**AT A HEARING ENTITLED
"OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION"**

**PRESENTED
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**PRESENTED
DECEMBER 5, 2023**

Good morning, Chairman Durbin, Ranking Member Graham, and Members of the Committee. Today, I am honored to be here, representing the people of the Federal Bureau of Investigation (“FBI”), who tackle some of the most complex and most grave threats we face every day with perseverance, professionalism, and integrity—sometimes at the greatest of costs. I am extremely proud of their service and commitment to the FBI’s mission and to ensuring the safety and security of communities throughout our nation. On their behalf, I would like to express my appreciation for the support you have given them in the past and ask for your continued support in the future.

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 continues to face challenges, yet, through it all, the women and men of the FBI stand at the ready to tackle those challenges. The list of diverse threats we face underscores the complexity and breadth of the FBI’s mission: to protect the American people and to uphold the Constitution of the United States. I am prepared to discuss with you what the FBI is doing to address these threats and what the FBI is doing to ensure our people adhere to the highest of standards while it conducts its mission.

Key Threats and Challenges

Our Nation continues to face a multitude of serious and evolving threats ranging from homegrown violent extremists (“HVEs”) to hostile foreign intelligence services and operatives, from sophisticated cyber-based attacks to internet facilitated sexual exploitation of children, from violent gangs and criminal organizations to public corruption and corporate fraud. Keeping pace with these threats is a significant challenge for the FBI. As an organization, we must be able to stay current with constantly evolving technologies. Our adversaries take advantage of modern technology, including the internet and social media, to facilitate illegal activities, recruit followers, encourage terrorist attacks and other illicit actions, and disperse information on building improvised explosive devices and other means to attack the United States. The breadth

of these threats and challenges are as complex as any time in our history. And the consequences of not responding to and countering threats and challenges have never been greater.

The FBI is establishing strong capabilities and capacities to assess threats, share intelligence, and leverage key technologies. We are hiring some of the best to serve as special agents, intelligence analysts, and professional staff. We have built, and are continuously enhancing, a workforce that possesses the skills and knowledge to deal with the complex threats and challenges we face today and tomorrow. We are building a leadership team that views change and transformation as a positive tool for keeping the FBI focused on the key threats facing our nation.

Today's FBI is a national security and law enforcement organization that uses, collects, and shares intelligence in everything we do. Each FBI employee understands that, to defeat the key threats facing our nation, we must constantly strive to be more efficient and more effective. Just as our adversaries continue to evolve, so, too, must the FBI. We live in a time of persistent terrorist, nation-state, and criminal threats to our national security, our economy, and indeed our communities.

National Security

Terrorism Threats

As we saw in early October with the devastating attack in Israel, terrorist actors are still very intent on using violence and brutality to spread their ideologies. Protecting the American people from terrorism remains the FBI's number one priority. The threat from terrorism is as persistent and complex as ever. We are in an environment where the threats from international terrorism, domestic terrorism, and state-sponsored terrorism are all simultaneously elevated.

The greatest terrorism threat to our homeland is posed by lone actors or small cells of individuals who typically radicalize to violence online, and who primarily use easily accessible weapons to attack soft targets. We see the lone offender threat with both Domestic Violent Extremists ("DVEs") and HVEs, two distinct threats, both of which are located primarily in the United States and typically radicalize and mobilize to violence on their own. DVEs are individuals based and operating primarily within the United States or its territories without direction or inspiration from a foreign terrorist group or other foreign power who seek to further political or social goals through unlawful acts of force or violence. In comparison, HVEs are individuals of any citizenship who have lived and/or operated primarily in the United States or its territories, who advocate, are engaged in, or are preparing to engage in ideologically motivated terrorist activities in furtherance of political or social objectives promoted by a foreign terrorist organization but are acting independently of direction by a foreign terrorist organization ("FTO").

Domestic and Homegrown Violent Extremists are often motivated and inspired by a mix of social or 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. Lone actors present a particular challenge to law enforcement and intelligence agencies. These actors are difficult to identify, investigate, and disrupt before they take violent action, especially because of the insular nature of their radicalization and mobilization to violence and limited discussions with others regarding their plans.

The top domestic terrorism threat we face continues to be from DVEs we categorize as Racially or Ethnically Motivated Violent Extremists (“RMVEs”) and Anti-Government or Anti-Authority Violent Extremists (“AGAAVEs”). The number of FBI domestic terrorism investigations has more than doubled since the spring of 2020. As of November 2023, the FBI was conducting approximately 2,700 investigations within the domestic terrorism program. As of September 2023, the FBI was also conducting approximately 4,000 investigations within its international terrorism program.

The FBI uses all tools available at its disposal to combat domestic terrorism. These efforts represent a critical part of the National Strategy for Countering Domestic Terrorism, which was released in June 2021. The Strategy sets forth a comprehensive, whole-of-government approach to address the many facets of the domestic terrorism threat.

The FBI assesses HVEs as the greatest, most immediate international terrorism threat to the homeland. HVEs are people located and radicalized to violence primarily in the United States, who are not receiving individualized direction from FTOs but are inspired by FTOs, including the self-proclaimed Islamic State of Iraq and ash-Sham (“ISIS”) and al-Qa’ida and their affiliates, 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 potential violent attacks.

While we work to assist our Israeli colleagues and understand the global implications of the ongoing conflict in Israel, we are paying heightened attention to how the events abroad could directly affect and inspire people to commit violence here in the Homeland. Terrorist organizations worldwide, as well as individuals attracted to violence, have praised HAMAS’s horrific attack on Israeli civilians. We have seen violent extremists across ideologies seeking to target Jewish and Muslim people and institutions through physical assaults, bomb threats, and online calls for mass casualty attacks. Our top concern stems from lone offenders inspired by—or reacting to—the ongoing Israel-HAMAS conflict, as they pose the most likely threat to Americans, especially Jewish, Muslim, and Arab-American communities in the United States. We have seen an increase in reported threats to Jewish and Muslim people, institutions, and houses of worship here in the United States and are moving quickly to mitigate them.

As of right now, we have no information to indicate that HAMAS has the intent or capability to conduct operations inside the US, though we cannot, and do not, discount that possibility, but we are especially concerned about the possibility of HAMAS supporters engaging in violence on the group’s behalf. As always, we are concerned with any foreign

terrorist organization who may exploit the attacks in Israel as a tool to mobilize their followers around the world. In recent years, there have been several events and incidents in the United States that were purportedly motivated, at least in part, by the conflict between Israel and HAMAS. These have included the targeting of individuals, houses of worship, and institutions associated with the Jewish and Muslim faiths with acts of physical assault, vandalism, or harassment. Anti-Semitism and anti-Islamic sentiment permeate many violent extremist ideologies and serves as a primary driver for attacks by a diverse set of violent extremists who pose a persistent threat to Jewish and Muslim communities and institutions in the United States and abroad. Foreign terrorist organizations have exploited previous conflicts between Israel and HAMAS via media outlets and online communications to call on their supporters located in the United States to conduct attacks. Some violent extremists have used times of heightened tensions to incite violence against religious minorities, targeting both Jewish and Muslim Americans.

The FBI remains concerned about the Taliban takeover of Afghanistan and that the intent of FTOs, such as ISIS and al-Qa'ida and their affiliates, is to carry out or inspire large-scale attacks in the United States.

Despite its 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. ISIS and its supporters continue 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's successful use of social media and messaging applications to attract individuals 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 specifically advocated for attacks against civilians, the military, law enforcement and intelligence community personnel.

Al-Qaida also maintains its desire to conduct and to inspire large-scale attacks. Because continued pressure has degraded some of the group's senior leadership, we assess that, in the near term, al-Qaida is more likely to continue to focus on cultivating its international affiliates and supporting small-scale, readily achievable attacks in regions such as East and West Africa. Nevertheless, propaganda from al-Qaida leaders continues to seek individuals inspired to conduct their own attacks in the United States and other Western nations.

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

Qassem Soleimani. This willingness to seek retaliation against the United States was reflected in charges the Department brought in 2022 against a member of the IRGC, working on behalf of the Qods Force, who was plotting to murder a former national security advisor.

While the terrorism threat continues to evolve, the FBI's resolve to counter that threat remains constant. 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 threats posed by violent extremists who desire 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.

In addition to fighting terrorism, countering the proliferation of weapons-of-mass-destruction materials, technologies, and expertise, preventing their use by any actor, and securing nuclear and radioactive materials of concern are also top national security priority missions for the FBI. The FBI considers preventing, mitigating, investigating, and responding to weapons of mass destruction ("WMD") terrorism a "no-fail" mission because a WMD attack could result in substantial injuries, illness, or loss of lives, while yielding significant social, economic, political, and other national security consequences. In collaboration with federal, state, local, tribal, territorial, and other partners, the FBI integrates complementary efforts to counter WMD terrorism. An example of this collaboration is the FBI-led Weapons of Mass Destruction Strategic Group. This interagency crisis action team spans more than fifteen departments and agencies to coordinate the federal government's response to WMD threats and incidents. Alongside the FBI, the Department of Homeland Security maintains the largest footprint on the Strategic Group.

Cyber

Cybercriminal syndicates and nation-states continue to innovate, using unique techniques to compromise our networks and maximize the reach and impact of their operations. Those techniques include selling malware as a service or targeting vendors 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, extort us, and hold our critical infrastructure at risk without incurring any risk themselves. In the last few years, we have seen the People's Republic of China ("PRC"), the Democratic People's Republic of Korea ("DPRK"), and Russia use cyber operations to target U.S. research. We have seen the PRC working to obtain controlled dual-use technology, while developing an arsenal of advanced cyber capabilities that could be used against other countries in the event of a real-world conflict. And we have seen the disruptive impact a serious supply-chain compromise can have through the SolarWinds-related intrusions, conducted by the Russian Foreign Intelligence Service. As these adversaries become more sophisticated, we are

increasingly concerned about our ability to detect specific cyber operations against U.S. organizations. One of the most worrisome facets is their focus on compromising U.S. critical infrastructure, especially during a crisis.

Making things more difficult, there is often no bright line that separates where nation-state activity ends and cybercriminal activity begins. Some cybercriminals contract or sell services to nation-states; some nation-state actors moonlight as cybercriminals to fund personal activities; and nation-states are increasingly using tools typically used by criminal actors, such as ransomware.

So, 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 cybercriminals target hospitals, medical centers, educational institutions, and other critical infrastructure for theft or ransomware, causing massive disruption to our daily lives. Incidents affecting medical centers have led to the interruption of computer networks and systems that put patients' lives at an increased risk.

We have also seen the rise of an ecosystem of services dedicated to supporting cybercrime in exchange for cryptocurrency. Criminals now have new tools to engage in destructive behavior—for example, deploying ransomware to paralyze entire hospitals, police departments, and businesses—as well as new means to better conceal their tracks. It is not that individual malicious cyber actors have necessarily become much more sophisticated, but that they can now more easily rent sophisticated capabilities.

We must make it harder and more painful for malicious cyber actors and criminals to carry on their malicious activities. Using its role as the lead federal agency for threat response, the FBI works seamlessly with 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 disrupt perpetrators of cybercrime.

An example of this approach is the coordinated international operation announced in April 2023 against Genesis Market, a criminal online marketplace offering access to data stolen from over 1.5 million compromised computers around the world containing over 80 million account access credentials. Genesis Market was also a prolific initial access broker in the cybercrime world, providing criminals a user-friendly database to search for stolen credentials and more easily infiltrate victims' computers and accounts. As part of this operation, law enforcement seized 11 domain names used to support Genesis Market's infrastructure pursuant to a warrant authorized by the U.S. District Court for the Eastern District of Wisconsin. A total of 22 international agencies and 44 FBI field offices worked with the FBI Milwaukee Field Office investigating the case. And on April 5, the U.S. Department of the Treasury announced sanctions against Genesis Market.

In total, along with our colleagues at the Department of Justice (“DOJ”), we took over 1,000 actions against cyber adversaries in 2022, including arrests, criminal charges, convictions, dismantlements, and disruptions. We enabled many more actions through our dedicated partnerships with the private sector, with foreign partners, and with federal, state, and local entities. We also provided thousands of individualized threat warnings and disseminated 70 public threat advisories by way of Joint Cybersecurity Advisories, FBI Liaison Alert System (“FLASH”) reports, Private Industry Notifications (“PINs”), and Public Service Announcements (“PSAs”)—many of which were jointly authored with other U.S. agencies and international partners.

