

OF INQUIRY DIRECTING THE ATTORNEY GENERAL TO PROVIDE CERTAIN DOCUMENTS IN HIS POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO THE OCTOBER 4, 2021 MEMORANDUM ISSUED BY THE ATTORNEY GENERAL ENTITLED “PARTNERSHIP AMONG FEDERAL, STATE, LOCAL, TRIBAL, AND TERRITORIAL LAW ENFORCEMENT TO ADDRESS THREATS AGAINST SCHOOL ADMINISTRATORS, BOARD MEMBERS, TEACHERS, AND STAFF”

SEPTEMBER 22, 2022.—Referred to the House Calendar and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 1239]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 1239) of inquiry directing the Attorney General to provide certain documents in his possession to the House of Representatives relating to the October 4, 2021 memorandum issued by the Attorney General entitled “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff”, having considered the same, report unfavorably thereon with amendments and recommend that the resolution not be agreed to.

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The amendments are as follows:

Strike all after the resolving clause and insert the following:

That the Attorney General of the United States is directed to transmit to the House of Representatives, not later than 14 days after the date of adoption of this resolution, copies of any document, record, audio recording, memorandum, call log, correspondence (electronic or otherwise), or other communication in his possession, or any portion of any document, record, audio recording, memorandum, call log, correspondence (electronic or otherwise), or other communication, that refers or relates to the following:

(1) The Memorandum issued by the Attorney General, dated October 4, 2021, and entitled “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff”.

(2) Communication or coordination between the Department of Justice and the Executive Office of the President regarding the Attorney General’s Memorandum, dated October 4, 2021.

(3) Communication or coordination between the Department of Justice and the National School Boards Association regarding the Attorney General’s Memorandum, dated October 4, 2021.

(4) Communication or coordination between the Department of Justice and the National School Boards Association regarding threats at school board meetings or the letter, dated September 29, 2021, from Dr. Viola M. Garcia and Chip Slaven to President Joseph Robinette Biden.

(5) Communication or coordination between the Department of Justice and the Executive Office of the President regarding threats at school board meetings or the letter, dated September 29, 2021, from Dr. Viola M. Garcia and Chip Slaven to President Joseph Robinette Biden.

(6) Communication or coordination between the Department of Justice and United States intelligence agencies referring or relating to alleged threats posed by concerned parents at local school board meetings, the letter dated, September 29, 2021, from Dr. Viola M. Garcia and Chip Slaven to President Joseph Robinette Biden, or the Attorney General’s Memorandum, dated October 4, 2021.

(7) The Federal Bureau of Investigation’s “EDUOFFICIALS” threat tag and investigations labeled with the “EDUOFFICIALS” threat tag.

(8) The total number of parents tagged by the Federal Bureau of Investigation with the “EDUOFFICIALS” threat tag.

(9) The Department of Justice’s Task Force “to determine how federal enforcement tools can be used to prosecute these crimes” and the National Security Division’s role in the Task Force.

Amend the title so as to read:

A resolution of inquiry directing the Attorney General to provide certain documents in his possession to the House of Representatives relating to the October 4, 2021, Memorandum issued by the Attorney General entitled “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff”.

Purpose and Summary

H. Res. 1239 is a non-binding resolution of inquiry that directs Attorney General Merrick Garland to provide certain documents to the House of Representatives relating to the October 4, 2021, memorandum issued by the Attorney General entitled “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff.”

Background and Need for the Legislation

Resolutions of inquiry, if properly drafted, are given privileged parliamentary status in the House. This means that, under certain circumstances, a resolution of inquiry can be considered on the House floor even if the committee to which it was referred has not ordered the resolution reported and the majority party's leadership has not scheduled it for consideration. Clause 7 of House rule XIII requires the committee to which the resolution is referred to act on the resolution within 14 legislative days, or a motion to discharge the committee from consideration is considered privileged on the floor of the House. In calculating the days available for committee consideration, the day of introduction and the day of discharge are not counted.¹ The 117th Congress operated under temporary procedures "that effectively 'turned off' the 14-day deadline" for resolutions of inquiry until July 19, 2022.²

Under the Rules and precedents of the House, a resolution of inquiry is a means by which the House requests information from the President of the United States or the head of one of the executive departments. According to Deschler's Precedents, it is a "simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch."³ Such resolutions must ask for facts, documents, or specific information; they may not be used to request an opinion or require an investigation.⁴ Resolutions of inquiry are not akin to subpoenas; they have no legal force and thus compliance by the Executive Branch with the House's request for information is purely voluntary.

