



**FBI WHISTLEBLOWER TESTIMONY HIGHLIGHTS GOVERNMENT  
ABUSE, MISALLOCATION OF RESOURCES, AND RETALIATION**

Interim Staff Report of  
Committee on the Judiciary  
and the  
Select Subcommittee on the Weaponization of the Federal Government  
U.S. House of Representatives



May 18, 2023

## **ATTENTION:**

### **All Justice Department and FBI Employees**

#### **You have a right to speak with Congress**

Every federal employee of the Department of Justice and FBI has an unfettered right to communicate with Congress, without the approval, consent, or awareness of the Department or the FBI. Federal law protects these disclosures.

Whistleblowers are an invaluable source for Congress in identifying, understanding, and remedying waste, fraud, abuse, and mismanagement. The Committee on the Judiciary is charged with conducting constitutional oversight of the Department of Justice and FBI.

Any Justice Department or FBI personnel with information are encouraged to contact the Republican staff of the Judiciary Committee at (202) 225-6906.



## Executive Summary

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The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are charged by the House of Representatives with conducting oversight of the Federal Bureau of Investigation (FBI). Whistleblower testimony from rank-and-file FBI employees is an essential part of this oversight. From accounts provided by these brave and dedicated law-enforcement officers, Congress can better understand, and ultimately address, the serious problems infesting the senior leadership ranks of the FBI. It is clear from these disclosures, and especially in wake of Special Counsel John Durham's report, that the FBI has become politically weaponized.

To date, the Committee and Select Subcommittee have received whistleblower testimony from several current and former FBI employees who chose to risk their careers to expose abuses and misconduct in the FBI. Some of these employees—Special Agents Garret O'Boyle and Stephen Friend, Supervisory Intelligence Analyst George Hill, and Staff Operations Specialist Marcus Allen—have chosen to speak on the record about their experiences.<sup>1</sup> The disclosures from these FBI employees highlight egregious abuse, misallocation of law-enforcement resources, and misconduct with the leadership ranks of the FBI. Among other disclosures:

- The FBI's Washington Field Office (WFO) pressured a field office in Boston, Massachusetts, to open investigations on 138 individuals who traveled to Washington, D.C., to exercise their First Amendment rights on January 6, 2021, with no specific indication that these people were involved in any way in criminal activity. The only basis for investigating these people was that they shared buses to Washington with two individuals who entered restricted areas of the Capitol that day. Rather than limiting the investigation to just the two people who entered restricted areas, the WFO instructed the Boston Field Office to open investigations on *all* 140 individuals who attended the political rally.
- In response to the WFO's pressure to open investigations into all 140 individuals, the Boston Field Office asked the WFO for more evidence, including video from the Capitol, to properly predicate the investigations. The WFO provided pictures of the two individuals inside the Capitol; however, the WFO refused to provide video evidence from the Capitol out of fear it would disclose undercover officers or confidential human sources inside the Capitol.
- Shortly after the events of January 6, 2021, Bank of America (BoA) provided the FBI with confidential customer data—voluntarily and without any legal process. BoA gave WFO a list of individuals who had made transactions in the Washington, D.C. area using a BoA product between January 5 and January 7, 2021. Individuals who had previously purchased a firearm with a BoA product were reportedly elevated to the top of the list.

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<sup>1</sup> Because of the false and defamatory attacks that Democrats on the Committee and Select Subcommittee perpetrated against Friend, O'Boyle, and Hill, Allen initially only consented to speaking with the Committee's majority.

- FBI leadership pressured agents to reclassify cases as domestic violent extremism (DVE), and even manufactured DVE cases where they may not otherwise exist, while manipulating its case categorization system to create the perception that DVE is organically rising around the country.
- The FBI dispenses cash bonuses to local field office leadership for meeting certain arbitrary metrics and performance goals. This bonus structure creates perverse incentives for the FBI to utilize law-enforcement tools and resources where they may not be needed or appropriate in order for FBI leadership to benefit financially.

These FBI employees have come forward to blow the whistle at great personal and professional risk. Each of these whistleblowers described retaliatory conduct that they have faced after making protected disclosures about what they believed in good faith to be wrong conduct. A recurring theme is that the FBI has violated federal whistleblower protection laws and abused its security clearance review process to hamstring the brave agents who exercise their right to make protected disclosures to Congress or who dared to question agency leadership. For example:

- Special Agent O’Boyle made protected disclosures to his Supervisory Special Agent about potentially illegal activity, and the FBI transferred him to a new unit that required him to move his family across-country. When O’Boyle arrived for his first day, the FBI placed him on unpaid, indefinite suspension, effectively rendering his “family homeless” and leaving them without any personal effects—including his young children’s clothing—because these items were in FBI storage.
- Likewise, in Special Agent Friend’s case, the FBI suspended his security clearance after making protected disclosures. This suspension rendered Friend unable to fulfill his duties as a special agent—thus, the FBI suspended him indefinitely. While on suspension, the FBI refused to allow Friend to obtain outside employment, leaving his family without income.
- In Staff Operations Specialist Allen’s case, the FBI suspended his security clearance for simply performing duties of his job—conducting case-related research using open-source news articles and videos and sending his search results to his task force colleagues.

The FBI leadership’s trend toward political partisanship in recent years has disturbed the ranks of front-line FBI agents like O’Boyle, Friend, and Hill. In the words of one whistleblower, the current state of the FBI is “cancerous” as the Bureau has “let itself become enveloped in this politicization and weaponization.” This testimony supplements earlier disclosures from whistleblowers, highlighted in the Committee’s November 2022 report, in which whistleblowers described the FBI’s Washington leadership as “rotted at its core” and having a “systemic culture of unaccountability.”<sup>2</sup>

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<sup>2</sup> H. COMM. ON THE JUDICIARY, FBI WHISTLEBLOWERS: WHAT THEIR DISCLOSURES INDICATE ABOUT THE POLITICIZATION OF THE FBI AND JUSTICE DEPARTMENT (Nov. 4, 2022).

The whistleblowers who have come to the Committee and Select Subcommittee expressed sincere concern about the state of the FBI, but they remained optimistic that the Bureau could improve with “tough love.” That concern and hope for the FBI’s future is fundamentally what motivates these brave whistleblowers: the belief that speaking truth to power, through the right channels, can help to restore the Bureau to what it once was. This report builds on the disclosures of these whistleblowers to assist the Committee and Select Subcommittee in understanding the problems so that Congress may consider potential legislative reforms to America’s preeminent law enforcement agency.

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## **I. FBI Whistleblower Disclosures Show Serious Abuses and Misallocation of Law-Enforcement Resources.**

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American citizens rightfully expect law enforcement agencies at every level to judiciously exercise its powerful authorities and to properly allocate resources—employees, funds, time, and other finite resources—to tackle the most-pressing issues facing the public. This is especially true regarding the law-enforcement apparatus of the United States Department of Justice.<sup>3</sup> However, whistleblower testimony revealed to the Committee and Select Subcommittee that the FBI has abused its authority and egregiously misallocated the resources entrusted to it by American taxpayers.