Along with our partners in the interagency, the FBI has devoted significant energy and resources to partnerships 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 an incident, as well as how we protect identities and other information that the private sector shares with us. We are still committed to providing useful feedback and improving coordination 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 our partners when they see malicious cyber activity. We also need the private sector to work with us when we warn them that they are being targeted. Significant cyber incidents—SolarWinds, Cyclops Blink, the Colonial pipeline incident—only emphasize what we 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 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.

In summary, the FBI is engaged in myriad efforts to combat cyber threats, from improving threat identification and information sharing inside and outside of the government to developing and retaining new talent, to examining the way we operate to disrupt and defeat these threats. We take all potential threats to public and private sector systems seriously and will continue to investigate and hold accountable those who pose a threat in cyberspace.

Foreign Intelligence Threats

Top Threats

Nations such as the PRC, Russia, and Iran are becoming more aggressive and more capable than ever before. These nations seek to undermine our core democratic, economic, and scientific institutions, and they employ a growing range of tactics. Defending American institutions and values against these threats is a national security imperative and a priority for the FBI.

With that, the greatest long-term threat to our nation's ideas, innovation, and economic security is the foreign intelligence and economic espionage threat from the PRC. By extension, it is also a threat to our national security. The PRC government aspires to reshape the international rules-based system to its benefit. Often, with little regard for international norms and laws.

When it comes to economic espionage, the PRC uses every means at its disposal, blending cyber, human intelligence, diplomacy, corporate transactions, and other pressure on U.S. companies operating in the PRC, to steal our companies' innovations. These efforts are consistent with the PRC government's expressed goals to become an international power, modernize its military, and create innovation-driven economic growth.

To pursue this goal, the PRC uses human intelligence officers, co-optees, and corrupt corporate insiders, as well as sophisticated cyber intrusions, pressure on U.S. companies in China, shell-game corporate transactions, and joint-venture "partnerships" that are anything but a true partnership. There is nothing traditional about the scale of their theft. It is unprecedented. American workers and companies are facing a greater, more complex danger than they have dealt with before. Stolen innovation means stolen jobs, stolen opportunities for American workers, and stolen national power.

National Counterintelligence Task Force ("NCITF")

As the lead U.S. counterintelligence agency, the FBI is responsible for detecting and lawfully countering the actions of foreign intelligence services and organizations as they seek to adversely affect U.S. national interests. Recognizing the need to coordinate similar efforts across agencies, the FBI established the NCITF in 2019 to create a whole-of-government approach to counterintelligence. The FBI established this national-level task force in the National Capital Region to coordinate, facilitate, and focus these multi-agency counterintelligence operations, and to programmatically support local Counterintelligence Task Force ("CITF") operations. Combining the authorities and operational capabilities of the U.S. Intelligence Community, non-title-50 departments and agencies, law enforcement agencies around the country, and local CITFs in each FBI field office, the NCITF coordinates and leads whole-of-government efforts to defeat hostile intelligence activities targeting the United States.

The Department of Defense ("DOD") has been a key partner in the NCITF since its founding. While the FBI has had long-term collaborative relationships with DOD entities such as the Air Force Office of Special Investigations, Naval Criminal Investigative Service, and Army Counterintelligence, the NCITF has allowed us to enhance our collaboration for greater impact. We plan to emphasize this whole-of-government approach as a powerful formula to mitigate the modern counterintelligence threat.

Transnational Repression and Other Counterintelligence Threats

In recent years, we have seen a rise in efforts by authoritarian regimes to interfere with freedom of expression and punish dissidents abroad. These acts of repression cross national borders, often reaching into the United States. Governments such as the PRC, the Russian Federation, and the Government of Iran stalk, intimidate, and harass ex-patriots or dissidents who speak against the regime from the United States.

Transnational repression can occur in different forms, including assaults and attempted kidnapping. Governments use transnational repression tactics to silence the voices of their citizens, U.S. residents, or others living abroad who are critical of their regimes. This sort of repressive behavior is antithetical to our values. People from all over the world are drawn to the United States by the promise of living in a free and open society that adheres to the rule of law. To ensure that this promise remains a reality, we must continue to use all of our tools to block authoritarian regimes that seek to extend their tactics of repression beyond their shores.

In addition, our Nation is confronting multifaceted foreign threats seeking both to influence our national policies and public opinion and to harm our national dialogue and debate. The FBI and our interagency partners remain focused on foreign malign influence operations, including subversive, undeclared, coercive, and criminal actions used by foreign governments in their attempts to sway U.S. citizens' preferences and perspectives, shift U.S. policies, increase discord in the United States, and undermine the American people's confidence in our democratic institutions and processes.

Foreign malign influence is 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. The FBI is the lead Federal agency responsible for investigating foreign malign influence threats. Several years ago, we established the Foreign Influence Task Force ("FITF") to identify and counteract foreign malign influence operations targeting the United States. The FITF is led by our Counterintelligence Division, and comprises agents, analysts, and professional staff from the Counterintelligence, Cyber, Counterterrorism, and Criminal Investigative divisions. It is specifically charged with identifying and combating foreign malign influence operations targeting democratic institutions inside the United States.

The domestic counterintelligence environment is more complex than ever. We face a persistent and pervasive national security threat from foreign adversaries, particularly the governments of China and Russia, and Iran, who conduct sophisticated intelligence operations using coercion, subversion, malign influence, cyber and economic espionage, traditional spying, and non-traditional human intelligence collection. Together, they pose a continuous threat to U.S. national security and our economy by targeting strategic technologies, industries, sectors, and critical infrastructure. Historically, these asymmetric national security threats involved foreign intelligence service officers seeking U.S. government and U.S. Intelligence Community information. Now, however, the FBI has observed foreign adversaries employing a wide range of nontraditional collection techniques, including the use of human collectors not affiliated with

intelligence services, foreign investment in critical U.S. sectors, and infiltration of U.S. supply chains. The FBI continues to adjust our counterintelligence priorities to address this evolution.

Criminal Threats

The United States faces many criminal threats, including financial and health care fraud, transnational and regional organized criminal enterprises, crimes against children and human trafficking, violent threats against election personnel, and public corruption. Criminal organizations—domestic and international—and individual criminal activity represent a significant threat to security and safety in communities across the nation.

Violent Crime

Violent crimes and gang activities exact a high toll on individuals and communities. Many of today's gangs are sophisticated and well organized. They use violence to control neighborhoods and boost their illegal money-making activities, which include robbery, human trafficking, drug and gun trafficking, fraud, extortion, and prostitution rings. These gangs do not limit their illegal activities to single jurisdictions or communities. The FBI is vital to this fight in big cities and small towns throughout the Nation because we are able to cross jurisdictions and investigate wherever the evidence leads.

Every day, FBI special agents partner with federal, state, local, territorial, and tribal officers and deputies on joint task forces and on individual investigations. FBI joint task forces—Violent Crime Safe Streets, Violent Gang Safe Streets, and Safe Trails—focus on identifying and targeting major groups operating as criminal enterprises. Much of the FBI criminal intelligence is derived from our state, local, territorial, and tribal law enforcement partners, who know their communities inside and out. Joint task forces benefit from FBI surveillance assets, and our sources track these gangs to identify emerging trends. Through these multi-subject and multi-jurisdictional investigations, the FBI concentrates its efforts on high-level groups engaged in criminal conspiracies and patterns of racketeering. This investigative model enables us to target senior gang leadership and develop enterprise-based prosecutions.

By way of example, the FBI has dedicated tremendous resources to combat the threat of violence posed by MS-13. The atypical nature of this gang has required a multi-pronged approach. We work through our task forces here in the United States, while simultaneously gathering intelligence and aiding our international law enforcement partners. We do this through the FBI's Transnational Anti-Gang Task Forces. Established in El Salvador in 2007 through the FBI's National Gang Task Force, Legal Attaché San Salvador, and the United States Department of State, each Anti-Gang Task Force is responsible for the investigation of, primarily, MS-13 operations in the northern triangle of Central America and the United States. This program combines the expertise, resources, and jurisdiction of participating agencies to investigate and counter transnational criminal gang activity in Central America and the United States. There are now Transnational Anti-Gang Task Forces in El Salvador, Guatemala, and Honduras. Through

these combined efforts, the FBI has achieved substantial success in countering the MS-13 threat across Central America and the United States.

Transnational Organized Crime (“TOC”)

More than a decade ago, organized crime was characterized by hierarchical organizations, or families, that exerted influence over criminal activities in neighborhoods, cities, or states. But organized crime has changed dramatically. Today, international criminal enterprises run multinational, multibillion-dollar schemes from start to finish. Modern-day criminal enterprises are flat, fluid networks with global reach. While still engaged in many of the “traditional” organized crime activities of loan-sharking, extortion, and murder, modern criminal enterprises are also involved in trafficking counterfeit prescription drugs containing fentanyl, targeting stock market fraud and manipulation, cyber-facilitated bank fraud and embezzlement, illicit drug trafficking, identity theft, human trafficking, money laundering, alien smuggling, public corruption, weapons trafficking, kidnapping, and other illegal activities.

TOC networks exploit legitimate institutions for critical financial and business services that enable the storage or transfer of illicit proceeds. Preventing and combating transnational organized crime demands a concentrated effort by the FBI and federal, state, local, tribal, territorial, and international partners.

As part of our efforts to combat the TOC threat, the FBI is focused on the cartels trafficking narcotics across our border. The FBI has 328 pending investigations linked to cartel leadership and 79 of those investigations are along the southern border. Additionally, the FBI actively participates in 17 Organized Crime Drug Enforcement Task Forces (“OCDETF”) across the United States, investigating major drug trafficking, money laundering, and other high priority transnational organized crime networks. On top of that, we are pursuing healthcare fraud investigations against medical professionals and pill mills through our prescription drug initiative, investigating the gangs and criminal groups responsible for distributing substances like fentanyl through our Safe Streets Task Forces, and disrupting and dismantling Darknet marketplaces that facilitate the sale of counterfeit prescription opioids and other illicit drugs through our Joint Criminal Opioid Darknet Enforcement team.

While the FBI continues to share intelligence about criminal groups with our partners and combines resources and expertise to gain a full understanding of each group, the threat of transnational crime remains a significant and growing threat to national and international security with implications for public safety, public health, democratic institutions, and economic stability across the globe. TOC groups increasingly exploit jurisdictional boundaries to conduct their criminal activities overseas. Furthermore, they are diversifying their use of the Darknet and emerging technologies to engage in illegal activity, such as trafficking illicit drugs and contraband across international borders and into the United States.

Crimes Against Children and Human Trafficking

Every year, thousands of children become victims of crimes, whether it is through kidnappings, violent attacks, sexual abuse, human trafficking, or online predators. The FBI is uniquely positioned to provide a rapid, proactive, and comprehensive response. We help identify, locate, and recover child victims. Our strong relationships with federal, state, local, territorial, tribal, and international law enforcement partners also help to identify, prioritize, investigate, and deter individuals and criminal networks from exploiting children.

But the FBI's ability to learn about and investigate child sexual exploitation is being threatened by the proliferation of sites on the Darknet. For example, currently, there are at least 30 child sexual abuse material sites operating openly and notoriously on the Darknet. Some of these exploitative sites are exclusively dedicated to the sexual abuse of infants and toddlers. The sites often expand rapidly, with one site obtaining as many as 200,000 new members within its first few weeks of operation.

Another growing area of concern involving the sexual exploitation of children is the explosion in incidents of children and teens being coerced into sending explicit images online and extorted for money. Known as financial sextortion, in 2022, law enforcement received over 13,000 reports of this type of crime, resulting in at least 12,600 victims here and abroad, and more than 20 suicides. A large percentage of these sextortion schemes originate outside the United States, primarily in West African countries such as Nigeria and Ivory Coast. The FBI continues to collaborate with other law enforcement partners and the National Center for Missing and Exploited Children to mitigate this criminal activity and provide the public with informational alerts and victim resources regarding these crimes.