According to a study conducted by the Congressional Research Service (CRS), between 1947 and 2017, 313 resolutions of inquiry were introduced in the House.⁵ Within this period, CRS found that "two periods in particular, 1971–1975 and 2003–2006, saw the highest levels of activity on resolutions of inquiry" and that "the Committees on Armed Services, Foreign Affairs, and the Judiciary have received the largest share of references."⁶ CRS further found that "in recent Congresses, such resolutions have overwhelmingly become a tool of the minority party in the House."⁷

A committee has a number of choices after a resolution of inquiry is referred to it. It may vote on the resolution up or down as introduced or it may amend it, and it may report the resolution favorably, unfavorably, or with no recommendation. The fact that a committee reports a resolution of inquiry adversely does not necessarily mean that the committee opposes looking into the matter. In the past, resolutions of inquiry have frequently been reported adversely

¹ Wm. Holmes Brown, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* ch. 49, Sec. 6, p. 834 (2011).

² Christopher M. Davis, *Resolutions of Inquiry in the House*, CONG. RSCH. SERV. 1 (Jul. 21, 2022), <https://crsreports.congress.gov/product/pdf/IN/IN10661/4>.

³ 7 *Deschler's Precedents of the United States House of Representatives*, H. Doc. No. 94–661, 94th Cong., 2d Sess., ch. 24, § 8.

⁴ A resolution that seeks more than factual information does not enjoy privileged status. Brown, *supra* note 1, at 833–34.

⁵ Christopher M. Davis, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2017*, CONG. RSCH. SERV. R40879, at i (Nov. 9, 2017), <https://sgp.fas.org/crs/secretary/R40879.pdf>.

⁶ *Id.*

⁷ *Id.*

for several reasons. The two most common reasons are substantial compliance and competing investigations.

H. Res. 1239 was introduced by Representative Mike Johnson (R-LA) on July 20, 2022. The resolution seeks information related to a memorandum issued by the Attorney General directing Department of Justice resources to address threats against school administrators, board members, teachers, and staff.

The memorandum that is the focus of this resolution of inquiry notes the “disturbing spike in harassment, intimidation, and threats of violence” against school personnel and calls for a coordinated response to protect against criminal conduct directed toward these dedicated public servants.⁸ Protecting school officials from threats of violence is fundamental to the mission of the Department of the Justice, and the Attorney General should be applauded for supporting those who are responsible for educating our children.

Teachers, school administrators, and local school board officials are being targeted for threats and violence at their homes, in their schools, and throughout their daily lives. For example, a Loudon County, Virginia school board member received a message threatening her children and saying, “I am going to gut you like the fat f--ing pig you are when I find you.”⁹ Later that year, the school board member’s daughter received a letter threatening, “It is too bad that your mother is an ugly communist whore. If she doesn’t quit or resign before the end of the year, we will kill her, but first, we will kill you!”¹⁰ An email to the Loudon County superintendent read, “Your life is being laid bare on the open and dark web. I don’t condone what’s gonna be sent to those close to you or the danger they may be in, but you personally do deserve it.”¹¹

Examples of threats and intimidation directed at educators and school officials can be seen across the country. A Pennsylvania elementary school teacher received a voicemail from a man who threatened sexual violence and death and who said, “Mass of people who know who you are. They will f--ing see your head swinging from a pole.”¹² Board members in another Pennsylvania school district received a slew of racist, antisemitic, and abusive messages, including one that said, “This why hitler threw you c--ts in a gas chamber,” and another threatening, “You better grow eyes in the back of your head motherf--er.” A Virginia woman told members of the Page County school board, “I will bring every single gun loaded and ready” to her children’s school on the following Monday.¹³ A man threatened the president of the Northwest Allen County school board in Indiana that someone would “bag and tag

⁸Memorandum from Merrick Garland, *Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff*, OFF. ATTY GEN. (Oct. 4, 2021), <https://www.justice.gov/ag/page/file/1438986/download>.

