

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
judiciary.house.gov

December 2, 2021

The Honorable Jerrold L. Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

We are investigating the troubling attempts by the Department of Justice and the White House to use the heavy hand of federal law enforcement—including federal counterterrorism tools—to target concerned parents at local school board meetings and chill their protected First Amendment activity. Since October, we have sent several letters to the Biden Administration and the National School Boards Association (NSBA) requesting documents and information necessary for our investigation.¹ To date, we have received no responsive material. Therefore, pursuant to Committee rules, we ask that you notice consideration of subpoenas for these documents at the next business meeting.

The information in the public realm and already available to the Committee shows how the Biden Administration colluded with a special interest group to orchestrate a letter urging for federal law enforcement intervention against a set of citizens who opposed the far-left policies favored by the Biden Administration. That letter served as the basis for the Attorney General to weaponize federal law enforcement and counterterrorism tools against those same citizens for exercising their right to direct the upbringing and education of their children.²

¹ Letter from Rep. Jim Jordan et al., Ranking Member, H. Comm. on the Judiciary, to Merrick B. Garland, Att’y Gen., Dep’t of Justice (Oct. 25, 2021); Letter from Rep. Jim Jordan et al., Ranking Member, H. Comm. on the Judiciary, to Dr. Viola M. Garcia et al, President, Nat’l School Boards Assoc. (Oct. 27, 2021); Letter from Rep. Jim Jordan et al., Ranking Member, H. Comm. on the Judiciary, to Mark Lesko, Acting Ass’t Att’y Gen., Nat’l Sec. Division, Dep’t of Justice (Nov. 2, 2021); Letter from Rep. Jim Jordan et al., Ranking Member, H. Comm. on the Judiciary, to Christopher A. Wray, Director, Fed. Bureau of Investigation (Nov. 3, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Dr. Viola M. Garcia, President, Nat’l School Boards Assoc. (Nov. 12, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Chip Slaven, Interim Executive Director and CEO, Nat’l School Boards Assoc. (Nov. 12, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Merrick B. Garland, Att’y Gen., Dep’t of Justice (Nov. 16, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on Education & Labor, to Miguel A. Cardona, EdD, Secretary, Dep’t of Ed. (Nov. 16, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Christopher A. Wray, Director, Fed. Bureau of Investigation (Nov. 18, 2021).

² *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (citing *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)).

On September 29, 2021, the NSBA sent a letter to President Joe Biden requesting help from the federal government with concerned parents voicing their opinions at school board meetings.³ With minimal evidence, the NSBA letter asserted that “malice, violence, and threats” made at school board meetings could be “the equivalent of a form of domestic terrorism or hate crime.”⁴ The NSBA even cited the Patriot Act, the anti-terrorism law passed in the wake of the September 11th attacks, as a potential vehicle to pursue parents.⁵

Contemporaneous emails obtained and released by a grassroots group called Parents Defending Education reveal that the NSBA coordinated its letter in advance with the Biden Administration. In one email dated September 29—the same date as the NSBA letter—the NSBA Interim Executive Director & CEO Chip Slaven wrote:

[I]n talks over the last several weeks with White House staff, they requested additional information on some of the specific threats, so the letter also details many of the incidents that have been occurring.⁶

Similarly, on October 2, the NSBA’s President, Dr. Viola Garcia, wrote that the NSBA had “been engaged with the White House and Department of Education . . . for several weeks now.”⁷ On October 13, less than a month after the NSBA letter to President Biden, the Biden Administration announced that it had appointed Dr. Garcia to be one of five members of a federal education advisory board.⁸

On October 4, 2021, a mere five days after the NSBA sent its letter to President Biden, Attorney General Merrick Garland issued a memorandum that directed the Federal Bureau of Investigation and U.S. Attorneys’ Offices to address the “disturbing spike in harassment, intimidation, and threats of violence” at school board meetings.⁹ In an accompanying press release, the Justice Department indicated it would “open dedicated lines of communication for threat reporting, assessment and response by law enforcement”—in other words, snitch lines for complaints about concerned parents.¹⁰ The press release noted that the Department’s National

³ 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)

⁴ *Id.*

⁵ *Id.*

⁶ Email from Chip Slaven (Sept. 29, 2021, 8:18 p.m.), *available at* https://defendinged.org/wp-content/uploads/2021/10/Email-Correspondence_NSBA-Letter-to-President-Biden_Redacted.pdf.