The FBI has several programs in place to arrest child predators and to recover missing and endangered children. To this end, the FBI funds or participates in a variety of endeavors, including our Innocence Lost National Initiative, Innocent Images National Initiative, Operation Cross Country, Child Abduction Rapid Deployment Team, Victim Services, over 80 Child Exploitation and Human Trafficking Task Forces, over 74 International Violent Crimes Against Children Task Force officers, as well as numerous community outreach programs to educate parents and children about safety measures they can follow. Through improved communications, the FBI is able to collaborate with partners throughout the world quickly, playing an integral role in crime prevention.

The Child Abduction Rapid Deployment Team is a rapid-response team with experienced investigators strategically located across the country to quickly respond to child abductions. Investigators provide a full array of investigative and technical resources during the most critical time following the abduction of a child, such as the collection and analysis of DNA, impression, and trace evidence, the processing of digital forensic evidence, and interviewing expertise.

The FBI also focuses efforts to stop human trafficking of both children and adults. The FBI works collaboratively with law enforcement partners to disrupt all forms of human trafficking through Human Trafficking Task Forces nationwide. One way the FBI combats this pernicious crime problem is through investigations such as Operation Cross Country. Over a

two-week period in 2023, the FBI, along with other federal, state, local, and tribal partners, executed approximately 350 operations to recover survivors of human trafficking and disrupt traffickers. These operations identified and located 59 minor victims of child sex trafficking, child sexual exploitation, or related state offenses and located 59 actively missing children. Furthermore, the FBI and its partners located 141 adults who were identified as potential victims of sexual exploitation, human trafficking, or related state offenses. In addition to identifying and recovering missing children and potential victims, the law enforcement activity conducted during Operation Cross Country led to the identification or arrest of 126 suspects implicated in potential child sexual exploitation, human trafficking, or related state or federal offenses.

Although many victims of human trafficking recovered by the FBI are adult U.S. citizens, the FBI and its partners recognize that foreign nationals, children, and other vulnerable populations are disproportionately harmed by both sex and labor trafficking. We take a victim-centered, trauma-informed approach to investigating these cases and strive to ensure the needs of victims are fully addressed at all stages. To accomplish this, the FBI works in conjunction with other law enforcement agencies and victim specialists on the federal, state, local, and tribal levels, as well as with a variety of vetted non-governmental organizations. Even after the arrest and conviction of human traffickers, the FBI often continues to work with partner agencies and organizations to assist victims and survivors in moving beyond their exploitation.

Reauthorization of Section 702 of the Foreign Intelligence Surveillance Act

Before closing, I would be remiss if I did not underscore an urgent legislative matter directly relevant to our discussion today. As the committee knows, at the end of December, Section 702 and other provisions of the Foreign Intelligence Surveillance Act (FISA) will expire unless renewed.

Loss of this vital provision, or its reauthorization in a narrowed form, would raise profound risks. For the FBI in particular, either outcome could mean substantially impairing, or in some cases entirely eliminating, our ability to find and disrupt many of the most serious security threats I described earlier in my statement.

I am especially concerned about one frequently discussed proposal, which would require the government to obtain a warrant or court order from a judge before personnel could conduct a “U.S. person query” of information previously obtained through use of Section 702. A warrant requirement would amount to a de facto ban, because query applications either would not meet the legal standard to win court approval; or because, when the standard could be met, it would be so only after the expenditure of scarce resources, the submission and review of a lengthy legal filing, and the passage of significant time—which, in the world of rapidly evolving threats, the government often does not have. That would be a significant blow to the FBI, which relies on this longstanding, lawful capability afforded by Section 702 to rapidly uncover previously hidden threats and connections, and to take swift steps to protect the homeland when needed.

To be sure, no one more deeply shares Members' concerns regarding past FBI compliance violations related to FISA, including the rules for querying Section 702 collection using U.S. person identifiers, than I do. These violations never should have happened and preventing recurrence is a matter of utmost priority. The FBI took these episodes seriously and responded rigorously, already yielding significant results in dramatically reducing the number of "U.S. person queries" by the FBI of the Section 702 database and in substantially improving its compliance rate. Moreover, as we publicly announced in June, the FBI is implementing further measures both to keep improving our compliance and to hold our personnel accountable for misuse of Section 702 and other FISA provisions, including through an escalating scheme for employee accountability, including discipline and culminating in possible dismissal.

Together with other leaders of the Intelligence Community and the Department of Justice, I remain committed to working with this committee and others in Congress, on potential reforms to Section 702 that would not diminish its critical intelligence value. There are many options for meaningfully enhancing privacy, oversight, and accountability, while fully preserving Section 702's efficacy. Doing that will be critical to fulfilling the FBI's continuing mission of identifying and stopping national security threats within the U.S. homeland.

Conclusion

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

Chairman Durbin, Ranking Member Graham, and Members of the Committee, thank you for the opportunity to testify today. I am happy to answer your questions.

Senator Dick Durbin
Committee on the Judiciary on
“Oversight of the Federal Bureau of Investigation”
Questions for the Record
December 13, 2023

Questions for Christopher Wray, Director, Federal Bureau of Investigation

1. At the hearing, I asked you about the FISA Amendments Reauthorization Act of 2018’s requirement that the FBI obtain a court order for U.S. person searches in the narrow subset of cases involving predicated criminal investigations unrelated to national security. At the time, you were unable to explain why the FBI has never obtained a court order to perform a U.S. person search of Section 702 data in this context, despite this requirement being triggered over 100 times according to the Office of the Director of National Intelligence’s Annual Statistical Transparency Reports.

a. Why has the FBI apparently failed to comply with this straightforward statutory requirement over 100 times?

2. Since last year, a handbook has reportedly been circulating among extremists on the messaging platform Telegram that encourages white supremacists to move away from mass shootings, such as the murder of 10 African Americans at Tops Friendly Markets supermarket in Buffalo, New York, and instead focus on targets that “do the most damage to the system and spark revolution and chaos.” The handbook recommends attacks on electrical infrastructure, telecommunications, oil transportation, water lines, and more. At the beginning of the year, the founder of a neo-Nazi group called Atomwaffen Division and his associates were arrested for allegedly conspiring to shoot multiple electrical substations in Baltimore, a majority Black city, during severe weather to, according to U.S. Attorney for the District of Maryland Erik Barron, “completely destroy [the] whole city.” In January 2023, two men were arrested for attacking four power substations on Christmas Day in Washington State. And last December, almost 45,000 people lost power in North Carolina when two substations were attacked.

a. How is the FBI working with its federal, state, and local law enforcement partners to identify and stop coordinated efforts by white supremacists and other violent extremists who are looking to target infrastructure?

3. Recently, the Committee held a hearing examining gun violence as a public health crisis. In 2022, there were more than 48,000 firearm-related deaths in the United States. Guns are now the number one cause of death for American kids and teens.

The Bipartisan Safer Communities Act expanded National Instant Criminal Background Check System (NICS) background checks to include juvenile criminal and mental health records for transactions related to persons under age 21. As of July 2023, NICS had completed over 100,000 enhanced background checks and blocked over 250 purchases

because of the enhanced checks. Still, implementation remains a challenge in many states, and there is a need for more timely reporting of records.

a. What is the FBI doing to ensure states and localities provide complete juvenile records to the NICS system?

4. The Biden Administration has taken several steps to disrupt the spread of so-called “ghost guns,” untraceable firearms that are built privately. Ghost guns are especially attractive to dangerous and prohibited persons. According to the Justice Department’s latest public data, DOJ recovered more than 25,000 ghost guns in 2022.

To curb the proliferation of these firearms, the Biden Administration has issued regulations that require disassembled gun parts to carry serial numbers and require anyone buying these parts online to pass a background check.

a. How has the proliferation of ghost guns changed the threat landscape for domestic terrorism, violent crime, hate crimes, and threats to public officials?

b. How do ghost guns affect the work of the FBI and its law enforcement partners at the state and local level?

5. In 2022, according to the National Law Enforcement Officers Memorial Fund, 64 law enforcement officers were killed in firearm-related fatalities. According to an analysis of FBI data by the Center for American Progress, firearm assaults also constituted the vast majority of assaults against police officers that caused injury in the line of duty from 2011 to 2020—735 out of 999 such assaults, or 74 percent.

High-caliber assault weapons, like the kinds preferred in many of today’s mass shooting incidents, can pierce nearly all kinds of body armor, including those tougher than the ones typically worn by police. Despite overwhelming public support for Congress restricting access to assault weapons, Congress has been unable to achieve the bipartisan support necessary to revive the expired Assault Weapons Ban.

a. How does the prevalence of assault weapons affect law enforcement’s ability to intercept and respond to violent crime?

6. In September, the Government Accountability Office (GAO), completed a new review of federal law enforcement’s use of facial recognition technology (FRT). GAO found that of 196 FBI staff that used FRT, only 10 staff completed any training on the use of the technology. As a result of its findings, GAO made several recommendations, including: (1) a recommendation that the FBI Director implement a training requirement for the use of FRT in the support of criminal investigations; (2) a recommendation that DOJ ensure that components that use FRT comply with DOJ’s policy on privacy; and (3) a recommendation that DOJ develop a plan to issue an FRT policy that addresses safeguards for civil rights and civil liberties.

- a. **Has the FBI implemented a training requirement for the use of FRT in criminal investigations? If so, how does that policy address civil rights and privacy concerns?**

**Questions for the Record of Ranking Member Lindsey O. Graham
FBI Director Christopher Wray
U.S. Senate Committee on the Judiciary
“Oversight of the Federal Bureau of Investigation”
Submitted December 12, 2023**

Importance of CLOUD Act Agreements to combat transnational cyberattacks and other serious crime

1. In 2018, Congress passed the Clarifying Lawful Overseas Use of Data (CLOUD) Act both to make clear that legal process issued under the Electronic Communications Privacy Act could reach data stored outside the United States and to authorize the Department of Justice to enter into executive agreements with qualifying states to seek data directly from technology providers in the respective states without relying on antiquated Mutual Legal Assistance Treaties (MLATs) when investigating serious crime. I strongly supported the legislation because our ability to effectively investigate and prosecute global crime, such as cybercrime, requires close cooperation among allies and quick access to information that may be stored abroad.
 - a. How does the US-UK CLOUD Act Agreement, implemented late last year, benefit the Justice Department in combatting transnational crime, such as cybercrime, child exploitation, illicit use of cryptocurrency and other serious crime? Given that so much criminal activity is occurring across borders—and quick and coordinated responses between the US and our partners are critical—does this agreement advance important law enforcement cooperation with like-minded nations such that we can scale our investigations and benefit from our foreign partners' investigations in a more efficient manner to enhance public safety?
 - b. The Department is currently negotiating an agreement with the European Union. How closely does the FBI and Department work with partners in the EU to combat cybercrime, child exploitation, and other serious crime that transcends borders? What public safety benefits do you anticipate within and outside the EU if those partners are able to obtain critical electronic evidence quickly and not have to wait a year or more for returns from an MLAT?

Digital Evidence

1. When FBI agents are conducting investigations in foreign terrorism, counterintelligence, civil rights, child exploitation, public corruption, or Mexican cartel cases, of all the evidence they are getting, how important is digital evidence?
 - a. Can you give an estimate of what portion of the evidence overall in your cases is digital evidence? Is it 5% or 10% or 20%?
 - b. How well is the Bureau able to access that evidence in the first place, and then make sense of it all in a timely way so that your agents can do what they need to do?

- c. What barriers are agents encountering in trying to access this type of evidence?

Internal Investigation Richmond Field Office

On September 21, 2023, representatives of the FBI and its Inspection Division briefed Senate staff on an internal investigation into the Richmond Virginia Field Office's discredited Domain Perspective concerning Traditionalist Catholics. In response to questions concerning the scope of the internal investigation, FBI personnel acknowledged the following:

- The Bureau did not conduct a root cause analysis to determine what factors led to the troubling Richmond Domain Perspective.
- The Bureau did not review the previous work product (or the personnel file) of the authoring analyst(s), to determine whether there was a pattern or practice of such sub-standard or biased work product by that individual / those individuals.
- The Bureau did not undertake a complete assessment of the Richmond product's dissemination (e.g., who read the report, and what, if anything, they did with the information contained therein).
- In an apparent attempt to determine whether other work product included a problematic analysis of traditionalist religious groups, the Bureau searched its system only for the very narrow term "Radical Traditionalist Catholics."
- The Inspection Division did not look at the disciplinary history, if any, of the authoring analyst(s) or approving supervisors, nor did it make any recommendations for discipline or punishment of the offending individual, but instead outsourced that to the local Richmond Human Resources officials, officials who themselves answered to the Richmond SAC.