⁹Gabriella Borter, Joseph Ax & Joseph Tanfani, *School boards get death threats amid rage over race, gender, mask policies*, REUTERS (Feb. 15, 2022), <https://www.reuters.com/investigates/special-report/usa-education-threats/>.

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³Tim Stelloh, *‘I will bring every single gun loaded,’ parent tells Virginia school officials during mask mandate meeting*, NBC NEWS (Jan. 21, 2022), <https://www.nbcnews.com/news/us-news/-will-bring-every-single-gun-loaded-parent-tells-virginia-school-offic-rcna13144>.

your ass in a parking lot.”¹⁴ A school board official in Brevard County, Florida had protestors outside of her home, yelling, “We’re coming at you like a freight train! We are going to make you beg for mercy. If you thought January 6 was bad, wait until you see what we have for you!”¹⁵ And in North Carolina, school board members were confronted by masked Proud Boy members who said, “someone should tie rocks around [your] necks and [you] should throw [your]selves in a river.”¹⁶

Threats to education officials have also escalated beyond verbal abuse to physical intimidation and violence. In Arizona, three men carrying zip ties stormed into the office of an elementary school principal, threatening to detain her and refusing to leave.¹⁷ An elementary school teacher in Northern California was struck multiple times by a parent, leaving him with bruises and lacerations on his face and head.¹⁸ And a Texas parent assaulted a teacher by getting in her face and ripping her face mask off.¹⁹

This resolution of inquiry seeks to trivialize the legitimate threat facing students, educators, and school officials as part of a concerted attempt to delegitimize the Department of Justice. It also seeks to impede criminal law enforcement activity by requesting documents about potentially ongoing investigations into threats to education officials. The Judiciary Committee will investigate any credible allegations of misconduct by the Executive Branch to the extent such allegations fall within this Committee’s jurisdiction. However, the Committee will not do so through politically charged resolutions of inquiry that could jeopardize the integrity of ongoing investigations.

Hearings

The Committee on the Judiciary held no hearings on H. Res. 1239.

Committee Consideration

On September 21, 2022, the Committee met in open session and ordered the resolution, H. Res. 1239 unfavorably reported with an amendment by a rollcall vote of 17 to 15, a quorum being present.

¹⁴Gabriella Borter, Joseph Ax & Joseph Tanfani, *School boards get death threats amid rage over race, gender, mask policies*, REUTERS (Feb. 15, 2022), <https://www.reuters.com/investigates/special-report/usa-education-threats/>.

¹⁵Jennifer D. Jenkins, *I’m a Florida school board member. This is how protesters come after me.*, WASH. POST (Oct. 20, 2021), <https://www.washingtonpost.com/outlook/2021/10/20/jennifer-jenkins-brevard-school-board-masks-threats/>.

¹⁶Elle Kehres, *Proud Boys’ Presence Leads to Metal Detectors, Deputies at School Board Meetings*, CHAPELBORO (Oct. 12, 2021), <https://chapelboro.com/news/pre-k-12-education/proud-boys-presence-leads-to-metal-detectors-deputies-at-school-board-meetings>.

¹⁷Antonio Planas & Suzanne Ciechalski, *Three men with zip ties confront Arizona principal after student told to quarantine*, NBC NEWS (Sep. 3, 2021), <https://www.nbcnews.com/news/us-news/three-men-zip-ties-confront-arizona-principal-after-student-told-n1278504>.

¹⁸Tasneem Nashrulla, *A California Dad Allegedly Attacked A Teacher Because His Daughter Had To Wear A Mask To School*, BUZZFEED NEWS (Aug. 13, 2021), <https://www.buzzfeednews.com/article/tasneemnashrulla/parent-attack-teacher-mask-mandate-california>.