Particularly, several whistleblowers have described a perverse incentive structure that promises FBI officials financial reward if they can justify opening more cases and meet other investigative metrics as set by officials in Washington. Such an incentive structure is dangerous because the FBI is a powerful law-enforcement agency engaged in the “often competitive enterprise of ferreting out crime.”<sup>4</sup> It is axiomatic that the FBI should pursue its mission without fear, favor, or expectation of financial profit. The public record is replete, however, with instances of the FBI failing to meet this standard.<sup>5</sup> Meanwhile, whistleblower testimony has also uncovered that the agency is engaging in the practice of ordering its agents to classify, and in a number of cases, reclassify, particular investigations as involving “domestic violent extremism” in efforts to merely support political talking points that the number of such cases is “on the rise.” These whistleblower allegations are disturbing, and this section details specific whistleblower testimony about these serious matters.

### **A. The FBI’s Cash Bonus System Creates Perverse Incentives to Use Law Enforcement Tools for Leadership’s Financial Benefit and Not Legitimate Law Enforcement Needs.**

Whistleblowers have described a “disconcerting aspect of the FBI”—that is, Special Agents-in-Charge (SACs) around the country are eligible to “get a monetary bonus at the end of the year if they meet metrics.”<sup>6</sup> Indeed, according to testimony, SACs often keep computer spreadsheets that list performance metrics that the FBI then relies upon to dispense bonuses to these SACs.<sup>7</sup> These metrics appear to be arbitrarily assigned, and in some cases self-determined by the SAC. This reward structure creates perverse incentives in which law-enforcement tools and resources are expended for the financial enrichment of FBI leadership instead of a legitimate law-enforcement basis.

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<sup>3</sup> *Principles of Federal Prosecution*, U.S. DEPT. OF JUSTICE, 6 Fed. Sent. R. 317, 317 (1994) (Federal law enforcement’s “priorities are designed to focus federal law enforcement efforts on those matters within federal jurisdiction that are *most deserving of federal attention* and are *most likely to be handled effectively at the federal level.*” (emphasis added)).

<sup>4</sup> *Johnson v. United States*, 333 U.S. 10, 14 (1948).

<sup>5</sup> See generally H. COMM. ON THE JUDICIARY, FBI WHISTLEBLOWERS: WHAT THEIR DISCLOSURES INDICATE ABOUT THE POLITICIZATION OF THE FBI AND JUSTICE DEPARTMENT [hereinafter “FBI WHISTLEBLOWER REPORT”].

<sup>6</sup> Transcribed Interview of Mr. Garret O’Boyle at 120 (Feb. 10, 2023) (hereinafter “O’Boyle Interview”).

<sup>7</sup> *Id.*

Special Agent Garret O'Boyle explained to the Committee and Select Subcommittee that he had concerns about the potential for abuse in this incentive structure, particularly as they apply to surveillance techniques. He testified:

Q. And are you aware of these self-created performance metrics?

A. So to some degree, I am. . . . And I think a large driving factor in the FBI is to meet those metrics. And I think that raises grave constitutional concerns to be saying to law enforcement officers, you have to go and do X, Y, and Z so the boss gets his bonus. Nobody comes out and says it that way, but when you get the spreadsheet where—or the SAC Excel spreadsheet is red in these categories, we've got to fix it, we've got to do this and that to get it back up to green and then to gold so he gets his bonus. Nobody is saying it that way, but that certainly is what is implied.

Q. And what are the metrics?

A. There's a wide range of them. . . . [O]ne that I do have personal experience with is . . . Title III wiretaps, or FISAs, or other sophisticated—sophisticated techniques. That's what they're called. . . . [A]t the beginning of the year the SAC's metric might be, get three Title IIIs. And it's like, how do you know you're going to get three? And what if you don't get three? Well, then you're not marked gold in that category. So I think that that leads to a pervasive culture of not letting the case dictate where the investigation goes, but it's the manager or the agent pushing for a certain avenue of where a case goes.<sup>8</sup>

Indeed, O'Boyle recalled a specific instance in his career in which he and a co-case agent were not-so-subtly impressed into the profit-seeking service of their then-SAC. He testified:

And me and my co-case agent, a [Task Force Officer] who had been there for years, we had a meeting with my boss. It was Sonia Garcia at the time. And we were talking about this Title III affidavit that I'm writing—or that me and [Task Force Officer] are writing. And we wrap up the meeting, and she says, you guys, I really need this Title III. And it struck me as odd. So we walked out of the office. And I was like, [Task Force Officer], can we go to the conference room? And so we went in there and talked. And I was like, what did she mean, like, I really need this Title III? And he started laughing. And he's like, you'll see. . . . And he told me, like, there are metrics

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<sup>8</sup> *Id.* at 121.

that need to be met, and then your boss or their boss can write to that, oh, while I was the supervisory resident or supervisory special agent, I had a Title III on this case. And they can write to that on what's called an FD-954, which is . . . your internal resume that you have to submit when you want to get promoted. And it's like, oh, she really needed that because it helps her get promoted. And then it also helps the SAC because then he's got a Title III for his Excel spreadsheet. So he's one Title III closer to being gold in that way and then getting his bonus. And I would say, like, by and large—I mean, a Title III, you listen to people's phone calls. . . . [T]hat's an extreme measure to take. And now with the FBI saying, get this arbitrary number of Title IIIs because then the big boss gets his bonus? Like, that's not how law enforcement should be working.<sup>9</sup>

O'Boyle testified that although that is “not how law enforcement should be working,” it was commonly understood in the FBI that special agents did well to meet these metrics so that their bosses could receive a financial bonus.<sup>10</sup> The bonus structure was not only “common knowledge,” but a source of humor and speculation within the Bureau.<sup>11</sup> George Hill, a former FBI Supervisory Intelligence Analyst, testified to the Committee and Select Subcommittee that SACs would joke about the bonus while FBI personnel would speculate about how much money the SAC would receive as a bonus.<sup>12</sup> But as O'Boyle made clear, there is nothing funny about an incentive structure that “leads to a pervasive culture of not letting the case dictate where the investigation goes,” but allowing arbitrary metrics to guide the allocation of law-enforcement assets and resources.<sup>13</sup>

The pressure felt by field agents to hit metrics for their SACs even affected real-world law enforcement operations in the field. Special Agent Stephen Friend testified that he once was asked to “space out” arrests on different days so that the arrests would count as nine separate data points. He explained:

- Q. And as a special agent, when you were asked to either make an arrest or push an arrest off for a couple months, would you describe it as an environment of pressure to hit the metrics?
- A. Yes. I was told on one instance where there were nine subjects on a case that if I arrested them all in the same day it would count as one disruption statistic. But if I arrested one each day for nine straight days, it would count as nine statistics, so I should space out those arrests.

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<sup>9</sup> *Id.* at 121-22.

<sup>10</sup> *Id.* at 124.

<sup>11</sup> Transcribed Interview of Mr. George Hill at 56 (Feb. 7, 2023) (hereinafter “Hill Interview”).

<sup>12</sup> *Id.*

<sup>13</sup> O'Boyle Interview at 121.

Q. So would you say that the pressure to hit the metrics, did it cause you to make changes to how you were doing your law enforcement duties?