Please answer the following questions.

1. Why did the Bureau not review the previous work product (or the personnel file) of the authoring analyst(s), to determine whether there was a pattern or practice of such sub-standard or biased work product by that individual / those individuals?
2. Why did the Bureau not undertake a complete assessment of the Richmond Domain Perspective's dissemination (e.g., who read the report, and what, if anything, they did with the information contained therein)?
3. Why did the Bureau limit its database search to the very narrow term "Radical Traditionalist Catholics" in its apparent attempt to determine whether other work product included a problematic analysis of traditionalist religious groups?
4. Why did the Inspection Division not look at the disciplinary history, if any, of the authoring analyst(s) or approving supervisors?

5. Why did the Inspection Division not make any recommendations for discipline or punishment of the offending individual(s)?

**Senate Judiciary Committee
Oversight of the Federal Bureau of Investigation Hearing
December 5, 2023
Questions for the Record
Senator Amy Klobuchar**

For Hon. Christopher Wray, Director, Federal Bureau of Investigation:

The authorities provided under FISA Section 702 are set to expire at the end of the year, unless Congress acts to reauthorize the program. We know that information obtained through FISA Section 702 has saved American lives, stopped terrorist plots against the New York City subway, and supported efforts to bring ISIS and al-Qaeda senior leadership to justice. We also know that Section 702 data has been used by the FBI to thwart foreign ransomware and cyber-attacks on critical U.S. infrastructure, as well combat fentanyl trafficking by Mexican drug cartels.

- How would a lapse in FISA Section 702 authorities substantially impair or in some cases entirely eliminate the FBI's ability to disrupt threats to the American people?
- What steps has the FBI taken to ensure that it complies with the restrictions Congress has placed on using FISA Section 702 authorities against Americans and how has the Bureau implemented reforms to protect civil liberties?

I am very concerned about the number of violent carjackings we have seen over the last couple of years. In 2022, there were nearly 600 reported carjackings in Minnesota. This year there have been over 275 carjackings reported in Minneapolis alone, including a local civic leader who was carjacked at gunpoint and violently beaten in her driveway in front of her children.

- What is the FBI doing to work with its local, state, and federal law enforcement partners to address the threat that carjacking poses to public safety?

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Director Christopher Wray
Hearing on “Oversight of the Federal Bureau of Investigation”
December 5, 2023

Testimony from Federal Bureau of Investigation (FBI) Director Christopher Wray has established that the FBI purchased commercially available information, or bulk data, of U.S. citizens from private entities. All questions below pertain specifically to data of or about U.S. citizens.

1. How does the FBI define “commercially available information”?
2. How many times has the FBI purchased commercially available information?
3. From what companies did the FBI purchase commercially available information?
4. On what dates did the FBI purchase commercially available information?
5. How much did the FBI pay for each purchase of commercially available information?
6. Do any of the purchases of commercially available information contain geolocation data?
7. Do any of the purchases of commercially available information contain information of website usage or visitation?
8. Does the FBI currently engage in the purchase of any commercially available information?
 - a. If yes, what types of commercially available data does the FBI purchase?
 - b. If no, when did the FBI last purchase commercially available information?
 - c. If no, does the FBI have access to commercially available information purchased by other agencies within the intelligence or law enforcement community?
9. Does the FBI retain the commercially available information it has previously purchased?
10. What policies and procedures are in place for the access to and appropriate handling of commercially available information by FBI employees?
11. Does the FBI have access to commercially available information purchased by other agencies, and, if so, under what policies and procedures?

**Post-Hearing Questions for the Record
Submitted to the Honorable Christopher Wray
From Senator Laphonza Butler**

**“Oversight of the Federal Bureau of Investigation”
December 5, 2023**

On June 24, 2022, the U.S. Supreme Court issued its ruling in Dobbs v. Jackson Women’s Health Organization. In May of 2023, the National Abortion Federation released its 2022 statistics on violence and disruption against abortion providers and clinics. The report shows concerning increases in major incidents like arsons, burglaries, death threats, and invasions. Throughout the country, stalking incidents rose by 229%, burglary rose 231%, and both arson and bioterrorism threats increased by 100%.

Alarming, states that are viewed as “protective states,” in other words, states that continue to safeguard abortion access, saw even greater increases in violence and disruption. This suggests that anti-abortion extremists have shifted their attention to the states where clinics continue to provide abortion services. In protective states, bomb threats increased by 133%, obstruction increased 538%, and stalking increased an unfathomable 913%.

The Bureau also handles cases involving pro-life pregnancy centers.

1. In 2022, how many investigations did the Bureau initiate involving pro-life pregnancy centers?
2. Please provide a succinct breakdown of the nature of the crimes involving pro-life pregnancy centers that the Bureau investigated in 2022.
3. In 2022, how many investigations did the Bureau initiate involving abortion providers and clinics?
4. Please provide a succinct breakdown of the nature of the crimes involving abortion providers and clinics that the Bureau investigated in 2022.
5. The data from the National Abortion Federation suggests that “protective states” are more targeted than states where wholistic reproductive healthcare services are no longer legal. Please provide a succinct breakdown of the Bureau’s strategies, investigative techniques, and resource allocation in cases involving crimes against abortion providers and clinics versus those concerning pro-life pregnancy centers.

Questions for the Record
 Senator Charles Grassley of Iowa
 Oversight of the Federal Bureau of Investigation
 December 11, 2023

1. The Defense Department Inspector General and Homeland Security Inspector General found that the Biden administration failed to vet all Afghan evacuees paroled into this country. At least 50 were deemed potentially significant security concerns, which clearly puts this country at risk.

How many Afghan evacuees deemed a potential national security concern are currently subject to an FBI assessment, preliminary investigation, or full investigation? Does the FBI finally know where each is located since you said you didn't last year?

2. After news of the Richmond FBI's anti-Catholic memo broke early this year, you testified before the House that the memo was "a single product by a single field office."¹ After the House threatened to hold you in contempt for failing to comply with a subpoena related to the memo, FBI provided a less-redacted version, which revealed at least two other FBI field offices provided input into portions of the memo related to investigations conducted under their authority.² This information was redacted in previous versions provided to Congress. Your testimony did not reveal this material information. At the hearing, I questioned you about whether you reviewed the unredacted version of the memo before you testified, and you did not answer that question.³
 - a. Why did the FBI redact this critical information, and did you review the unredacted version before giving your previous testimony?
 - b. When did you first learn that the other field offices were involved in the memo's preparation?
 - c. Why has the FBI continued to supply documents to the House that it has failed to provide to the Senate on this matter, and will you pledge to provide the same information and records to Senate members that you have to the House? If not, why not?

¹ House Judiciary Committee, Hearing on Oversight of the Federal Bureau of Investigation (July 12, 2023), <https://judiciary.house.gov/committee-activity/hearings/oversight-federal-bureau-investigation-0>.

² Letter from The Hon. Jim Jordan, Chairman, House Judiciary Committee, and The Hon. Mike Johnson, Chairman, Subcommittee on the Constitution and Limited Government, to The Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (August 9, 2023), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-08-09-jdi-mj-to-wray-re-catholic-dp.pdf?_gl=1*_lqafsn*_ga*MjQwMzg5MjkxLjE2NzU0MzQ5OTI*_ga_1818ZFEQW81*MTcwMjA1MjUzNi4xOS4xLjE3MDIwNTM5MjQ5MC4wLjA.

³ U.S. Senate Committee on the Judiciary, Hearing, Oversight of the Federal Bureau of Investigation (December 5, 2023), <https://www.judiciary.senate.gov/committee-activity/hearings/12/05/2023/oversight-of-the-federal-bureau-of-investigation>.

3. A report issued by the House Judiciary Committee on December 4, 2023, and the FBI's letter to me on October 27, 2023, revealed that another, external memo was drafted in coordination with the Counterterrorism Division "on the same topic [as the Richmond internal memo]," by one of the two analysts who prepared the Richmond memo, which also calls into question your testimony that the memo was "a single product."⁴ This memo was reviewed by the Counterintelligence Division on February 6, 2023, and was intended for distribution throughout the FBI, and was intended to be released in February 2023.⁵ That publication apparently was only stopped by the public backlash related to the internal product.
 - a. What steps have you taken to determine the content of that proposed external memo and the scope of the Counterterrorism Division's involvement in its production?
 - b. Did the Counterterrorism Division approve the draft of the external product, and what feedback did it provide to the analyst or his/her superiors as to its content? Please provide a copy of that draft memo and a list of officials with titles who were involved in its production, distribution, and approval.
 - c. Did the Counterterrorism Division view the internal Richmond memo? Did the Division ever raise concerns that there was an insufficient link established between traditional Catholics and violent extremism and the fact that the internal memo upon which it was based cited heavily-biased sources, including the discredited Southern Poverty Law Center?
 - d. If the planned external memo "on the same topic" had similar flaws to the internal Richmond memo, has FBI provided additional discipline to the analyst and supervisors, as well as to those in the Counterintelligence Division, for the production of that memo? If not, why not?
 - e. Was this proposed external memo and its contents considered as part of the FBI's internal review? If so, what were the findings, and if not, why not?
 - f. Was anyone at the Counterterrorism Division interviewed as part of the internal review? If so, who?
 - g. Again, given the fact that Congress at the time of your testimony was trying to determine the full scope of the problem, why did you testify under oath that the Richmond memo was a "single product," without revealing at the time that

⁴ Letter from Christopher Dunham, Acting Assistant Director, Federal Bureau of Investigation, to Senator Charles E. Grassley (October 27, 2023), on file with Budget Committee staff.

⁵ House Committee on the Judiciary, Interim Staff Report, *supra* n. 5 at 23.

one of the analysts prepared another product for external distribution “on the same topic” that was planned for release Bureau-wide?

4. The House Judiciary Committee’s December 4 report revealed that Deputy Director Paul Abbate ordered Special Agent in Charge of the Richmond Field Office, Stanley Meador, to delete the Richmond memo as soon as it became public.⁶ The Assistant Director of the Directorate of Intelligence, Ms. Tonya Ugoretz, followed up on that order with instructions to SAC Meador, telling him that, “he needed to notify both the Deputy Director and herself ‘when [he] had taken the necessary steps’ to remove the memorandum, and anything referring to the document, from FBI systems.”⁷ This means that not only were records related to the report’s production and approval not available for your internal review, but they are also not available to Congress. The FBI must answer in detail why Deputy Director Abbate and Assistant Director Ugoretz ordered this deletion, the effects it had on the FBI’s internal review, whether the order was consistent with FBI policy, and whether it was intended to prevent public and congressional scrutiny of the memo and the FBI employees involved in its production, approval, and distribution.
 - a. Did Deputy Director Abbate order the deletion of the materials related to the Richmond memo? If so, why did he issue that order given the obvious need to review what happened and the likelihood of congressional requests for information?
 - b. Did Deputy Director Abbate order the deletion of the memo in addition to materials related to it, or only the deletion of the memo?
 - c. What exactly did Ms. Ugoretz order SAC Meador to do when she called him in follow-up to the order SAC Meador received from Deputy Director Abbate?
 - d. FBI has consistently told Congress that a complete and thorough review was conducted of the Richmond memo. Why did the FBI assure Congress of the thoroughness of its internal review if in fact materials related to the Richmond memo and its approval and distribution were permanently deleted and unavailable for FBI to review?
5. In October, congressional staff, including my former Judiciary Committee staff, were notified six years after the fact that DOJ in September 2017 subpoenaed personal phone

⁶ House Judiciary Comm., Interim Staff Report, *supra* n. 5 at 19-20.

⁷ *Id.* At 20.

records.⁸ At the time, the Judiciary Committee, under my leadership, was seeking answers from the DOJ about Crossfire Hurricane. This raises serious concerns about separation of powers and the interference of the DOJ into the deliberations of Congress and oversight aimed at it.