¹⁹Sarah Asch, *Superintendent: Eanes parent rips off teacher’s face mask*, AUSTIN AM.-STATESMAN (Aug. 17, 2021), <https://www.statesman.com/story/news/local/westlake/2021/08/17/mask-mandate-school-parent-assault-teacher-eanes-school-district/8169047002/>.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following rollcall vote occurred during the Committee's consideration of H. Res. 1239.

1. A motion to report H. Res. 1239 unfavorably to the House passed by a rollcall vote of 17 to 15. The vote was as follows:

Roll Call No. 5

Date: 9/14/22

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Subject: Motion to report H. Res. 1239 unfavorably to the House

 PASSED
 FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)			
Steve Cohen (TN-09)			
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)			
Karen Bass (CA-37)			
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)			
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)			
Mondaire Jones (NY-17)			
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)			
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)			
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)			
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)			
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	17	15	

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of House rule X, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

Pursuant to clause 3(d) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

New Budget Authority and Congressional Budget Office Cost Estimate

Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this resolution.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H. Res. 1239 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H. Res. 1239 directs certain documents from Attorney General Garland related to the Attorney General's memorandum entitled "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff."

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H. Res. 1239 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

Section-by-Section Analysis

The following discussion describes the resolution as reported by the Committee.

H. Res. 1239, a non-binding resolution of inquiry, directs Attorney General Merrick Garland to provide certain documents to the House of Representatives relating to the October 4, 2021, memorandum issued by the Attorney General entitled "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff."

Minority Views

H. Res. 1239 directs Attorney General Merrick Garland to provide the documents and materials previously requested by House Judiciary Committee Republicans in over 100 letters to Departmental components regarding the Department’s use of criminal and counterterrorism resources against concerned parents at school board meetings.¹ To date, the Justice Department has responded with half-page response letters and has not provided any requested documents or substantive information.

Parents have an undisputed right to direct the upbringing and education of their children, especially as school boards attempt to install controversial curricula and propagate a far-left agenda. However, school boards and the radical left refused to listen to these parents. Instead, the National School Boards Association (NSBA) and the Biden Administration coordinated to send a letter equating parents with domestic terrorists. The letter urged the Biden Administration to use the heavy hand of federal law enforcement to target concerned parents at local school board meetings and chill their protected First Amendment activity. Information from the NSBA shows that Justice Department employees coordinated with the White House well in advance of the NSBA’s letter and likely knew—and raised no concerns—that the NSBA letter would urge the use of the Patriot Act to target parents.

Just five days after the NSBA’s letter, Attorney General Garland issued a memorandum directing the FBI and other Departmental components to address a purported “disturbing spike in harassment, intimidation, and threats of violence” at school board meetings. As the result of protected disclosures from brave whistleblowers, we know that the FBI quickly operationalized counterterrorism tools against concerned parents. Parents voicing their concerns at school board meetings are not domestic terrorists. Committee Republicans have repeatedly called on Attorney General Garland to rescind his memorandum, but he has refused to do so.

COMMITTEE REPUBLICANS’ INVESTIGATION

In October 2021, House Judiciary Committee Republicans opened an investigation into the Biden Administration’s misuse of federal law enforcement resources to target concerned parents. Since then, Committee Republicans have sent over 100 letters to Departmental components requesting documents and information related to this investigation.²

¹H. Res. 1239, 117th Cong. (2022).