A. Yes.<sup>14</sup>

It is concerning—to the say the least—that these perverse financial incentives affect the way in which FBI agents undertake their law enforcement duties. However, testimony from another whistleblower, Staff Operations Specialist Marcus Allen, also highlighted the disturbing practical effects of these incentives, which leads to unethical and inaccurate FBI documentation. Specifically, Allen explained how the FBI management will demand that employees manipulate time-keeping records to create the perception that a particular office is working more than it is on a particular matter. As he explained:

A. So I've observed in the workplace, like, on more than one year where it's like, someone from management will come down and they'll say, "Everybody, TURK<sup>15</sup> this." And so all the investigators will be like, no matter what case it is, it's like, "Well, I guess we're TURKING this now," and they'll just literally all TURK that number, like, regardless of what they may have really worked on. It seems to me they're trying to meet whatever the number that's desired is, you know, and if they're short of that, then it's like, "Everybody, from this point forward, TURK this . . . ."<sup>16</sup>

O'Boyle's testimony further supported Allen's assertion about manipulating time-keeping records to hit certain metrics, particularly in the context of domestic terrorism cases. In his transcribed interview, O'Boyle explained:

Q. Given your experience with domestic terrorism cases, I want to ask you about some information that the committee has learned regarding domestic terrorism cases and domestic violent extremism. So we have learned that the Biden administration's narrative about the FBI's work on domestic violent extremism — abbreviated as DVE — cases may be misleading. We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their superiors. For example, one whistleblower claimed that, because agents are not finding enough DVE cases, they are

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<sup>14</sup> Transcribed Interview of Mr. Stephen Friend at 126 (Feb. 15, 2023) (hereinafter "Friend Interview").

<sup>15</sup> "The FBI uses the Time Utilization and Recordkeeping (TURK) system to record time spent by most FBI field office personnel on various types of investigative matters." *The Internal Effects of the Federal Bureau of Investigation's Reprioritization, Chapter 3: Resource Utilization and Casework*, OFFICE OF THE INSPECTOR GEN. (Sept. 2004), <https://oig.justice.gov/reports/FBI/a0439/ch3.htm#:~:text=The%20FBI%20uses%20the%20Time,various%20types%20of%20investigative%20matters.>

<sup>16</sup> Transcribed Interview of Mr. Marcus Allen at 63 (May 8, 2023) (hereinafter "Allen Interview").

encouraged and incentivized to reclassify cases as DVE cases, even though there's minimal circumstantial evidence to support the reclassification. Do you have any information regarding the reclassification of cases as DVEs?

- A. I would have to think about that further because I don't remember exactly where I heard this from. But in the FBI, we classify our cases—we call it a TURK code. TURK is, like, time, utilization, and record keeping. So there's, like, an alphanumeric code for every type of case, every type of investigation you work . . . I can't recall exactly, but I learned at some point that FBI agents were being directed to reclassify 170—I think it was 176 cases, so that would be domestic cooperation with police—to reclassify any of those into some type of domestic terrorism case. But, again, I don't remember if I heard that secondhand or if that was something I learned at work. I guess along that same line, as a DT agent, I encountered similar stat padding or case bolstering, in that I had a case—and I'll try not to get into too many details because I think it might still be open, but I don't know. It's a case I was trying to wrap up before my transfer. And truth be told, it was one case. But the FBI had me open up four different cases because they had me open a case for every individual that I had an articulable, factual basis that there may have been potential federal law being violated. And when I first got these cases, I'm like because I initially—they were transferred to me from another agent. And I think it was, like, two at the time. And I asked my boss, I was like, why do I have—these are the same. Like, everything I wrote, . . . everything I did, I started putting into all four cases because they were really just one case. Where, like, on a criminal case, say you were working, like, a gang, which this case was, I guess, like, a militia, if you're working, like, a gang, you have a case open on the gang, and you have a subfile for each person in it. Like, John Doe one, two, and three, they would all have their own subfile. Where in my case, John Doe one, two, three, and four all had their own separate case because then the FBI can—from my perspective—the FBI can come back to Congress and say, look at all the domestic terrorism we've investigated. Where, really, I was working one case. But the FBI can then say, well, he actually had four, and so we need you to give us more money because look at how big of a threat all this domestic terrorism is. So that's just my personal experience with that.

- Q. So it was the usual practice that if there were multiple individuals involved with one case, you may open a subfile for each individual? Is that correct?
- A. If you're working traditional criminal matters, yes. But I believe it's policy on the CTD side to open up all these separate cases, when in reality then that's just—they're just obscuring the truth and the facts. Like, all my guys that I was working on were related. They should have just been in one case. But they weren't because—
- Q. Who gave you the directions, Mr. O'Boyle, to open four cases in that matter rather than categorize all that conduct in one case?
- A. So, sir, I don't know if anybody even gave me a specific direction. It was more like, this is the policy . . . .<sup>17</sup>

American citizens deserve to know that their tax dollars are being spent on necessary investigations pervasive to their local communities. As this whistleblower testimony demonstrates, the FBI is rife with unnecessary and potentially unethical enticements that direct agents to not only lie about the types of cases on which they work but reward such FBI leadership for such deception.

**B. The FBI Is Reclassifying and Manufacturing Domestic Violent Extremism Cases to Advance a Political Narrative that These Cases Are on the Rise.**

Whistleblowers assert that the FBI pressured agents to reclassify cases as domestic violent extremism (DVE), and even manufactured DVE cases where they may not otherwise exist, while manipulating its case categorization system to feign a national problem. At a time when the Biden Administration maintains that DVE is the “greatest threat” facing the United States,<sup>18</sup> the FBI appears to be complicit in artificially supporting the Administration’s political narrative.

The FBI defines a DVE as “an individual 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 seeks to further political or social goals wholly or in part through unlawful acts of force or violence.”<sup>19</sup> According to the Biden Administration, investigations into DVEs have increased “significantly” in recent years.<sup>20</sup> In August 2022, FBI Director Wray testified

<sup>17</sup> O'Boyle Interview at 91-93.

<sup>18</sup> *The Way Forward on Homeland Security: Hearing Before the H. Comm. on Homeland Sec.*, 117th Cong. (2021) (statement of Hon. Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec.).

<sup>19</sup> FED. BUREAU OF INVESTIGATION AND DEP’T OF HOMELAND SEC., STRATEGIC INTELLIGENCE ASSESSMENT ON DATA AND DOMESTIC TERRORISM AT 2, NOTE 3 (MAY 2021) [hereinafter “FBI STRATEGIC INTELLIGENCE ASSESSMENT”].