- a. Are you aware of any action to obtain congressional information, to include members of Congress or their staff, from personal devices or official House or Senate devices, during your tenure as FBI Director? If so, how many are you aware of, and what steps have you taken to ensure constitutional concerns about interference in the work of the Congress are strictly observed?
 - b. Were you consulted, or otherwise aware, that my staff's records were being subpoenaed at the time the subpoena was issued in September 2017, and did you have any role at all in the decision to seek those records?
 - c. Does the DOJ or FBI ever make any informal requests to service providers, social media companies, or other providers for information related to members of Congress or their staff, without obtaining a subpoena or warrant?
 - d. What procedures are followed when information or records are requested for member of Congress or their staff, and do you believe the Justice Manual and FBI's Domestic Investigations and Operations Guide (DIOG) have sufficient safeguards for the constitutional interests involved? To your knowledge, were those procedures followed in the subpoena issued to my staff, and are you aware of any instances where they haven't been followed for such information requests during your tenure as FBI Director?
 - e. My former staff were notified six years after the fact that records were subpoenaed by DOJ. What steps did DOJ or FBI take to prevent my staff from being notified earlier, and why weren't they notified of this intrusion?
6. On January 27, 2023, I wrote to you expressing concern at news reports alleging you summoned your official taxpayer-funded jet 140 times since 2020 for brief flights, as short as six minutes, from the regional airport where it is stored to closer local airports to avoid the 45-minute drive to the storage airport.⁹ I asked for detailed information about the cost of these flights and for records related to these transfers. FBI responded on March 23, 2023, with a brief letter that failed to respond to my requests for information, which claimed you didn't "summon" the jet yourself and that the transfers of your jet

⁸ Letter from Senator Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to The Hon. Michael E. Horowitz, Inspector General, U.S. Dep't of Justice (November 2, 2023), https://www.grassley.senate.gov/imo/media/doc/grassley_to_doi_oig_-_congressional_subpoena.pdf.

⁹ Letter from Senator Charles E. Grassley, Ranking Member, Comm. on the Judiciary, to The Hon. Christopher Wray, Director, Federal Bureau of Investigation (January 27, 2023), on file with committee staff.

were for “operational needs and security requirements.”¹⁰ Because of the FBI’s failure to adequately respond, I wrote to you again on April 3, 2023, reiterating the need for records to verify FBI’s claims, especially records showing these transfers were requested for “operational needs and security requirements,” and if so, what the specific needs and concerns were.¹¹ FBI has not responded to my follow up letter for over eight months.

- a. Did you ever in any way request or order the transfer of your jet from the storage airport to a closer airport for any reason? If so, please list those requests and the reasons you made them for each request.
 - b. What is the total number of times since you became Director that your jet was moved to a closer airport for your travel? For each instance, please describe the reason for the transfer and whether it was to accommodate your official or private travel.
 - c. What was the full cost to taxpayers per flight for moving the FBI’s jet from storage to other area airports? Please provide a detailed accounting for all expenses incurred for each flight.
 - d. How long has this inter-airport transfer been the FBI’s practice? If this practice is longstanding, has the Bureau sought closer storage facilities for the jet? If not, please provide an explanation. Please provide all records related to the FBI’s efforts to secure more efficient and economical storage as well as all DOJ and FBI policies regarding movement of the jet.
7. On September 13, 2023, I wrote you concerning DOJ’s Insider Threat Prevention and Detection Program (Insider Threat Program), and the need to protect the identity of whistleblowers who’ve made disclosures to the Office of Special Counsel (OSC), Inspectors General (IGs), to Congress, and other authorized channels.¹² DOJ regulations broadly defines “insider” as not just DOJ employees but anyone who has met with DOJ personnel or visited a DOJ facility, including non-DOJ federal employees and private individuals.¹³ Once an individual is labeled as an “insider threat,” DOJ’s regulations allow the agency to collect information and records from counterintelligence and security databases, classified and unclassified networks, private entities, and Human Resources

¹⁰ Letter from Christopher Dunham, Acting Assistant Dir., Federal Bureau of Investigation, to Senator Charles E. Grassley (March 23, 2023), on file with committee staff.

¹¹ Letter from Senator Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to The Hon. Christopher Wray, Director, Federal Bureau of Investigation (April 3, 2023), https://www.grassley.senate.gov/imo/media/doc/grassley_o_fbi_-_jet_transfer_follow-up.pdf.

¹² “Department of Justice” refers to DOJ proper as well as its component agencies.

¹³ Vol. 82 Fed. Reg. No. 106 at 25813 (Jun. 5, 2017) <https://www.govinfo.gov/content/pkg/FR-2017-06-05/pdf/2017-11445.pdf>.

employment databases on that individual or their associates which is then stored in DOJ's insider threat database for review and analysis.¹⁴

Reports have raised questions and concerns that DOJ lacks adequate safeguards to ensure legally protected whistleblower communications are not improperly collected and accessed through its Insider Threat Program, including communications with Congress.¹⁵ Reports also indicate that the threat of being investigated as an insider threat out of retaliation can have a serious chilling effect on employees' willingness to lawfully disclose wrongdoing and misconduct.¹⁶

If potential DOJ whistleblowers believe that they will be reported as insider threats, subjected to pretextual investigations, and be suspended without pay and have their security clearances revoked out of retaliation for disclosing waste, fraud, and abuse, they will be intimidated into silence.¹⁷ It is essential that DOJ has the necessary safeguards in place to prevent lawful whistleblower communications from being purposefully or inadvertently monitored and conveyed to agency leadership, the subject of the whistleblower complaint, or other unauthorized individuals.

- a. Have any DOJ or FBI employees who disclosed or were suspected of disclosing allegations of misconduct or wrongdoing been flagged, labeled, or investigated as an insider threat? If so, how many times? Please provide all records¹⁸ contained in the DOJ insider threat database related to these whistleblowers.
- b. Has your agency monitored or are you currently monitoring the communications of DOJ or FBI employees labeled as insider threats for communicating with members of Congress?
- c. What policies, guidance, or similar documents have DOJ and the FBI provided to its employees concerning its Insider Threat Program as it relates to federal whistleblower laws, the anti-gag provision, protecting the identity of

¹⁴ *Id.* at 25814.

¹⁵ Marc Rotenberg, Jeramie Scott, Kim Miller, *Comments of the Electronic Privacy Information Center to the DOJ, EPIC*, at 8 (Jun. 30, 2017) <https://epic.org/wp-content/uploads/2017/06/Comments-EPIC-DOJ-Insider-Threat-Database.pdf>; Scott Higham, *Intelligence security initiatives have chilling effect on federal whistleblowers, critics say*, Washington Post (Jul. 23, 2014) https://www.washingtonpost.com/world/national-security/intelligence-security-initiatives-have-chilling-effect-on-federal-whistleblowers-critics-say/2014/07/23/c9dfd794-0ea0-11e4-8341-b8072b1e7348_story.html.

¹⁶ Jason Leopold, *Do You Drink? Work Odd Hours? The FBI Says You Could Be An "Insider Threat"*, BuzzFeed News (May 16, 2017) <https://www.buzzfeednews.com/article/jasonleopold/how-to-spot-a-leaker-according-to-the-fbi#.aaMmV9rQM>.

¹⁷ Brooke Singman, David Spunt, Elizabeth Pritchett, Sarah Rumpf-Whitten, *FBI employees had security clearances revoked after speaking out against 'politicized rot': House report*, Fox News (May 18, 2023) <https://www.foxnews.com/politics/fbi-employees-security-clearances-revoked-speaking-out-politicized-rot-house-report>; Jerry Dunleavy, *FBI whistleblowers allege 'retaliation' as Democrats cast them as security threats*, Washington Examiner (May 18, 2023) <https://www.washingtonexaminer.com/news/justice/fbi-whistleblowers-retaliation-exposing-political-rot-security-clearances#:~:text=House%20Republicans%20joined%20FBI,a%20%E2%80%99Cnational%20security%20threat,%fE2%80%99D>.

¹⁸ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, recordings or memorialization of phone calls, voicemails, or recordings/records of verbal communications, and any drafts of official documents (whether or not they resulted in final documents).

whistleblowers, and protecting whistleblower communications with OSC, IGs, Congress, and other authorized channels? Please provide all records of the policy and guidance.

- d. How do you prevent unauthorized access to the insider threat database and the dissemination of records to unauthorized individuals? Please explain in detail.
 - e. According to DOJ regulations, Insider Threat Program personnel are required to sign nondisclosure agreements as a condition of employment.¹⁹ Does this nondisclosure agreement contain the anti-gag provision as required by the appropriations laws and the WPEA? Please provide copies of the nondisclosure agreements.
 - f. How many times have DOJ or the FBI reported whistleblowers as insider threats? For each instance, please describe and provide documentation of the corrective actions taken.
 - g. What processes are in place to shield the identity of whistleblowers and their communications with OSC, IGs, Congress, and other authorized channels that are purposefully or inadvertently collected through the Insider Threat Program? Please provide all records illustrating this process.
 - h. Has the FBI accessed, collected, or monitored communications of Members of Congress or their staff through its Insider Threat Program? If yes, provide all records.
 - i. When Members and their congressional staff visit DOJ, FBI, or other components, are any details relating to that visit included in the Insider Threat Program Records database system or similar systems? Provide all records.
8. At the hearing, in regards to the fentanyl crisis facing Americans, you stated that FBI has “over 300 investigations focused on the cartel leadership and them as a source of supply” and “FBI is focusing on the distribution side of it here in the U.S.”

It’s reported that Mexican cartels are directing weapons trafficking from the U.S. to Mexico to support their illicit drug trade, contributing to the fentanyl and opioid crisis here in America.²⁰ Mexican cartels reportedly play a significant role in directing the

¹⁹ Vol. 82 Fed. Reg. No. 106 at 25816.

²⁰ Katie Smith, *Guns used to carry out cartel violence came from the US*, News Nation (Mar. 16, 2023) <https://www.newsnationnow.com/us-news/immigration/border-coverage/guns-cartel-violence-came-from-us/>.

trafficking and smuggling of the nearly 200,000 firearms trafficked from the U.S. into Mexico each year.²¹

- a. What is the FBI doing to prevent the trafficking of U.S. sourced firearms to criminal cartels in Mexico?
 - b. Has ATF shared trace data or other intelligence with the FBI about U.S. sourced firearms recovered at crime scenes in Mexico for the FBI to further its investigations in the U.S.?
 - c. For each year from 2018 to present, how many firearms trafficking investigations has the FBI initiated or supported related to Mexican cartels?
9. At the hearing, I asked you why the FBI has taken over a year to respond to my October 5, 2022, letter requesting data on the sexual misconduct at the FBI and what the agency has done to prevent it. The FBI's blatant lack of action indicates it isn't taking misconduct against women in the workplace seriously. At the hearing, you said "I will follow up with you about your letter." Where is the data?
10. Your written testimony stated that "the FBI is implementing further measures both to keep improving our compliance and to hold our personnel accountable for misuse of Section 702 and other FISA provisions." However, during the hearing you failed to say whether the FBI analysts that conducted four queries of Section 702 information of a U.S. senator and state senator and ran a Section 702 query of a state judge's Social Security Number in violation of FBI policy faced discipline.

The FBI's use of secret court orders obtained behind closed doors to improperly conduct warrantless searches of U.S. citizens is another example of why the American people have lost trust in the Department of Justice and the FBI. If no one is held accountable for these past failures, there is little reliability that this behavior will change in the future.

- a. What corrective action was taken against the FBI analyst who conducted the Section 702 query in violation of FBI policy? If none, why not?
- b. How many times has the FBI conducted warrantless Section 702 searches for Members of Congress or their staff? How many searches were done without following applicable FBI policy?

²¹ Katie Smith, *Guns used to carry out cartel violence came from the US*, News Nation (Mar. 16, 2023) <https://www.newsnationnow.com/us-news/immigration/border-coverage/guns-cartel-violence-came-from-us/>; Brian New, *The I-Team: Mexican drug cartels look to North Texas to smuggle military-grade guns*, CBS News Texas (Oct. 6, 2023) <https://www.cbsnews.com/texas/news/the-i-team-mexican-drug-cartels-look-to-north-texas-to-smuggle-military-grade-guns/>.

11. Since the appalling attacks on Israeli civilians by Hamas terrorists, antisemitic incidents in the U.S. have reportedly risen by almost 400%.²² It's reported that 73% of Jewish college students experienced or saw antisemitic incidents ranging from vandalism to threats of violence since the beginning of the 2023-2024 school year.²³ In your testimony, you stated "We've seen bomb threats to synagogues, threats to attack the Jewish community on campuses and other places. We've had multiple arrests and so it is a real problem."