⁷ Email from Viola Garcia (Oct. 2, 2021, 6:59 a.m.), *available at* https://defendinged.org/wp-content/uploads/2021/10/Email-Correspondence_NSBA-Letter-to-President-Biden_Redacted.pdf.

⁸ Press Release, Dep’t of Education, Five Board Members Appointed to Board Overseeing the Nation’s Report Card (Oct. 13, 2021).

⁹ 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).

¹⁰ Press Release, U.S. Dep’t of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

Security Division, which is responsible for prosecuting terrorism cases, would be part of a task force “to determine how federal enforcement tools can be used to prosecute these crimes.”¹¹

On October 20, 2021, the Deputy Assistant Director of the FBI’s Criminal Investigative Division sent an email to an “FBI_SACS” listserv “on behalf of” the FBI’s Assistant Director for the Counterterrorism Division, Timothy Langan, and the Assistant Director for the Criminal Division, Calvin Shivers.¹² The email referenced the Attorney General’s October 4 memorandum and notified FBI personnel about a new “threat tag” created by the Counterterrorism and Criminal Divisions.¹³ The email directed FBI personnel to apply this new threat tag to all “investigations and assessments of threats” relating to school boards.¹⁴

The following day, October 21, 2021, Attorney General Garland testified before our Committee.¹⁵ During his testimony, Attorney General Garland stated that the Department and its components were not using counterterrorism statutes and resources to target concerned parents at school board meetings.¹⁶ 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.”¹⁷ 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.”¹⁸ The Attorney General also acknowledged that the NSBA letter was the basis his memorandum.¹⁹

On October 22, 2021, following Attorney General Garland’s testimony to our Committee, the NSBA effectively withdrew its letter to the President, writing: “On behalf of NSBA, we regret and apologize for the letter.”²⁰ (emphasis in original). Attorney General Garland, however, has stubbornly refused to rescind his memorandum, and his directive to use the heavy hand of federal law enforcement and federal counterterrorism tools against parents remains in effect.

This information is scandalous and we have good reason to believe that the Biden Administration and the NSBA possess additional material that is necessary and important for our investigation. To date, we have requested documents and information from the Justice Department and its components, the Education Department, the FBI, and the NSBA. None of these entities have cooperated with our requests or have engaged with us in any constructive

¹¹ *Id.*

¹² Email from Carlton Peeples, Deputy Assistant Dir., Criminal Investigative Div., Fed. Bureau of Investigation, to FBI_SACS (Oct. 20, 2021).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Oversight of the United States Department of Justice: Hearing Before the H. comm. on the Judiciary*, 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Memorandum from NSBA Board of Directors, Message to NSBA Members (Oct. 22, 2021).

The Honorable Jerrold L. Nadler

December 2, 2021

Page 4

manner toward fulfilling our requests. We have also repeatedly asked that you convene hearings on the Biden Administration's targeting of parents,²¹ but you have failed to act.

Last Congress, when you aggressively pursued politicized and debunked allegations against President Trump, you promised that the Committee would "not rest" until it obtained the material it sought.²² We ask that you remain consistent in applying this standard. Accordingly, consistent with Committee Rule IV, we request that you notice Committee consideration at our next business meeting of subpoenas to the Biden Administration and the NSBA for the documents we have requested and they have failed to produce. For your convenience, draft schedules of documents to be subpoenaed are attached to this letter.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is stylized and cursive.

Jim Jordan
Ranking Member

Attachment

²¹ See, e.g., Letter from Rep. Jim Jordan et al., Ranking Member, H. Comm. on the Judiciary, to Jerrold L. Nadler, Chairman, H. Comm. on the Judiciary (Oct. 28, 2021).