<sup>20</sup> *Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 117th Cong. (2021) (testimony of Hon. Christopher A. Wray, Dir., Fed.

before the Senate Judiciary Committee that “[t]he number of FBI investigations of suspected DVEs has more than doubled since the spring of 2020.”<sup>21</sup>

According to Hill, however, the pressure on FBI agents to meet metrics also contributed to the manipulation of DVE data. Hill explained how then-Washington Field Office ASAC Timothy Thibault and the FBI’s former Assistant Director of the Counterterrorism Division Jill Sanborn pressured agents to move cases into the DVE category to hit self-created performance metrics.<sup>22</sup> Indeed, according to Hill, Director Wray and Assistant Director Sanborn set a “tone” to encourage agents “to identify opportunities where cases could be tagged as domestic terrorism threats.”<sup>23</sup> In a transcribed interview with the Committee, however, Sanborn denied this environment of pressure, testifying:

Q. And during your time at the FBI, are you aware of any instances where an agent has been told to reclassify a case?

A. Not that I can recall, no.

Q. Any instance where an FBI agent was pressured to reclassify a case?

A. Not that I can recall.

Q. During your time at the FBI, do you know if there is an—was an initiative to prioritize DVE cases?

A. . . . But there is a process for prioritizing threats, and I think it’s a yearly if not biyearly process, very mindful process, that takes into account a lot of different things. And it’s very intelligence based. It’s something that I believe is done well on the heels of the lessons we learned from 9/11 to not base prioritization just on volume of cases. So when I came in that’s how priorities got set in field offices, was the squad that had the most cases. And so I think this process that’s rooted in intelligence then gives you how the cases should be ranked—I mean, how the cases—how the threats should be ranked. And going through that process definitely during my time as [Assistant Director], and I believe I saw some of this as [Executive Assistant Director], made the DVE threat

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Bureau of Investigation); Hon. Merrick B. Garland, Atty Gen., Domestic Terrorism Policy Address at U.S. Dep’t of Justice (June 15, 2021).

<sup>21</sup> *Oversight of the Federal Bureau of Investigation, Hearing Before S. Comm. on the Judiciary*, 117th Cong. at 2 (2022) (statement of Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation).

<sup>22</sup> Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (July 27, 2022); *see also* Letter from Reps. Jim Jordan & Mike Johnson, H. Comm. on the Judiciary, to Ms. Jill Sanborn, Senior Dir. Of Geopolitical Strategy & Risk Analysis, Roku Inc. (Aug. 10, 2022).

<sup>23</sup> Hill Interview at 18.

fall more elevated on that continuum than it maybe would've been 5 years ago.<sup>24</sup>

Still, Hill recalled that ASAC Thibault's "level of excitement" at the prospect of targeting a "growing segment of our population" as domestic terrorists was, in his words, near "hysterical."<sup>25</sup>

According to whistleblower information, the FBI has manipulated the manner in which it categorized January 6-related investigations to create a misleading narrative that domestic terrorism is organically surging around the country. Ordinarily, the FBI characterizes and labels cases according to the originating field office, with leads "cut" to other field offices for specific assistance in that geographic location.<sup>26</sup> With January 6 cases, however, the FBI has not followed its ordinary procedure, which would have resulted in the WFO leading the investigation and categorizing the investigations as WFO cases.<sup>27</sup> In particular, Friend disclosed that:

Q. So, per policy in the DIOG, or the Domestic Investigations and Operations Guide, is it correct that FBI agents ordinarily label full investigations case files according to the originating field office?

A. Yes.<sup>28</sup>

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Q. So, if the field office is cut a lead or sent a lead, is that field office then referred to as the lead office under the DIOG?

A. Yes.

Q. So, for example, if a Federal crime occurs in Texas, would the originating field office be in Texas?

A. Yes.<sup>29</sup>

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<sup>24</sup> Transcribed Interview of Ms. Jill Sanborn at 25-6 (Feb. 1, 2023) (hereinafter "Sanborn Interview").

<sup>25</sup> *Id.* at 34-37, 99. Notably, Thibault resigned from the FBI in disgrace after credible allegations surfaced that he attempted "to thwart a criminal investigation into Hunter Biden." Caroline Downey, *Top FBI Agent Resigns after Allegedly Thwarting Hunter Biden Investigation: Report*, NAT'L REV. (Aug. 30, 2022). He "was escorted out of the Washington field office by at least two 'headquarters-looking types.'" *Id.*

<sup>26</sup> Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Sept. 19, 2022).

<sup>27</sup> FBI WHISTLEBLOWER REPORT at 10.

<sup>28</sup> Friend Interview at 12.

<sup>29</sup> *Id.*

Q. And for full investigations opened into the events that occurred at the Capitol on January 6, 2021, would the originating field office for those investigations be the Washington Field Office?

A. Yes.

Q. And if investigative actions outside of D.C. are required, would or should the WFO case agent then cut a lead to the appropriate FBI field offices?

A. Yes.

Q. And, following January 6th, to your knowledge, did the FBI set up any kind of task force within headquarters or the WFO to work on January 6th investigations?

A. Yes.

Q. Can you describe that task force? Was it in headquarters or the WFO?

A. The WFO. And it was staffed by employees who worked in WFO as well as TDY, temporary duty agents, from around the Bureau.

Q. Do you know who was in charge of the task force?

A. I don't.

Q. Okay. And since the events occurred in Washington, D.C., it is natural that the WFO would handle the investigations?

A. Yes.

Q. During your tenure at the Daytona Beach Resident Agency, were you ever assigned January 6th cases?

A. Yes.

Q. And during your tenure at the FBI, did the FBI follow this regular procedure with regards to January 6th investigations for labeling cases?

A. No.

Q. How did the handling of January 6th investigations deviate from the regular procedure?

A. We received leads from headquarters, from the task force working out of Washington, D.C., with directives to carry out certain investigative actions, in assumption that we were going to be opening cases from our office as the originating office. Then we would perform tasks and send that information back to Washington, D.C., for their approval or for their request for more work to be done and then ultimately for their decision on how to pursue a case, whether or not to prosecute it.<sup>30</sup>

Friend also explained that although the field offices are carrying out the directives from WFO, the agents in WFO are actually determining and approving the investigative tactics. He explained this manner of running investigations was a deviation from standard practice. He testified:

Q. ... So, instead of following the regular case file management procedure, the WFO is directing other field offices to open full investigations, and then the WFO is performing and approving the investigative work. Is that an accurate characterization?

A. Yes.

Q. So, if January 6th cases are handled in this manner, does it appear on paper that local field offices instead of the WFO are the originating field offices?

A. Yes.

Q. And that deviates from the standard practice?

A. Yes.

Q. And, to your knowledge, is this only happening with January 6th cases?

A. Yes.

Q. How were your assigned January 6th cases handled? Were they handled in this similar way, where the WFO would tell you what to do and open cases?

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<sup>30</sup> *Id.* at 12-13.

- A. Yes.
- Q. Were you told or pressured by the WFO to open full investigations?
- A. We were told to open full investigations and that they would populate them with paperwork or case file work that was pertinent to that particular case.
- Q. So, if you completed investigative steps, would you have to report back to the WFO on what you had done?
- A. Yes.
- Q. And would they tell you if you needed to do more investigating?
- A. Yes.
- Q. And what if you didn't believe that there was enough of a predicate to continue to investigate? Did you still have to investigate?
- A. I was told that we could push back as much as we wanted but they would continue to send us additional requests to perform more work.
- Q. And "they" meaning agents at the WFO?
- A. Yes.
- Q. Were you ever provided any insight as to why January 6th cases were handled in this manner?
- A. Yes.
- Q. And what was that insight that you received?
- A. I was told that there was a coordination call very early on after January 6th, during which there was representatives from all around the country, and the question was posed as to why this protocol was being followed, and that they were told that it was to get buy in from the field.<sup>31</sup>

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<sup>31</sup> *Id.* at 15-16.