What is the FBI doing to address the significant increase in antisemitism and antisemitic attacks committed against the Jewish community and on college campuses?

12. On December 8, 2023, I, along with Senate colleagues, wrote to DOJ concerning Chinese Communist Party (CCP) influence at colleges across the U.S. through Chinese Students and Scholars Association (CSSA) student groups.²⁴ The letter includes examples of how these student groups act at the direction, control, and at times financial support of Chinese Consulates and serve as extensions of China's party-state.²⁵ The Foreign Agents Registration Act (FARA) requires individuals to register with the Department of Justice if they act at the behest of a foreign principal to influence U.S. policy or public opinion. There is clear evidence that CSSAs act as an arm of the PRC for the purpose of shaping U.S. policy and public opinion, and the Department of Justice should therefore evaluate whether they are required to register as foreign agents.
- Is the FBI reviewing the potential requirement for these student groups to register under the Foreign Agents Registration Act since they appear to operate under the direction and control of the Chinese government? If not, why not?
 - What actions has the FBI taken to assess whether CSSAs should register under FARA for their work on behalf of the PRC?
 - Has FBI sent either a letter of inquiry or a letter of determination pursuant to FARA to any CSSA chapters regarding their status? Has any CSSA ever requested an advisory opinion in relation to work done on behalf of the PRC for purposes of FARA? If so, please provide a copy.

²² Kanishka Singh, *US antisemitic incidents up about 400% since Israel-Hamas war began*, report says, Reuters (Oct. 25, 2023) <https://www.reuters.com/world/us/us-antisemitic-incidents-up-about-400-since-israel-hamas-war-began-report-says-2023-10-25/>.

²³ Daniel Arkin, *73% of Jewish college students have experienced or seen antisemitism since start of school year*, new survey finds, NBC News (Nov. 29, 2023) <https://www.nbcnews.com/news/us-news/73-jewish-college-students-experienced-seen-antisemitism-start-school-year-rcna127014>.

²⁴ Letter from Senators Tim Scott, Charles E. Grassley, James E. Risch, et al. to Hon. Merrick Garland, Attorney General, U.S. Department of Justice. *CSSA FARA*. (December 8, 2023). See: https://www.grassley.senate.gov/imo/media/doc/scott_grassley_et_al_to_doj_-_cssa_fara.pdf.

²⁵ *Id.* Letter from Senators Tim Scott, Charles E. Grassley, James E. Risch, et al. to Hon. Merrick Garland, Attorney General, U.S. Department of Justice. *CSSA FARA*. (December 8, 2023). See: https://www.grassley.senate.gov/imo/media/doc/scott_grassley_et_al_to_doj_-_cssa_fara.pdf.

- d. What steps has FBI taken to investigate allegations that CSSAs have engaged in transnational repression, harassment, and monitoring of Chinese nationals and diaspora in the United States? If none have been taken, please explain why not.
- e. Are there authorities that FBI assesses as more appropriate than FARA to address CSSA involvement in CCP influence operations? If so, please explain why those authorities are more appropriate, how the FBI is using them, and describe supporting interagency efforts.

13. On December 5, 2023, Reuters published an article that a spokesperson for the National Retail Federation (NRF) said that the organization removed a sentence from its report on organized retail crime published in April after finding that incorrect data was used for its analysis. Specifically, NRF retracted its claim that “organized retail crime” accounts for nearly half of all inventory losses in 2021. The Reuters article goes on to cite that “The research – which was edited in late November, according to NRF’s website – previously stated that ‘nearly half’ of the \$94.5 billion inventory losses reported by retailers in a 2021 survey ‘was attributable to organized retail crime.’” The article goes on to say that this claim was based on two-year-old testimony from Ben Dugan, former president of the advocacy group Coalition of Law Enforcement and Retail. In 2021, he told the Senate Judiciary Committee that organized retail crime accounted for \$45 billion in annual losses for retailers, according to estimates by the coalition.

The FBI assisted in the development of a non-profit Law Enforcement Retail Partnership Network, a secure national database used by retailers to report and share with one another incidents of retail theft and other serious crimes that is available to law enforcement agencies around the country.

- a. Based on the Reuter’s article, along with this secure national database, how serious is organized retail theft?
- b. Does the FBI still assist with the Law Enforcement Retail Partnership Network? If so, what are the statistics (e.g., losses from retailers) for the past three years in the Law Enforcement Retail Partnership Network that is being reported by retailers? If not, why not?
- c. What does the FBI collect from criminal investigations and collaboration from private and public partnerships regarding organized retail theft and how is the information shared in these partnerships?
- d. What are the statistics such as arrests and seizures regarding organized retail theft?
- e. What strides has the FBI made, post the January 3, 2011, story to keep up with trends in the Organized Retail Theft space?

**Questions for the Record for FBI Director Christopher Wray
FBI Oversight Hearing
Senator Mike Lee**

The following questions, numbered 1 through 36, were submitted on August 11, 2022. They have remained unanswered. The dates within the questions reflect the time at which the questions were written. Questions 37 through 64 are new questions following the Committee's oversight hearing on December 5, 2023. Please respond to all questions.

1. How many domestic terrorism investigations does the FBI currently have open under the category of abortion-related violent extremism? Is this an increase over past years? Have any charges been brought so far? Any convictions?
2. I asked you a similar question at the hearing, but you stated that you did not know what specific investigations of pro-abortion activists' attacks on pregnancy centers and churches in the wake of the Supreme Court's leaked opinion in *Dobbs* resulted in any federal prosecutions under the Freedom of Access to Clinic Entrances Act (18 U.S.C. §248). Please provide this information in writing.
3. In October 2021, just five days after receiving a letter from the National School Board Association alleging threats and harassment of school board members, Attorney General Garland issued a memorandum directing the FBI in coordination with the U.S. Attorneys' to convene meetings to "facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers and staff," and to "open dedicated lines of communication for threat reporting, assessment and response." Have you or the Attorney General instructed FBI agents to convene meetings or a task force to address the increase in violent attacks on churches and pregnancy centers following the Supreme Court's leaked opinion in *Dobbs*?
4. In May, whistleblowers reported to House Judiciary Committee Ranking Member Jim Jordan that the FBI's counterterrorism division created the threat tag EDUOFFICIALS and directed agents to apply it to "school-board-related threats." These whistleblowers claimed this threat tag was used to open "at least dozens" of investigations into parents who had protested at their local school board meetings. Are these whistleblower allegations accurate?
5. Did the FBI's counterterrorism division use the threat tag "EDUOFFICIALS"?
6. Considering that over 80 pregnancy centers and churches recently have been fire-bombed by pro-abortion activists, has a threat tag been created for investigations associated with these attacks? (update: as of January 2023, over 50 pregnancy centers and 150 Christian churches have been violently attacked by pro-abortion activists).

7. Has the group “Jane’s Revenge”—which has claimed credit for many of these pro-abortion attacks on churches and pregnancy centers—been investigated or labelled as a domestic violent extremist group? What about the group “Ruth Sent Us”?
8. During last week’s hearing, Senator Cruz asked you about an FBI document titled the Domestic Terrorism Symbols Guide leaked by a whistleblower. I’m troubled that the document contains only symbols associated with conservative or libertarian leaning Americans, but not things like the clenched fist or the antifascist symbol often used by Antifa or other left-wing violent extremist groups. I was surprised to see that this document included a symbol referencing the Second Amendment of our Constitution as an indicator of “Militia Violent Extremism.” Is the FBI investigating or conducting assessments of Americans who publicly express their support the Second Amendment to our Constitution?
9. I am proud to say that in Utah we are home to Teal Drones, one of the innovative American companies working with the Department of Defense in their BlueUAS program to develop safe, American alternatives to Chinese products known to be the cause of serious national security concerns. What actions is the Bureau taking to create a robust domestic drone supply chain and ensure that we aren’t dependent on Chinese products for important mission functions?
10. The 2021 Statistical Transparency Report issued by the Director of National Intelligence estimates that the FBI did not obtain a single Section 702(f)(2) order from the FISC; however, the FBI identified at least four instances where the electronic communications of U.S. persons were illegally searched without the required warrant. How did you find these four instances? How confident are you that there are not more?
11. Was any of the information obtained in these illegal backdoor searches used to prosecute American citizens?
12. Since Section 702 involves the content of electronic communications, should Congress require the FBI to obtain a probable cause warrant when querying the communications of U.S. persons? Would you support additional privacy protections for the content of American citizens’ electronic communications?
13. The 2021 Statistical Transparency Report released by the Office of the Director of National Intelligence (ODNI) reveals that from December 2019 through November 2020, the FBI conducted 1.3 million U.S. person queries under FISA 702 authority. FISA was set up by Congress for foreign intelligence, not to permit the warrantless investigation of Americans. From December 2020 through November 2021, the FBI nearly tripled its U.S. person queries, conducting up to 3.4 million searches. ODNI reports almost 2 million of these recent FBI queries related to Russian cyberattacks against Americans. Does the increasing frequency of cybersecurity incidents mean that the FBI’s U.S. person queries will continue to grow by millions every year?

14. Accepting the cybersecurity explanation at face value, why did the FBI conduct the other million or so U.S. person queries?
15. How many innocent Americans' emails did the FBI read in its millions of searches?
16. Can you assure us that none of these U.S. person queries were used as backdoor searches to set up American citizens for prosecution?
17. Will you commit to reporting to Congress and the American people how many prosecutions of American citizens involved, at any stage, were the result of warrantless U.S. person queries under FISA?
18. The part of section 702 that requires a FISC order for a small subset of backdoor searches only applies to searches conducted in criminal investigations, not assessments, and it doesn't apply if the FBI "determines there is a reasonable belief that such contents could assist in mitigating or eliminating a threat to life or serious bodily harm." Has the FBI conducted warrantless backdoor searches of Americans' communications in assessments?
19. Has the FBI conducted warrantless backdoor searches under the "threat to life or serious bodily harm" exception?
20. If the FBI believes that abortion, immigration, lawful gun purchases, lawful marijuana distribution, activism in support of Second Amendment rights, activism in support of police reform or racial equity present a "threat to life or serious bodily harm," what would prevent it from using backdoor searches to investigate Americans for these beliefs and activities?
21. The Inspector General for the DOJ has [reported](#) that the FBI has agreed to take steps to resolve the [recommendations](#) made by the IG in his September 2021 report for improving oversight of the FBI's adherence to the Woods Procedure and the accuracy of FISA applications. What steps have you taken to ensure the FBI completes these actions to ensure full compliance with the Woods Procedure? Will you detail what steps the FBI still needs to take for the Inspector General to consider their recommendation closed and the progress towards implementing the proposed oversight improvements?
22. The Director of National Intelligence has an important role in overseeing how the FBI utilizes the powers granted to it under the Foreign Intelligence Surveillance Act. Have you taken any action to identify subsequent mistakes or failures by the FBI in applications filed with the Foreign Intelligence Surveillance Court since the Inspector General's report in September 2021? Have you taken any steps independently or with the FBI to prevent such errors going forward?

23. Section 1507 of Title 18 prohibits picketing or parading outside a court or a judge's residence "with the intent of interfering with, obstructing, or impeding the administration of justice or with the intent of influencing any judge, juror, witness or court officer." Protestors outside the justices' homes after the May 2nd leak of the draft majority opinion in *Dobbs* were vocal about the fact that they were attempting to intimidate specific Supreme Court justices purported to join the draft majority opinion to change their position. Have any charges been brought under Section 1507?
24. Has the Attorney General convened a task force on violent threats to Supreme Court Justices?
25. Did you personally sign-off on the FBI's raid of former President Trump's residence at Mar a Lago?
26. Did Attorney General Garland personally sign-off on the FBI's raid of former President Trump's residence at Mar a Lago?
27. Why did FBI agents break into former President Trump's safe rather than seizing it, taking it into custody, and then seeking a warrant to open it?
28. Did the FBI or National Archives and Records Administration (NARA) first seek the items in question either through an informal negotiation process with former President Trump's attorneys or with a subpoena?
29. If the raid is really about the Presidential Records Act, why would a former president—the person in charge of classifying and declassifying documents at the time he obtained them—be subject to prosecution for keeping them?
30. Is it not true that the President of the United States maintains classification authority, not the NARA?
31. Do you plan to publicly disclose the justification for this unprecedented raid on a former president's home?
32. What would you say to Americans who are concerned about the growing political weaponization of federal law enforcement agencies, including the FBI, especially those who are concerned that the FBI has taken no discernible action regarding flagrant violations of the law by Hunter Biden?
33. How is this aggressive action against former President Trump defensible in light of the FBI and DOJ treatment of former Secretary of State Hillary Clinton, who was never subjected to a raid even though she mishandled classified material and destroyed evidence?
34. Why did you wait to carry out the raid until just days after you testified before the Senate Judiciary Committee?