²See Letter from Rep. Mike Johnson et al, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (Oct. 13, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (Oct. 25, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Mr. E. Bryan Wilson et al, Acting U.S. Atty, District of Alaska (Nov. 1, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Mr. Mark Lesko, Acting Assistant Atty Gen., Nat’l Sec. Division, U.S. Dep’t of Justice (Nov. 2, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Nov. 3, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (Nov. 16, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Nov. 18, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. On the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Feb. 10, 2022); Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (May 11, 2021); Letter from Rep. Jim Jordan et al,

Continued

- October 13, 2021—To Attorney General Garland regarding ethics concerns raised by the issuance of his October 4, 2021 memorandum in relation to his son-in-law’s work.
- October 25, 2021—To Attorney General Garland requesting he rescind his October 4, 2021 memorandum.
- November 1, 2021—To all 93 U.S. Attorneys requesting documents regarding the meetings convened with FBI and local law enforcement at the request of Attorney General Garland’s October 4, 2021 memorandum.
- November 2, 2021—To Acting Assistant Attorney General of the National Security Division Mark Lesko requesting documents and information on the NSD’s role in the Department-wide task force.
- November 3, 2021—To FBI Director Wray requesting documents and information on the FBI’s role in carrying out the Attorney General’s October 4, 2021 directives.
- November 16, 2021—To Attorney General Garland on the completeness of his congressional testimony following whistleblower disclosures on the creation of an EDUOFFICIALS threat tag.
- November 18, 2021—To FBI Director Wray requesting additional documents on threat tags and re-requesting November 3 documents.
- February 10, 2022—To FBI Director Wray regarding FBI’s unresponsiveness to Committee Republicans’ requests.
- February 28, 2022—To Attorney General Garland regarding responsiveness to congressional requests for documents and information.
- May 11, 2022—To Attorney General Garland reiterating requests for information and citing examples of threat tags applied to parents exercising their First Amendment rights.
- June 14, 2022—To Attorney General Garland reiterating requests and noting reported collusion between the Justice Department, White House, and NSBA.

H. Res. 1239 is necessary because the Justice Department has only responded to these requests with two half-page letters, and has not provided any of the requested documents or information.

Committee Republicans requested this information because the Biden Administration is abusing federal law enforcement resources to target concerned parents. In addition, new information from the NSBA shows that Justice Department employees coordinated with the White House well in advance of the NSBA’s letter and likely knew—and raised no concerns—that the NSBA letter would urge the use of the Patriot Act to target parents.³ The NSBA-commissioned report also uncovered communications between Justice Department employees and NSBA staff prior to the release of the October 4, 2021 memorandum, which included sending NSBA staff an advance copy of the memorandum.⁴

Given the Attorney General’s refusal to comply with oversight requests from Committee Republicans, on July 20, 2022, Rep. Mike

Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (Jun. 14, 2022).

³NSBA Final Report at 2.

⁴E-mail from Ms. Alivia Roberts, Special Assistant to the Dir. of Public Affairs, U.S. Dep’t of Justice, to Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat’l School Boards Assoc. (Oct. 4, 2021 4:59 PM).

Johnson introduced H. Res. 1239. On September 14, 2022, the Committee considered H. Res. 1239 at a business meeting. Democrats unfortunately failed to join Republicans in the Committee’s constitutional duty to conduct oversight of the Executive Branch and hold the Biden Administration accountable for targeting America’s parents. Despite the overwhelming evidence of collusion between the Biden Administration and NSBA, Democrats voted to report H. Res. 1239 unfavorably to the House.

COMMITTEE DEMOCRATS’ REFUSAL TO ACKNOWLEDGE THE BIDEN ADMINISTRATION’S ABUSE OF FEDERAL LAW ENFORCEMENT RESOURCES

Despite staggering evidence to the contrary, Democrat Committee Members have continued to push the Biden Administration’s false narrative that the federal law enforcement apparatus is not being used to target and tag parents. At an April 5, 2022 business meeting, Chairman Nadler assured the Committee that he was “confident” that the threat tag would be applied to threats, not to people.⁵ At the same business meeting, Rep. Raskin rhetorically asked, “Does anybody really think that the FBI or the Department of Justice are out investigating parents for participating in school board meetings or speaking about their kids’ education?”⁶ Rep. Cicilline even asserted that the controversy was “made up” by Republicans, saying:

[N]o one has ever suggested that a threat tag should attach to a parent who goes to a school board meeting. No one other than my colleagues on the other side of the aisle who have made up this claim. Mr. Biggs said this whistleblower memo says to label and track parents. That is not true. Mr. Jordan said it is a snitch line on parents. The whistleblower told us that. That is also not true.⁷