²² Andre Desiderio & Kyle Cheney, *House Judiciary approves subpoenas for 12 key witnesses, including Jared Kushner*, POLITICO (Jul. 11, 2019).

Attachment
Draft Schedules of Documents to be Subpoenaed

To Dr. Viola Garcia, President, National School Boards Association

1. All documents and communications for the period January 20, 2021, to the present referring or relating to the NSBA's September 29, 2021 letter to President Biden;
2. All documents and communications for the period January 20, 2021, to the present referring or relating to the NSBA's October 22, 2021 memorandum;
3. All documents and communications for the period January 20, 2021, to the present between or among Executive Office of the President employees or staff and any NSBA officer, Board member, delegate, or staff referring or relating to the September 29, 2021 letter or October 22, 2021 memorandum;
4. All documents and communications for the period January 20, 2021, to the present between or among Department of Justice officials or employees, including those at the FBI, and any of NSBA officer, Board members, delegate, or staff referring or relating to the September 29, 2021 letter or October 22, 2021 memorandum;
5. All documents and communications for the period January 20, 2021, to the present referring or relating to the Biden Administration's selection of Dr. Viola Garcia to the National Assessment Governing Board; and
6. Any guidance issued by the NSBA regarding parental engagement at school board meetings.

To Merrick B. Garland, Attorney General, Department of Justice

1. All documents and communications referring or relating to the establishment of the Department's task force and the National Security Division's role as a member of the task force;
2. All documents and communications between employees of the Department of Justice and U.S. intelligence agencies referring or relating to alleged threats posed by concerned parents at local school board meetings, the NSBA's letter dated September 29, 2021, or the Attorney General's memo dated October 4, 2021;
3. All agendas, minutes, and notes created by or relied upon by National Security Division employees referring or relating to the Department's task force;
4. All documents and communications referring or relating to convening meeting(s) in the respective judicial districts in accordance with the Attorney General's October 4, 2021 memorandum; and

5. All agendas, minutes, and notes created or relied upon by U.S. Attorney's Office employees referring or relating to meeting(s) in the respective judicial district in accordance with the Attorney General's October 4, 2021 memorandum.

To Christopher Wray, Director, Federal Bureau of Investigation

1. All documents and communications referring or relating to convening meeting(s) with U.S. Attorneys' Offices in accordance with the Attorney General's October 4, 2021 memorandum, the establishment of the Department's task force, or the FBI's role as a member of the task force;
2. All agendas, minutes, and notes created or relied upon by FBI employees referring or relating to meeting(s) in each judicial district in accordance with the Attorney General's October 4, 2021 memorandum or the FBI's role as a member of the task force;
3. All documents and communications referring or relating to the EDUOFFICIALS threat tag;
4. All documents and communications referring or relating to investigations identified and labeled with the EDUOFFICIALS threat tag; and
5. All documents and communications referring or relating to FBI investigations of school board threats sent or received by the following individuals:
 - a. Carlton L. Peebles, Deputy Assistant Director, Criminal Investigative Division;
 - b. Jay Greenberg, Deputy Assistant Director, Criminal Investigative Division;
 - c. Calvin A. Shivers, Assistant Director, Criminal Division;
 - d. Brian M. Cohen, Criminal Division;
 - e. Timothy R. Langan Jr., Assistant Director, Counterterrorism Division; and
 - f. Kevin Vorndran, Deputy Assistant Director, Counterterrorism Division.

To Miguel A. Cardona, Secretary, Department of Education

1. All documents and communications for the period January 20, 2021, to the present referring or relating to the NSBA;
2. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and any NSBA officer,

Board member, delegate, or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;

3. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and Executive Office of the President employees or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;
4. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and Department of Justice employees or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;
5. All documents and communications for the period January 20, 2021, to the present regarding Viola Garcia's appointment to the National Assessment Governing Board; and
6. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and Executive Office of the President employees or staff regarding Viola Garcia's appointment to the National Assessment Governing Board.