35. At last week's oversight hearing, you claimed that you had a hard stop at 1:30 pm to catch a flight. Ranking Member Grassley asked if there was any way you could stay an additional 21 minutes, but you refused. Press reports indicate that you took the FBI's private Gulfstream 550 jet to the Adirondack Mountains in New York where you own a vacation home. Would you please explain why you could not delay your non-commercial flight by twenty-one minutes?
36. Do you believe that avoiding a 21-minute delay to your vacation is more important than our country's violent crime wave, restoring Americans' trust in the FBI, or being held accountable for the FBI's warrantless surveillance of Americans?

The following questions pertain to your most recent appearance before this Committee on December 5, 2023. Please answer these questions as well.

37. The government is currently conducting Section 702 surveillance under a one-year FISA Court certification that expires in April 2024. Has the government applied for recertification before the FISC? If yes, has the government received a new certification order?
38. Section 404 of the FISA Amendments Act of 2008 states that any order, authorization, or directive issued or made under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended by section 101(a) and by the FISA Amendments Reauthorization Act of 2017, shall continue in effect until the date of the expiration of such order, authorization, or directive. Do you understand this language as allowing the government to continue its current 702 related surveillance until April 11, 2024?
39. One of the concerns that exists regarding a short-term extension of FISA Section 702 is that the government will use that time to go to FISA court and obtain a new certification, giving the government the ability to operate Section 702 for a full year from that point, regardless of whether it is reauthorized by Congress or not. Will you commit to not seeking an additional certification while Congress continues to consider reauthorization?
40. You have claimed that a warrant requirement for "backdoor" searches of Americans' private communications obtained using FISA Section 702 would amount to a "de facto ban" because—as you admitted—agents frequently run queries without probable cause. Warrant requirements have exceptions for exigent circumstances and searches done with the permission of the subject. Your agents navigate these requirements every day when performing criminal investigations. Why couldn't they do the same with Section 702?

41. I'm sorry that you find the Fourth Amendment inconvenient, but isn't the whole point to prevent the raw exercise of the government's power to search our most intimate information, especially for American citizens?
42. In 2022, the FBI and other agencies searched for Americans' communications over 200,000 times, only 16 of which were "evidence of a crime only" searches. The three related batch queries—consisting of over 23,000 separate queries—relating to January 6, were not "evidence of a crime only" queries. The 141 queries for activists arrested in connecting with protesting the death of George Floyd here in Washington DC, were not "evidence of a crime only queries." The query for 19,000 donors to a political campaign were not "evidence of a crime only" queries. Nor were the queries for the sitting members of Congress.
43. How can the FBI conduct what seems to be purely warrantless domestic surveillance of Americans under something other than an "evidence of a crime only" surveillance authority?
44. Under what specific 702 authorization are these queries conducted, if not "evidence of a crime only?"
45. How does an agent determine whether a query should be identified as "evidence of a crime only" or "foreign intelligence information"?
46. Recently, *WIRED* reported on Data Analytical Services (DAS) (formerly known as Hemisphere), a massive and secretive surveillance program funded by the White House that gives law enforcement access to trillions of Call Detail Records with no judicial oversight. Previously released documents indicate that the FBI had access to information collected under this program. Is the FBI still a customer of Hemisphere/DAS?
47. Previously, an OIG report revealed "shocking" violations by the FBI's Communications Analysis Unit (CAU), including embedded telecommunications employees providing the unit with customer records in response to post-it notes. Is this program still active? If yes, please provide a copy of any and all FBI policies governing this program.
48. Does the FBI currently operate any other surveillance program under which a private company provides the FBI access to Americans' communication data?
49. Over the past year, it has been reported that the FBI purchased "netflow data" from a company called Team Cymru. According to public contracts, Team Cymru's product—Augury—can also provide access to sensitive information like email data and data about web browsing activity. Does the FBI currently

purchase data about web browsing activity from Team Cymru or any other contractor?

50. If the answer to the above question is yes, how much does the FBI spend each year on netflow data?
51. Please provide a copy of any and all FBI written policies governing the acquisition and use of netflow data.
52. A recent op-ed by a former FBI agent criticized efforts to rein in the government's purchase of credit header information—which includes individuals' names, current and former addresses, Social Security numbers and phone numbers—from large data brokers, calling it an “antiterror tool.” Does the FBI currently purchase credit header data from data brokers?
53. If the FBI has purchased credit header data from data brokers, how much money does the FBI spend each year on data broker contracts providing credit header data?
54. Please provide a copy of any and all FBI written policies governing the acquisition and use of credit header information.
55. Recent reporting has revealed that government agencies have demanded data on “push notifications” from Apple and Google. These push notifications can reveal “details about who a person is communicating with over a messaging or gaming app, what times they talk and, in some cases, the text of any message displayed in the notification.” Other reporting has shown that a February 2021 FBI search warrant application requested push notification details for an individual accused of involvement in the events of January 6, 2021. For each of the last five years, how many times has the FBI sought push notification details?
56. Please provide a copy of any and all FBI written policies governing the acquisition and use of push notification details.
57. A recent *Wired* report, based on records released through the Freedom of Information Act (FOIA), indicates that the FBI requires local police partners to sign non-disclosure agreements (NDAs) when the FBI aids them in tracking suspects using cell-site simulators (also known as “Stingrays”). According to *Wired*, these NDAs force partners to agree to withhold information about these invasive surveillance tools, even from defendants and their lawyers, should a case arise. The reason for this, according to the FBI, is that disclosure of these Stingrays may allow future suspects to evade detection. How many times has the FBI asked prosecutors or police to drop cases against suspects due to fears of cell-site simulator technology being mentioned in court?

58. Documents show the FBI asks police departments loaned cell-site simulators to take all “reasonably available” means to prevent the device from recording anything but a specific set of information — e.g., dialing, routing, and signaling information. What other types of information are devices of this kind capable of intercepting? Are devices loaned to state and local police capable of intercepting information that goes beyond what they’re legally allowed to obtain?
59. Hackers have demonstrated in the past that stingray devices can be manufactured relatively cheaply and are capable of doing more than intercepting locational information or the content of conversations; that once a phone is convinced of its connection to a legitimate tower owned by a phone company there are numerous other commands that can be fed to the device, and injecting malicious code is certainly possible. Do devices of this kind operated by the FBI have other capabilities beyond those it has specified publicly?
60. The authentication process between cellular devices and base towers is growing increasingly sophisticated. In fact, a widely used attack against cellphones involves forcing the device to downgrade to an older and less secure network in order to further compromise the device. On networks lower than 4G, for instance, a phone must prove to a cell tower that it is genuinely a phone allowed to be on the network; however, the tower doesn’t have to do the same in return — it doesn’t have to prove to the phone that it is real, which makes creating a working fake tower very easy. On modern networks like 5G, do cell-site simulators need to transmit counterfeit codes to people’s cell phones, en masse, in order to work and convince the devices to connect to the simulator?
61. FBI warrants and language provided to police departments by the DOJ to use in warrants for cell-site simulators compare this technology to a “trap and trace” or “pen register device” — what types of information can a “trap and trace” produce vs. a cell-site simulator?
62. A December 5, 2023 report from the House Judiciary, Ways and Means, and Oversight and Accountability committees titled “The Justice Department’s Deviation from Standard Processes in its investigation of Hunter Biden” states, in part, that several key FBI employees afforded special treatment to Hunter Biden. The allegations include slow-walking the investigation, preventing line investigators from taking otherwise ordinary investigative steps, and deliberately allowing the statute of limitations to expire on the most serious potential charges. Who at the FBI is responsible for these decisions? How does the FBI justify the special treatment Hunter Biden received?

63. How many FBI assets were involved in the events of January 6, 2021? Please include the exact number of FBI employees, contractors, or informants who were mixed in the crowd.
64. After homebound, disabled, elderly Utah resident Craig Robertson was killed in a predawn FBI raid of his home on August 9th of this year, his body was displayed publicly on his sidewalk for hours. Is this standard practice for the FBI?

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Christopher A. Wray, Director of the Federal Bureau of Investigation

I. Directions

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. Why have you not answered this Committee's Questions for the Record, sent to you last year, regarding your August 2022 testimony?
 - a. Please see Questions 9-32 that were submitted for your response in August 2022.
2. Does the FBI have the ability to confirm whether Joe Biden was, in fact, seated next to Hunter Biden on July 30, 2017 when Hunter Biden sent a WhatsApp message soliciting millions in bribes from foreign sources?
 - a. Have you ever confirmed whether Joe Biden was seated next to Hunter Biden on July 30, 2017?
 - b. Did you obtain GPS or cell-site information on Joe Biden's cellphone for that date?
 - c. Did you speak to the Attorney General Garland about how the Hunter Biden investigation had been derailed by partisan DOJ officials for political reasons, such as "optics?"
 - d. Are you interested in knowing whether Joe Biden received cash payments, either directly or through a family member, from the People's Republic of China or Ukraine?
 - e. Will you seek this information now?
3. Is the present border crisis putting Americans at an elevated risk of terror attack?
 - a. Is this risk greater or less than it was four years ago?
 - b. Do you feel that ISIS, Hamas, and other terrorist groups are more or less likely to attempt to attack the United States now than they were on January 20, 2021, given the ease in which they can now enter the country?
 - c. What is the FBI doing to identify potential terrorists that have slipped into the country as part of the 1.8 million gotaways?

4. Does the First Amendment of the Constitution permit government officials to impose viewpoint-based censorship and discrimination?
 - a. Is it your position that the government can, constitutionally urge a third party to prohibit speech that the government disagrees with? For example, the government cannot take down a website because the content of the website, say, expressed concern about the COVID vaccine. If the government instructs the webhost or the social media company to do it, is that constitutional?
5. As you well know, the FBI executed a search warrant on President Donald Trump's residence at Mar-a-Lago, on August 8, 2022. Multiple news sources indicate that you personally approved of the decision to execute a search warrant at the Mar-a-Lago home of the former President.
 - a. What other FBI official, other than the Director, would have the authority to approve a search warrant of the home of a former President?
 - b. Did you discuss the execution of this warrant with either the Attorney General, the Deputy Attorney General, or other high-ranking DOJ officials, before August 8, 2022?
 - c. Did you or a member of your staff discuss this matter with Juan Antonio "Tony" Gonzalez, the United States Attorney for the Southern District of Florida, before August 8, 2022?
 - d. Did the Department of Justice have any role in directing the search warrant's execution?
6. The April 2023 Statistical Report produced by the Office of the Director of National Intelligence, states that the number of reported FISA queries on U.S. persons was 852,000 from December 2019 to November 2020, which then increased to nearly 3,000,000 from December 2020 to November 2021, the period that covers January 6th. Finally, the number drops down 96 percent to 119,383 from December 2021 to November of 2022.
 - a. How do you explain the 300 percent increase from 2020 to 2021, which then drops 96 percent the following year in 2022?