Democrats continued this charade when the Committee considered H. Res. 1239 at a September 14, 2022 business meeting. Rep. Cicilline reasserted that this was a “made up story,”⁸ and Chairman Nadler claimed that the Resolution focuses on an “invented scandal.”⁹ Rep. Hank Johnson even went so far as to claim that there is “not one scintilla of evidence” of coordination between the Biden Administration and the NSBA to target parents protesting at school board meetings.¹⁰ However, Rep. Hank Johnson later added a publicly available report to the business meeting’s record—a document that is full of evidence of this collusion.¹¹

ATTORNEY GENERAL GARLAND’S OCTOBER 4 MEMORANDUM AND DOJ TASK FORCE RELATED TO PARENTS AT SCHOOL BOARD MEETINGS

On September 29, 2021, the NSBA sent a letter to President Biden equating concerned parents voicing their opinion at school board meetings as domestic terrorists and urging the Administra-

⁵*Business Meeting: Before the H. Comm. on the Judiciary*, 117th Cong. at 37 (April 5, 2022) (statement of Rep. Jerrold Nadler, Chairman).

⁶*Id.* at 74 (statement of Rep. Jamie Raskin).

⁷*Id.* at 30 (statement of Rep. David Cicilline).

⁸*Id.* at 99 (statement of Rep. David Cicilline).

⁹*Id.* at 167 (statement of Chairman Jerrold Nadler).

¹⁰*Id.* at 112 (statement of Rep. Hank Johnson).

¹¹*Id.* at 139–140 (statement of Rep. Hank Johnson).

tion to exercise its authorities under the Patriot Act.¹² The NSBA letter stated that “malice, violence, and threats” against school officials “could be the equivalent of a form of domestic terrorism or hate crimes.”¹³ The letter cited a number of interactions at school board meetings, the vast majority of which did not involve violence or threats.¹⁴ Notably, as one “example” of alleged domestic terrorism, the NSBA cited an instance in Loudoun County, Virginia, where a father angrily confronted members at a school board meeting about the heinous sexual assault of his daughter.¹⁵

On October 4, 2021, just five days after the NSBA letter, Attorney General Merrick Garland issued a memorandum that directed the Federal Bureau of Investigation and U.S. Attorneys’ Offices to address a purported “disturbing spike in harassment, intimidation, and threats of violence” at school board meetings.¹⁶ The memorandum explained that the Department would be “using its authority and resources to discourage these threats, identify them when they occur, and prosecute them when appropriate.”¹⁷ In a press release announcing the Attorney General’s memorandum, the Justice Department announced that the National Security Division would be part of a Department-wide task force “to determine how federal enforcement tools can be used to prosecute these crimes.”¹⁸ The press release also announced the existence of “open dedicated lines of communication for threat reporting, assessment and response by law enforcement”—in other words, a snitch line for complaints about concerned parents.¹⁹

On October 21, 2021, Attorney General Garland testified before the House Judiciary Committee that the Department and its components were not using counterterrorism statutes and resources to target concerned parents at school board meetings.²⁰ Specifically, he testified that he could not “imagine any circumstance in which the Patriot Act would be used in the circumstances of parents complaining about their children, nor . . . a circumstance where they would be labeled as domestic terrorists.”²¹ He also testified: “I do not think that parents getting angry at school boards for whatever reason constitute domestic terrorism. It’s not even a close question.”²²

Following the Attorney General’s testimony, the NSBA Board of Directors issued a new memorandum to its members apologizing for the letter, stating: “On behalf of NSBA, *we regret and apologize*

¹² Letter from Dr. Viola M. Garcia, President, Nat’l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat’l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).

¹³ *Id.*

¹⁴ *Id.*; see also Caroline Downey, *Vast majority of incidents cited by school-board group to justify federal intervention didn’t involve threats*, NAT’L REV. (Oct. 2, 2021).

¹⁵ *Id.*; see also Jessica Chasmar, *Loudoun County father arrested at school board events says school tried to cover up daughter’s bathroom assault*, FOX NEWS (Oct. 12, 2021).