- Q. Do you know when this coordination call happened?
- A. I was told it was in the immediate aftermath, so I was under the belief that it was probably within a week or two.
- Q. Did you get an understanding of who was on this coordination call?
- A. Yes. I was told that it was people from all around the Bureau who were going to be charged with primarily investigating the cases.
- Q. Okay. So it included WFO people and agents from across the country in different field offices?
- A. Yes.
- Q. And do you know what the substance — what was discussed on that call?
- A. That's the only fact that I know that was discussed on that particular call. But in my inquiries, I was told that these coordination calls were going on quite frequently in the aftermath of January 6th.<sup>32</sup>

Friend explained that the FBI's manner of handling January 6-related investigations in a way that deviated from standard practice created a false impression with respect to the threat of DVE nationwide. He testified:

- Q. And, to your knowledge, does managing or labeling case files in this way create a false and misleading narrative that domestic violent extremism is increasing around the country?
- A. Yes.
- Q. Does this, in turn, give the impression that the threat of DVE is present in jurisdictions around the Nation even though the cases all stem from the same related investigation?
- A. Yes.<sup>33</sup>

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<sup>32</sup> *Id.* at 16-17.

<sup>33</sup> *Id.* at 17.

Worse yet, the FBI prioritized DVE cases over other criminal investigations such as those involving child exploitation. As Friend testified:

Q. And you said that you became a member of the Joint Terrorism Task Force at the Daytona Beach Resident Agency in October of 2021. Is that correct?

A. Yes.

Q. Is it correct to say that you were reassigned from investigating child exploitation cases to work on domestic terrorism cases?

A. Yes.

Q. Were those cases specifically related to January 6th?

A. Yes.

Q. And how was that communicated to you?

A. There was a phone call from the assistant special agent in charge to my supervisor at the time, and he said that the new fiscal year approaching, that they were going to be resourcing manpower differently and that I was going to be reassigned from my current assignment to the JTTF. My supervisor asked about the investigations that I was working, and the ASAC said that those are to be considered a local issue going forward.<sup>34</sup>

From Friend's testimony it is clear that although the local field offices appear to be running the cases on paper, the WFO was directing the field office special agents to "open the case" in their geographic area.<sup>35</sup> Meanwhile, the WFO was performing and approving "all of the investigative work and paperwork for the casefile."<sup>36</sup> Friend described how "there are active criminal investigations of January 6th subjects in which I am listed as the 'Case Agent,' but have not done any investigative work" and his supervisor "has not approved any paperwork within" those investigative files.<sup>37</sup> This deviation from established practice has an obvious motive: it allows the FBI to support the Biden Administration's narrative that domestic terrorism is on the rise by claiming that "[t]he FBI is a field-based law enforcement organization, and the vast

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<sup>34</sup> *Id.* at 8-9.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

majority of our investigations should continue to be worked by our field offices,” while, in reality, running the investigation from Washington.<sup>38</sup>

By deviating from standard practice, the FBI has given itself a pretext to claim the DVE threat is rising nationwide.<sup>39</sup> Friend disclosed:

The manipulative casefile practice creates false and misleading crime statistics. Instead of hundreds of investigations stemming from a single, black swan incident at the Capitol, FBI and DOJ officials point to significant increases in domestic violent extremism and terrorism around the United States.<sup>40</sup>

In other words, the FBI’s case categorization creates the illusion that FBI field offices around the country are investigating a groundswell of domestic terrorism cases, giving the impression that the threat of DVE is present in jurisdictions across the nation. The reality is simpler: the cases all stem from the same related investigation concerning the actions at the Capitol on January 6. This scheme permits the FBI leadership to misleadingly point to “significant” increases in DVE threats nationwide.<sup>41</sup>

According to O’Boyle, the FBI classified “every single January 6th case . . . as a domestic terrorism case.”<sup>42</sup> And yet hundreds of those cases were resolved as “petty crimes,” such as “trespassing and disorderly conduct.”<sup>43</sup> O’Boyle testified:

[T]he FBI holds [the January 6th investigation] up as the biggest investigation that it’s ever had. So if you’re categorizing all of them as domestic terrorism cases, yeah, they would double. But I think it’s kind of a misnomer to say that because the vast majority of those, at least in my experience, we would get leads related to those, and we’d work the leads and then send back to [WFO], who was running—kind of running everything, like, hey, this lead, you know, it’s unfounded or it is founded.<sup>44</sup>

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<sup>38</sup> Letter from Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation, to Hon. Michael Horowitz, Inspector Gen., U.S. Dep’t of Justice (Dec. 6, 2019).

<sup>39</sup> Hill Interview at 23 (noting that FBI leaders “need to create the perception that these cases are all over the country and in numbers that the [Threat Review and Prioritization process] needs to reflect some sort of mitigation plan attached to it”).

<sup>40</sup> FBI WHISTLEBLOWER REPORT at 10-11.

<sup>41</sup> See, e.g., *Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 117th Cong. (2021) (testimony of Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation); see also *Oversight of the Federal Bureau of Investigation: Hearing Before H. Comm. on the Judiciary*, 117th Cong. (2021) (statement of Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation); Hon. Merrick B. Garland, Atty Gen., Domestic Terrorism Policy Address at U.S. Dep’t of Justice (June 15, 2021). (“The number of open FBI domestic terrorism investigations this year has increased significantly.”).

<sup>42</sup> O’Boyle Interview at 124-25.

<sup>43</sup> Alan Feuer, *Prosecutors Move Quickly on Jan. 6 Cases, but One Big Question Remains*, N.Y. TIMES (Jan. 5, 2022).

<sup>44</sup> O’Boyle Interview at 104.

O'Boyle further recalled one example in which he was pressured to pursue an unreliable and uncorroborated tip related to January 6 that normally would not have been pursued. He explained:

- Q. Do you know, did the WFO pressure other field offices to keep January 6th cases open or open cases?
- A. I would say they pressured us to open cases to some degree. One example that I have personally . . . . But I received a lead about someone based on an anonymous tip, and in law enforcement anonymous tips don't hold very much weight, especially without evidence that you can corroborate pretty easily. I wasn't able to corroborate anything they said, even after speaking with the person they alleged potential criminal behavior of. While I'm trying to figure all that out, I get another lead from the same agent who sent me that lead. And they essentially tried to get me to violate policy or law.<sup>45</sup>

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And after talking to her, my mind was blown that she was still trying to get me to do some legal process on the guy that I got the anonymous tip on. Because there was no rational explanation that anybody could come up with, especially with the additional information I had found, that would have permitted me to do legal process even if I wanted to. And so I ended up writing that all up and denying it. But that was a personal example for me where it was like, okay, this has gone way off the rails here.<sup>46</sup>

Similarly, Friend testified:

- Q. . . . I want to go back to the treatment of these January 6 cases. You talked about information packets that the Washington Field Office would send out around the country. Could you give me a sense of the categories of evidence that would be included in those packets?
- A. It would have information with photographs of surveillance footage tied to social media, facial recognition, to ensure that it matched with the individual's, say, their Facebook profile. It would be GPS information for the person's phone. And that information was provided by the phone providers to the FBI. And they were able to geolocate geo fence if that

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<sup>45</sup> *Id.* at 102-03.