- b. Is the three million figure the product of searches done pursuant to the January 6th investigation?
7. Is Stanley Meador, the Special Agent in Charge of the Richmond Field Office that issued the FBI briefing paper that targeted Catholics, still running that office, or has he been demoted?
 - a. Has he been disciplined in any way?
 - b. In the past two years, how many other times has the FBI relied on the Southern Poverty Law Center informational materials in assessing a group's potential risk or criminality?
8. Ahlam al-Tamimi is a mass murderer responsible for a horrific terrorist attack in Israel in 2001, in which a suicide bomber attacked a Sbarro pizzeria, wounding hundreds and killing sixteen people, including three Americans. One of the Americans, Malka Roth, was a young girl. Another, Judith Greenbaum, was pregnant. And Hana Nachenberg, who spent twenty-two years in a coma because of her injuries, died on June 1, 2023. Jordan is harboring al-Tamimi and refusing to extradite her to the United States, claiming our extradition treaty with them is invalid. The United States government across Republican and Democrat administrations disagree.
 - a. Why hasn't she been repatriated to the United States to face justice for her crimes?
 - b. Is the FBI interested bringing a suspected mass murderer and terrorist into American custody?
 - c. Have you made requests to the Jordanian government to secure her extradition?
 - d. If not, what have you done to ensure the Jordanian government meets our requests? Please be specific.
9. Is the FBI continuing to investigate parents and others under the "EDUOFFICIAL" threat tag (or its successor)?

10. In regard to the Gretchen Whitmer kidnapping investigation, the New York Times reported that the FBI paid \$54,000 to the lead informant, Dan Chappell, for six months of work. Is that correct?
11. About 80 percent of all economic espionage prosecutions brought by the DOJ involve conduct that would benefit China. Additionally, China has at least some nexus in around 60 percent of all trade secret theft cases.
 - a. Was the China Initiative necessary to counter economic and strategic threats from China?
 - b. Were you consulted in the decision to end the China Initiative?
12. Does the FBI have a policy of not investigating or enforcing violations of the federal prohibition on the picketing of judges' homes?
 - a. What is the total number of cases brought under 18 U.S.C. § 1507 since January 2022?
 - b. Does the FBI have any concerns that 18 U.S.C. § 1507 is, in any way, unconstitutional?
13. Did you discuss this matter with any individual in the White House?
14. Please list the individuals you consulted or sought advice from in the Department of Justice regarding the search warrant on Mar-a-Lago.
15. Why did you obtain and execute a search warrant rather than seek the evidence through a subpoena or negotiations?
16. What was your justification for executing a search warrant?
17. Did the search warrant involve a violation of the Presidential Records Act (PRA) of 1978, 44 U.S.C. §§ 2201–2209?
18. Did President Bill Clinton remove any presidential records from the White House?
19. Is President Clinton under investigation for violating the PRA, 44 U.S.C. §§ 2201–2209?

20. Did President Barack Obama remove any presidential records from the White House?
21. Is President Obama under investigation for violating the PRA, 44 U.S.C. §§ 2201–2209?
22. How many FBI investigations involve President Donald Trump?
23. Did any investigation related to events on January 6, 2021, factor into your decision to execute a search warrant on Mar-a-Lago?
24. Newsweek reported that “the raid on Mar-a-Lago was based largely on information from an FBI confidential human source.” Accordingly, does the FBI have confidential informants inside President Trump’s organization?
25. Is the FBI investigating President Trump using undercover officers or confidential informants?
26. Did you authorize the use of confidential informants in any investigation involving President Trump?
27. If you did not, what individual at the FBI authorized the use of confidential informants in any investigation involving President Trump?
28. Was Assistant Special Agent in Charge (“ASAC”) Timothy Thibault involved in any decision related to President Trump?
29. Was ASAC Thibault involved in any decision regarding executing the search warrant on Mar-a-Lago?
30. Does the FBI plan to share details regarding the search warrant or the decision to execute the search warrant with the American people?
31. Did you intentionally wait to execute the search warrant until after your oversight hearing with the Senate Judiciary Committee?
32. During your August 4, 2022 testimony to the Senate Judiciary Committee, you stated that you had to depart at 1:30 p.m. in order to board a flight,

resulting in the cutting of an intended second round of questions.

- a. Was the purpose of your travel work-related or personal in nature?
- b. What was your destination?
- c. Did you fly at personal expense, or did you travel in your tax-payer funded private jet?

**Senator Josh Hawley
Questions for the Record**

**The Hon. Christopher A. Wray
Director, Federal Bureau of Investigation**

1. Within the preceding 5 years, at how many Catholic parishes, and in which locations, have FBI agents or their surrogates ever approached staff members of those parishes to ask questions regarding their parishioners or their parishioners' activities?
2. Which FBI agents or other personnel were responsible for the preparation of the Richmond domain perspective regarding traditionalist Catholicism? Please provide a full enumeration.
3. Please provide a full accounting of all records regarding your travel via the FBI jet, as well as your reimbursements for personal use of that jet.
 - a) When you have used the FBI jet for personal travel, have you ever required that the FBI jet fly between Manassas and Washington, D.C.?
 - b) Please detail how you determine the rate at which you reimburse the government for personal use of the FBI jet.

Questions from Senator Tillis
for FBI Director Christopher Wray

Anti-Semitism

1. There has been a dramatic rise of anti-Semitism over the past two months following the terrorist attacks in Israel on October 7. Here in the US, pro-Hamas groups have engaged in dangerous and at-times illegal practices targeted at Jewish people throughout the country. Have any of these pro-Hamas protests occurring in the US crossed the line into terrorism?
2. Over the past several years, the FBI has cited “domestic terrorism” as a priority on multiple occasions. You referenced it in your submitted testimony for this hearing. When it comes to crimes committed by American supporters of Hamas, what factors would be used to determine if they are 1) domestic terrorists, 2) international terrorists, or 3) criminals not classified as terrorists?

FISA

3. Do you agree that Crossfire Hurricane exposed failures in the FISA system?
4. What specific measures have you put in place to prevent misuses of the FISA process in response to Crossfire Hurricane?
5. Do you agree that the Durham Report exposed failures in the FISA system?
6. What specific measures have you put in place to prevent misuse of the FISA process in response to the Durham report?

FACE Act

7. Nearly 70 pro-life pregnancy resource centers have been targeted and vandalized since the leak of the Supreme Court’s Dobbs decision. How many FACE Act cases has the FBI worked on since February 2022 where a pro-life center was attacked?
8. The vast majority of FACE Act prosecutions have been against pro-life individuals. Will you agree that this, at a minimum, creates the appearance of bias and selective prosecution?

Fentanyl

9. Director Wray, as you know, our nation is being poisoned by fentanyl and other deadly narcotics that are pouring in from our open border. Families from all demographics are being impacted and losing loved ones daily.

As of April, 2023, the Centers for Disease Control and Prevention reported that the United States had over 106,000 overdose deaths, which included fentanyl-related deaths during a 12-month period. Can you provide an update on what the FBI has done to disrupt drug operations in the United States?

10. Has the FBI conducted any operations to halt the Chinese Communist Party from importing chemical precursors that are used for fentanyl production?
11. Has FBI coordinated with the DEA and DHS to apprehend members from the Sinaloa Cartel and Jalisco New Generation Cartel who are running drug operations within the United States?
12. Director Wray, where does the FBI stand on designating fentanyl as a weapon of mass destruction?
13. Does the FBI still stand by the July 5, 2018, FBI- IB109 201876- Unclassified Intelligence Bulletin that fentanyl is viable option to be used as a weapon of mass destruction?

Cyber

14. Director Wray, as Co-Chair of the Senate Cyber Caucus, I have an interest in ensuring that our country is protected from cyber-attacks. I understand that the FBI's Cyber Division through the National Cyber Investigative Joint Taskforce (NCIJTF) plays a significant role in preventing and investigating cyber-attacks. What must be done to enhance communications among stakeholders that play a vital role in combatting cyber-attacks?
15. Can you provide an update on what the FBI has one to bring the bad actors to justice and what should Congress do to assist?
16. Last Congress, I was proud to enact the Better Cyber Metrics Act. Can you provide a status update how this meaningful law is assisting the FBI when it comes to cyber cases?
17. Have there been any hurdles in the implementation of the Cyber Metrics Act? If so, what are they.
18. What work has FBI already done to improve data collection for cybercrimes?

19. How is the FBI Cyber division working with intergovernmental partners and with private entities to improve reporting of cyber-crimes?
20. What steps does the FBI take in protecting private data share private entities during cyber incidents?
21. How many cybercrime investigations has the FBI opened in the past calendar year? Are there any prominent trends that have arisen over the last calendar year?

Substation Attack

22. Director Wray, on December 3, 2022, in my home state of North Carolina—two power substations were shot up leading to 45,000 North Carolinians in Moore County to lose power. On January 17, 2023, a third substation was targeted in Randolph County, NC. Director Wray, can you provide a status update on where these two investigations are?
23. On December 1, 2023, reports came out that the FBI is looking for Honda Odyssey van—is this specifically for the Moore County incident? Or both?
24. When can the public expect additional updates on these two incidents?
25. What has the FBI taken away since the Moore County substation attack?
26. Is CESER's response to hazards posed by criminal attacks satisfactory, or is an update to their response needed?
27. What patterns has law enforcement identified between the attacks on the grid?
28. What loopholes exist in information-sharing regulations on grid attacks and threats to the grid?
29. What actions has law enforcement taken to insure intelligence agents, grid operators, and other stakeholders are up to speed on threats to the grid?
30. What recommendations do you have for cost-effective grid hardening techniques?
31. How is law enforcement mitigating the possibility of perpetrators drawing inspiration from one another through grid attacks, fine-tuning strategies to pursue worsening copycat incidents?

Intellectual Property

32. What has the FBI done to curb the spread of economic espionage, specifically regarding the intellectual property (IP) theft of trade secrets?
33. Educating the public on the importance of IP theft is an important first step in combating the problem of IP theft. What has the agency learned from past initiatives, such as the FBI's 2015 campaign "The Company Man: Protecting America's Secrets?"
34. How is the agency currently educating the public on IP theft and how does the agency plan to continue to educate the public on IP theft moving forward?
35. As you may be aware, I introduced the Counterfeit Goods Seizure Act of 2019, which authorizes the U.S. Customs and Border Protection (CBP) to seize goods or packaging entering the U.S. that involve design patent infringement. What is the FBI doing to assist in curbing the import and the sale of counterfeit goods, especially those that pose a health and safety threat?
36. Since the enactment of the Protecting Lawful Streaming Act (PLSA), which I introduced, what has the FBI done in terms of undertaking criminal investigations to identify and ultimately curb the large-scale streaming of copyright material?
37. How has the FBI worked to further strengthen its relationship with the National Intellectual Property Rights Coordination Center (IPRC)?
38. How do you plan to continue to improve the sharing of information across the public and private sectors so as to better combat IP theft?
39. IP rights are central to the growth and dominance of the U.S. economy. What can we do in Congress to help the FBI carry out their mission in terms of protecting IP rights?

BSCA Implementation

40. How many NICS, under-21 background checks have been conducted since enactment of BSCA?
41. Of these checks, how many received a denial solely due to BSCA outreach?
42. Are there any examples or case studies you are able to provide which will inform this committee about how BSCA is saving lives?
43. What are the primary obstacles to implementation of under-21 background checks?

44. What steps should states take to amend their laws to improve processing and ensure Americans' rights are not being infringed?

Miscellaneous

45. I understand that access to state fingerprinting systems based on the National Child Protect Act/Volunteers for Children Act (NCPA/VCA) is being interpreted by the FBI to exclude contractors. Do you have any insight into the origin of or rationale for that interpretation?
46. It looks like the definition of 'covered individuals' proposed under the August 2023 Child Protection Improvements Act (CPIA) rulemaking on Criteria for Designated Entity Determinations is the same as the language in the NCPA. Was that intentional in an effort to continue to exclude contractors?
47. It has been brought to my attention that there are state laws that the FBI interprets to expand the definition to make contractor access allowable. Is that correct? If it is, can you tell me what states are included there, or what language the FBI is looking for?
48. If this is the FBI's interpretation, what is the solution to ensure contractors who have unsupervised access to children receive FBI fingerprinting?

A P P E N D I X

The following submissions are available at:

<https://www.govinfo.gov/content/pkg/CHRG-118shrg62796/pdf/CHRG-118shrg62796-add1.pdf>

Submitted by Senator Whitehouse:

Whitehouse, Hon. Sheldon, February 7, 2023, letter to Hon. Merrick Garland, Attorney General, U.S. Department of Justice	2
Zdeb, Sara, Deputy Assistant Attorney General, U.S. Department of Justice, April 4, 2023, letter to Hon. Sheldon Whitehouse	4
<i>United States v. Charles McGonigal</i> , United States Department of Justice, July 14, 2023, guilty plea agreement between the Southern District of New York and the attorneys for Charles McGonigal	5