¹⁶ Memorandum from Atty Gen. Merrick Garland, U.S. Dep’t of Justice, Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).

¹⁷ *Id.*

¹⁸ Press Release, U.S. Dep’t of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

¹⁹ *Id.*

²⁰ *Oversight of the United States Department of Justice: Hearing Before the H. comm. on the Judiciary*, 117th Cong. (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice).

²¹ *Id.*

²² *Id.*

for the letter.”²³ (emphasis in original). Although Attorney General Garland testified that the NSBA letter was the basis for his October 4 directive to insert federal law enforcement into local school board matters, the Attorney General has yet to rescind his memorandum.

COLLUSION BETWEEN THE BIDEN ADMINISTRATION AND NSBA TO CREATE JUSTIFICATION TO USE FEDERAL LAW ENFORCEMENT AGAINST PARENTS

The letter and ensuing Biden Administration action was the product of weeks of discussions between the Justice Department, the White House, and the NSBA. On May 20, 2022, the NSBA released a report it had commissioned to examine the events surrounding its September 29 letter to President Biden.²⁴ This report offered new evidence of how the Justice Department coordinated with the White House to target parents. The report found that the first communications between the NSBA and the White House occurred on September 9, and that the Biden White House closely coordinated with the NSBA on its letter to President Biden.

On September 21—eight days before the NSBA letter—Mary Wall, a Senior Policy Advisor to President Biden, emailed NSBA’s Interim CEO and Executive Director Chip Slaven asking:

Is there any way we can take a look at the letter in advance of release? In specific, I’m meeting with colleagues from other WH offices and DOJ tomorrow morning to see if there might be any options we can pursue here, so if you have concrete recommendations in your letter (e.g., the threat assessment you mentioned), would be good to know so I can include in discussions.²⁵

In response, Slaven emailed Wall a detailed summary of the contents of the letter, which included specific language about the Patriot Act and the use of domestic terrorism tools.²⁶

The NSBA-commissioned report concluded that “White House officials discussed the existence of the [NSBA] Letter, its requests, and the contents of the Letter with Department of Justice officials more than a week before the Letter was finalized and sent to President Biden.”²⁷ In other words, Justice Department officials knew that the NSBA would encourage President Biden to invoke the Patriot Act and domestic terrorism resources against parents, and the Justice Department apparently raised no concern about this effort. The report also noted how President Biden telephoned the then-NSBA president to say he was “appreciative” of the September 29th letter and to invite her to the Oval Office.²⁸

The NSBA-commissioned report also uncovered communications between Justice Department employees and NSBA staff prior to the release of the Attorney General’s October 4 memorandum. The

²³ Memorandum from NSBA Board of Directors, Message to NSBA Members (Oct. 22, 2021).

²⁴ NSBA Final Report.

²⁵ E-mail from Ms. Mary Wall, Senior Policy Advisor to the Pres., Exec. Office of the Pres., to Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat’l School Boards Assoc. (Sept. 21, 2021 10:10 PM) (emphasis added).

²⁶ E-mail from Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat’l School Boards Assoc., to Ms. Mary Wall, Senior Policy Advisor to the Pres., Exec. Office of the Pres. (Sept. 21, 2021 11:26 PM).

²⁷ NSBA Final Report at 2.

²⁸ NSBA Final Report at 5–6, 23.

report found that on October 4, a Justice Department employee contacted Slaven “about steps the Department could take to address the threats referenced in the letter.”²⁹ Justice Department officials and Slaven had a call that afternoon, after which Alivia Roberts, Special Assistant to the Director of Public Affairs, followed up with an email to Slaven that included an advance copy of Garland’s memorandum.³⁰

While the NSBA-commissioned report uncovered pieces of information about the NSBA’s deliberations and its interaction with the Biden Administration, it did not examine the Biden Administration’s decision-making process to use counterterrorism resources to chill parents’ First Amendment rights. As such, key details of this matter remain unknown.