<sup>46</sup> *Id.*

phone was in the area. It included tips that came in through the public at large. In the aftermath of January 6th, there was a large push to get that information, so many, many people made phone calls or provided electronic communications to turn in who they thought were subjects. It could be anything from—confidential human sources might be able to provide some information. So that would all be assembled into a packet and disseminated to the field to pursue investigative—logical investigative action.<sup>47</sup>

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Q. And just so I understand this, in these packets, you observed information regarding confidential human sources?

A. Yes.

Q. Can you explain what happened when you went and spoke to that individual who there was no facial recognition indicating they were in the Capitol?

A. Yes. It was an anonymous tip from Rhode Island. Facial recognition was negative. The phone was negative. At that point, I said, it's probably it's not worth resourcing because we can't pursue an investigation, even if the person confesses to being there, because we don't have a complainant on this case. And I was told that, yeah, we got those all the time, especially right after January 6, and you have to go talk to them; otherwise, Washington is going to keep kicking it back to us. So I went and talked to him and knocked on his door, identified myself, and asked him if he was at the Capitol, and he told me that he wasn't because that was the day of his son's funeral. So I gave him my business card and I left.<sup>48</sup>

Likewise, with respect to manipulating the data on the January 6 investigation, Friend testified:

A. By opening a separate case for each individual as opposed to one case with however many subjects are involved, they've turned one case into a thousand cases. And by spreading them to the field they've given the impression that those domestic terror cases are around the country when, in fact, the subjects, if they committed any sort of violation or

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<sup>47</sup> Friend Interview at 107-08.

<sup>48</sup> *Id.* at 108-09.

infraction, they committed a crime at the Capitol on one day as opposed to being a cell that's operating in El Paso or Cleveland.<sup>49</sup>

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Q. And, to your knowledge, does managing or labeling case files in this way create a false and misleading narrative that domestic violent extremism is increasing around the country?

A. Yes.

Q. Does this, in turn, give the impression that the threat of DVE is present in jurisdictions around the Nation even though the cases all stem from the same related investigation?

A. Yes.<sup>50</sup>

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Q. Do you agree that manipulating the case file system in this way allows the FBI to support Director Wray's December 2019 assertion that the FBI is a, quote, "field-based law enforcement organization," end quote?

A. Yes.<sup>51</sup>

By manipulating the classification of January 6 investigations, according to Hill, Director Wray and FBI leadership "encourage[d] the use of DVE tags" and "create[d] the perception that [DVE] cases are [on the rise] all over the country. . . ."<sup>52</sup> O'Boyle put a finer point on the FBI's manipulation of case files. When asked about the FBI's deviation from practice related to the January 6 investigation, he testified:

Q. And is this how cases are normally handled?

A. No. I've never seen that before.

Q. Why do you think the FBI is handling the cases in this manner given your experience?

A. I think it goes back to making that threat appear larger than

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<sup>49</sup> *Id.* at 131.

<sup>50</sup> *Id.* at 17.

<sup>51</sup> *Id.* at 18.

<sup>52</sup> Hill Interview at 23, 36.

it actually is, and then WFO kind of . . . being at the head of everything to try to ensure, as best they can, how the direction of a particular case will go.

- Q. And so if the main event occurred in Washington, D.C., and then now there's cases opening across the country, would it then look like there are domestic terrorism cases popping up across the country if this is how the FBI is handling?
- A. Yes, that is how it would look.<sup>53</sup>

The nature of this manipulation has not been lost on the rank and file of the FBI. As Friend testified:

- Q. [W]hy did it concern you that the FBI was padding the stats on the [January 6] cases with this practice you've testified to of keeping matters open without any real law enforcement utility?
- A. For two reasons. I was worried that we were violating our rules and individuals' rights, and that could contribute to us essentially losing righteous prosecution against an individual, as well as being violative of their civil liberties. And, secondly, I believe . . . that the FBI is supposed to exist for maintaining law and order, and if we are creating the illusion that domestic terrorism is on the rise around the country, it's going to make people nervous, and it's going to contribute to a very toxic environment where we might be shifting the Overton window to the extent that half the country might be cut out of a constructive dialogue.<sup>54</sup>

This testimony from these FBI whistleblowers is concerning. The FBI is pressuring agents to classify cases as DVE matters and manipulating data to advance a political narrative that domestic extremism is on the rise—and that everyday Americans in neighborhoods around the country are part of that growing threat. The FBI has diverted resources from investigating violent criminal enterprises, major drug traffickers, and international sexual predators and human traffickers to prioritize “domestic extremists”—roughly translated, according to the President's own words, as the half of the country that does not support his political views and policies.<sup>55</sup> This misallocation of law-enforcement priorities should concern all Americans.

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<sup>53</sup> O'Boyle Interview at 181.

<sup>54</sup> Friend Interview at 47-48.

<sup>55</sup> Remarks, The White House, Remarks by President Biden on the Continued Battle for the Soul of the Nation (Sept. 1, 2022).

### C. The FBI's Washington Field Office Pressured the Boston Field Office to Investigate Americans Solely for Traveling to Washington, D.C. on January 6.

The Committee has obtained information suggesting the FBI's push to advance an artificial narrative that domestic terrorism is on the rise is infringing on Americans' constitutional liberties. From whistleblower disclosures to publicly available information, it appears that with the newfound emphasis on fighting domestic violent extremism, the FBI sees signs of domestic terrorism wherever it looks.

Retired Supervisory Intelligence Analyst Hill provided one insightful example. According to Hill, two individuals organized a bus trip from Massachusetts to Washington, D.C., to attend a political rally in support of President Trump on January 6, 2021.<sup>56</sup> The group included a total of 140 people on two buses.<sup>57</sup> The two organizers of the trip entered restricted areas in the United States Capitol that day and, as a result, the FBI's Boston Field Office (BFO) opened cases against them for potentially violating federal law.<sup>58</sup> Rather than limiting the investigation to just the two people who entered restricted areas of the Capitol, however, the WFO instructed the BFO to open cases on *all* 140 individuals who attended the political rally.<sup>59</sup> As Hill testified to the Committee:

WFO wanted us to open up a case on each and every one of those 140 individuals, to which the [Supervisory Special Agent] in Boston said, "They were going to a political rally, which is First Amendment-protected activity. No, we're not starting cases on these people." To which they said, "Well, we're going to call your SAC." And the SSA said, "Go right ahead." . . . [T]o his credit, [the SSA] said, no, we're not opening up cases on people who went to a rally . . . .<sup>60</sup>

Hill further recounted that when the Boston office asked the WFO for video evidence that the other 138 individuals were in the Capitol, the WFO informed the Boston agents that it could not share the video out of fear it would disclose the identities of undercover officers in the Capitol.<sup>61</sup> Hill elaborated:

And I forgot a key part. The SSA for CT2 said, "Happy to do it. Show us where they were inside the Capitol, and we'll look into it." To which WFO said, "We can't show you those videos unless you can tell us the exact time and place those individuals were inside the Capitol."

To which the SSA responded back – and I was privy to these

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<sup>56</sup> Hill Interview at 82.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 82-83.

conversations firsthand – “Why can’t you show us – why can’t you just send us the – give us access to the 11,000 hours of video that’s available?” “Because there may be” – may be – “UCs,” undercover officers, “or CHSes,” confidential human sources, “on those videos whose identity we need to protect.”<sup>62</sup>

In a subsequent exchange with Chairman Jordan, Hill detailed the sequence of events. He testified:

Q. So Washington Field Office contacts you and says, we want to open up investigations on the two people who organized these two buses –

A. And we did.

Q. – who were inside the Capitol.

A. Yes.

Q. And you said, fine, because they were inside the Capitol.

A. Because they were able to show us pictures of them inside the Capitol.

Q. Definitive proof they were inside the Capitol.

A. Yes.

Q. So you open up investigations on them. And then Washington Field Office asked you, we want you to look at everyone who was on the bus who came to the rally?

A. Correct.

Q. You said, show us why –

A. Show us proof they were in the Capitol.

Q. – and you’d be happy to do it.

A. Yes.

Q. And then they said, we can’t show you proof.

A. Correct.

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<sup>62</sup> *Id.* at 82.

- Q. And you asked, “Why can’t you show us proof?” Is that correct? “Why can’t you show us proof?”
- A. Either show us pictures or give us access to the videos, the 11,000 hours of video.
- Q. Back up a second. The two who you opened cases up on the initial two –
- A. Those came through with pictures.
- Q. So they had pictures of them –
- A. Yeah.
- Q. – inside the Capitol.
- A. In the Capitol, yeah.
- Q. Got it.
- A. It was clear cut violation of the law.
- Q. Got it. The other 140, they had no evidence, no proof that they had actually violated the law and were inside the Capitol.
- A. They may have, but they refused to share it with us.
- Q. Refused to share it with you. And then you said, we're not going to open up an investigation –
- A. Right, because all we had was they –
- Q. Before you said that, you said, show us the proof, show us the video or pictures, whatever you have. And they said, we can't.
- A. Correct.
- Q. And the reason they gave you was?
- A. There may be UCs, undercovers, or CHSes, confidential human sources, and we need to protect their identities.<sup>63</sup>

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<sup>63</sup> *Id.* at 83-84.

Hill's supervisor, Special Agent-in-Charge Joseph Bonavolonta, confirmed Hill's account about WFO asking Boston to open investigations on all 140 individuals. In a transcribed interview with the Committee, Bonavolonta testified:

Q. . . . I'm going to read to you some testimony that we received from Mr. Hill . . . only for the purpose of potentially refreshing your recollection, to see if it, you know, jogs your memory. Mr. Hill testified—and this is on page 81 of his transcript—two individuals in Massachusetts organized buses to go down to the rally, and Boston opened up cases on those two individuals because we were shown definitive evidence from WFO of them entering restricted areas of the Capitol. On to page 82 of the transcript, [b]ut those two individuals organized these buses, and there were 140 people on the buses, on the two buses. And WFO wanted us to open up a case on each and every one of those 140 individuals, to which the SSA in Boston said, They were going to a political rally, which is a First Amendment protected activity, no, we're not starting cases on these people. To which they said, meaning WFO, Well, we're going to call your SAC, or your S A C, and the SSA said, Go right ahead. Does that vignette, was that briefed to you?

A. So once again, the exact verbiage that came from George Hill there, like, I, that I can't recall if that's exactly how it went down. But, yes, the—the—when my team briefed me on that one issue, one of the things they did communicate to me was that because of that initial pushback about not wanting to immediately conduct blanket interviews of all of the 150 some odd passengers, absent [the two individuals who entered restricted space], then, you know, that a comment was made by somebody either out of headquarters or WFO, I don't know which one, that your SAC may be getting a call.

Q. Okay.

A. But as we spoke about earlier, I never received any such call or outreach.

Q. Okay. And do you know who in the WFO would've been making that type of statement?

A. So it would have been somebody somewhat commensurate to the line supervisor up in Boston. I just don't know who.

- Q. Okay. Hill's testimony goes on, on page 82, Because when you're pushing back, you know, you want to make sure that you have your six covered—I'm not sure what that means, but—so the SAC and the ASAC were intimately aware of these kinds of exchanges that were going on. And again, to his credit, Joe Bonavolonta said, No, we're not opening up cases on people who went to a rally. And I forgot a key part, the SSA for CT2 said, happy to do it . . . Does that jive with your recollection?
- A. Not—once again, just not the—not the verbiage that's being used or the quotes that are being attributed, but in totality, as I've said before all along, the methodology used by the line supervisor to either headquarters or WFO was simply, if you have additional evidence or information that would — that would justify us conducting interviews on certain individuals, then provide it to us, and we will do it.<sup>64</sup>

Bonavolonta also testified that while he was not briefed to “that level of specificity” regarding Hill's disclosure that the presence of undercover officers in the Capitol was the reason the WFO withheld information from the Boston agents, he was aware “we were requesting additional information to see if we could . . . if we in fact had enough of a predication” for investigating.<sup>65</sup>

Bonavolonta further testified:

- Q. And are you aware of whether agents or analysts within the Boston Field Office were asked to work on investigations related to the events that occurred at the U.S. Capitol on January 6th, 2021?
- A. Yes.
- Q. And about how many cases?
- A. I really can't give you a number in terms of the overall number of cases.
- Q. And was it your understanding that the agents within the Boston Field Office were running the investigations?
- A. No. The actual cases relative to January 6th were all program managed and generated out of our Washington

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<sup>64</sup> Transcribed Interview of Mr. Joseph Bonavolonta at 71-2 (May 4, 2023) (hereinafter “Bonavolonta Interview”).

<sup>65</sup> *Id.* at 74-75.

Field Office. And so, where our involvement would come into play would be if a—you know, a package with the requisite evidence in it that may have risen to the level of an individual being charged with a certain crime related to January 6th would be sent up to us and then worked in conjunction with an agent in my office, as well as with a AUSA within the district of Massachusetts. But then once whether it was if it was for instance, an arrest warrant, that arrest would be executed, and then the case would be—you know, the subject would go down for an appearance in Washington, and then that's where it would be worked from there, whether there was a guilty plea or a trial, it would all be done down in Washington, D.C., not up in Boston.

Q. And, when you say program managed out of the Washington Field Office or the WFO, did that mean the WFO was giving your agents direction on what to do?

A. I wouldn't necessarily say "direction." It was just more—it was more a package that would be sent up with the requisite evidence to execute in most cases an arrest warrant, and that was it. It was pretty—it was very basic.<sup>66</sup>

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Q. And you said or one of your colleagues in the Boston Field Office said that if you have additional evidence, we will take it, and if it meets the DIOG, we'll go out and interview these people. Is that correct?

A. That's correct.

Q. And subsequent to that, somebody from Washington came back with some additional evidence on a specific finite number of individuals and then you proceeded to do investigative work on that finite group?