DOJ USING CRIMINAL AND COUNTERTERRORISM RESOURCES TO TAG
AND INVESTIGATE PARENTS

Contrary to Attorney General Garland’s testimony to the Committee, whistleblower information shows that the Justice Department and its components quickly operationalized Attorney General Garland’s directive. On October 20, 2021—the day before Attorney General Garland’s congressional testimony—the FBI’s Assistant Director for the Counterterrorism Division and the Assistant Director for the Criminal Division sent an email referencing Garland’s October 4 directive and notifying FBI personnel about a new “threat tag” created to apply to school board investigations.³¹ The email directed FBI personnel to apply this new EDUOFFICIALS threat tag to all “investigations and assessments of threats specifically directed against school board administrators, board members, teachers, and staff.”³² The email articulated the purpose as “scop[ing] this threat on a national level and provid[ing] an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels.”³³

Information from whistleblowers show that the FBI has opened investigations with the EDUOFFICIALS threat tag in almost every region of the country and relating to all types of educational settings. The information received shows how, as a direct result of Attorney General Garland’s October 4 directive, federal law enforcement is using counterterrorism resources to investigate protected First Amendment activity. For example:

- In one investigation, an FBI Field Office interviewed a mom for allegedly telling a local school board “we are coming for you.” The complaint, which came into the FBI through the National Threat Operations Center snitch-line, alleged that the mom was a threat because she belonged to a “right wing mom’s group” known as “Moms for Liberty” and because she “is a gun owner.” When an FBI agent interviewed the mom, she told the agent that she was upset about the school board’s mask mandates and that her statement was a warning that her organiza-

²⁹*Id.* at 46.

³⁰E-mail from Ms. Alivia Roberts, Special Assistant to the Dir. of Public Affairs, U.S. Dep’t of Justice, to Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat’l School Boards Assoc. (Oct. 4, 2021 4:59 PM).

³¹*Id.*

³²*Id.*

³³*Id.*

tion would seek to replace the school board with new members through the electoral process.

- An FBI Field Office opened an investigation into a dad opposed to mask mandates. The complaint came in through the National Threat Operations Center snitch-line and alleged that the dad “fit the profile of an insurrectionist” because he “rails against the government,” “believes all conspiracy theories,” and “has a lot of guns and threatens to use them.” When an FBI agent interviewed the complainant, the complainant admitted they had “no specific information or observations of . . . any crimes or threats,” but they contacted the FBI after learning the Justice Department had a website “to submit tips to the FBI in regards to any concerning behavior directed toward school boards.”

- In another case, an FBI Field Office opened an investigation into Republican state elected officials after a state Democrat party official accused them of making an “online terroristic threat by politicians against school board members.” This complaint also came into the FBI through the National Threat Operations Center snitch-line. It alleged that one Republican official “incited violence” against school board members by expressing displeasure with school districts’ vaccine mandates.

These investigations into concerned parents were the direct result of Attorney General Garland’s October 4 directive. Each of the cases was initiated following the directive, the complaints came into the FBI through the same snitch-line—the National Threat Operations Center—highlighted in the press release accompanying the October 4 memorandum. One complainant even told an FBI agent that they reported the tip to the FBI because of the snitch-line, despite having “no specific information” about any actual threat. The Justice Department has subjected these moms and dads to the opening of an FBI investigation about them, the establishment of an FBI case file that includes their political views, and the application of a “threat tag” to their names as a direct result of their exercise of their fundamental constitutional right to speak and advocate for their children. This information is evidence of how the Biden Administration is using federal law enforcement, including counterterrorism resources, to investigate concerned parents for protected First Amendment activity.

CONCLUSION

H. Res. 1239 is necessary because Attorney General Garland has refused to rescind his October 4, 2021 memorandum inserting federal law enforcement into local school board matters. It is simply unacceptable for the Biden Administration to use federal domestic terrorism resources to target American parents. The use of these resources chills protected First Amendment activity as parents rightfully fear that their passionate advocacy for their children could result in a visit from federal law enforcement. We strongly

disagree with the Committee's decision to unfavorably report this resolution to the House.

JIM JORDAN,
Ranking Member.

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