A. Correct.<sup>67</sup>

O'Boyle similarly testified that the combination of financial incentives and political considerations led the FBI's January 6 investigation to go, in his words, "way off the rails."<sup>68</sup> When asked to clarify this statement, O'Boyle indicated he was pressured by at least one agent

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<sup>66</sup> *Id.* at 10.

<sup>67</sup> *Id.* at 22-23.

<sup>68</sup> O'Boyle Interview at 127.

from the WFO to “violate policy [and] law” by initiating legal processes against at least one citizen who was simply the subject of an anonymous tip.<sup>69</sup> O’Boyle testified:

Q. And when you say “legal process,” what are you referring to?

A. So they were trying to get me to do the grand jury subpoenas, when there was no rational way to conclude that the legal process she wanted was in any way associated with the anonymous tip . . . .<sup>70</sup>

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Q. . . . Could you explain?

A. So the initial tip I received from [the WFO] I did investigate and did due diligence.

Q. Right.

A. And then the second tip, where then [the WFO is] asking me to get legal process, when there wasn’t a rational link between what [the WFO] wanted me to get the legal process for from the one tip and associating it with the previous tip [the WFO] had sent me the day or maybe 2 days prior.

Q. Okay. And so you declined, you didn’t seek legal process, right?

A. Correct.

Q. Okay. Were there any punitive actions against you for declining to take that step?

A. No, but I think that’s only because I think I was very meticulous in how I wrote it up, and after my boss read it, he was like, “Huh.”

Q. Okay. So, at the end of the day, you exercised your judgment, and you weren’t—there were no consequences for that.

A. As far as I know.<sup>71</sup>

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<sup>69</sup> *Id.* at 102-04.

<sup>70</sup> *Id.* at 105.

<sup>71</sup> *Id.* at 120-21.

Although O’Boyle did not face any punitive actions from the FBI relating to his refusal to unlawfully seek legal process following a tip, his testimony is still shocking. Such testimony confirms that the FBI was pressuring its agents to violate federal law to investigate American citizens without adequate legal process. It is undoubtedly also concerning that O’Boyle feels he avoided any punitive or adverse action from the FBI in this case only because he “was very meticulous” in assessing the case and creating a paper trail to justify his refusal to follow a directive from the WFO.

#### **D. The FBI Gathered Conservatives’ Financial Records from Bank of America Without Any Legal Process Following January 6.**

Just like FBI whistleblowers O’Boyle and Friend, retired FBI Supervisory Intelligence Analyst George Hill provided the Committee with detailed allegations of FBI civil liberties abuses. Specifically, he testified that following the events at the Capitol on January 6, 2021, Bank of America (BoA) gave the FBI’s Washington Field Office a list of individuals who had made transactions in the D.C., Maryland, Virginia area with a BoA credit or debit card between January 5 and January 7, 2021.<sup>72</sup> He also testified that individuals who had previously purchased a firearm with a BoA product were elevated to the top of the list provided by BoA.<sup>73</sup> Specifically, Hill testified:

A. . . . The Bank of America, with no directive from the FBI, data-mined its customer base. And they data-mined a date range of 5 to 7 January [of 2021] any BOA customer who used a BOA product. And by “BOA product,” I mean a debit card or a credit card. They compiled that list. And then, on top of that list, they put anyone who had purchased a firearm during any date. So it was a huge list . . . .<sup>74</sup>

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Q. Was the list that Bank of America provided targeted just to the D.C. area for those—

A. Yes.

Q. —dates?

A. Just the District and surrounding area, so, like, the NOVA area.

Q. And the surrounding area.

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<sup>72</sup> Hill Interview at 74-75.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 74.

- A. Yeah.
- Q. And it's anyone who used a Bank of America either debit or credit card—
- A. Right.
- Q. —to conduct a transaction.
- A. Any transaction. To buy a hotdog. Doesn't matter.
- Q. Okay. And then my understanding is that they created a second list where that first list was prioritized based on individuals that had purchased a firearm?
- A. They just basically just built on top of it, anybody who committed a—you know—
- Q. A firearm purchase?
- A. [T]hese are your priorities, these are your number one individuals that you need to go after. Not only did they use a BOA product in the District, but they've also purchased a firearm at some point in time, any time.
- Q. This list was provided then without any legal process to the FBI?
- A. Correct. So my understanding of the DIOG and amateur assessment based on law is that, you know, if a citizen sees a crime in commission, there's nothing wrong with injecting that and opening up a case. But, to my knowledge, you know, using a debit card or a credit card in the District does not provide adequate predication for the investigation of a crime. So there was no legal process either asking for it or — you know, from the Bureau or from DOJ or anybody.<sup>75</sup>

Hill further testified:

- Q. Mr. Hill, you described the process by which this Bank of America data pull is lashed to data regarding firearm purchases. What was the geographic envelope for those firearm purchases?

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<sup>75</sup> *Id.* at 75-76.

- A. They would had to have met both criteria: used a BOA product in the District—but there was no geographic framework if they had ever, ever bought a firearm.
- Q. What about the firearm purchase as a feature of time? Did—
- A. No, there was no time—there was no—
- Q. So that—
- A. That was not in the data range, date . . . But the gun purchase could be anywhere—
- Q. Anywhere, anytime. You could live—you could be a resident of Iowa, be a BOA customer, purchased a shotgun in 1999, go to the District, use your credit card to pay for a hotel on January 5th and check out. You're going to rise to the top of that list . . . [w]ere there any other criteria, other than the BOA transaction and the firearm purchase, that were prerequisites?
- A. No.<sup>76</sup>

Hill's testimony was corroborated by the testimony of Boston's Special Agent-in-Charge Joseph Bonavolonta, who testified that Boston's JTTF Squad Supervisor, Chief Division Counsel, and Special Agent-in-Charge of Counterterrorism brought the BoA data to his attention. He further testified to the Committee and Select Subcommittee:

- Q. . . . And are you aware of information coming from Bank of America that was sent to the FBI?
- A. I am, yes.
- Q. [A]re you aware of the existence of that information on the FBI systems?
- A. I can't tell you where it is housed on FBI systems or what the current status is, but I am aware of information that was forwarded to us related to a Bank of America lead, yes.<sup>77</sup>

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- Q. And why did they bring this information to your attention?

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<sup>76</sup> *Id.* at 76-77.

<sup>77</sup> Bonavolonta Interview at 11.

A. So they brought the information to my attention, first and foremost, to make me aware that a lead had been sent to our office from a unit within FBI Headquarters that fell under the Office of Private Sector. And the lead, the lead itself, was for informational purposes only. There was no directive in the lead to do anything . . . from an investigation standpoint. However, in the body of the lead, there was an information that was provided by Bank of America following a certain number of criteria that in essence aggregated a list of individuals that were supposedly living up in the New England area who . . . either had potentially made . . . certain credit card purchases . . . for hotel reservations or plane tickets, or potential purchases at certain gun stores in and around . . . January 6th or planned for the inauguration date, like around January 20th, like in that timeframe. I'm speaking in generalities just because simply I can't recall the exact nature of the criteria, but it was something to that effect. And so my team brought that to my attention just to make me aware of it and to . . . just to see if there was going to be any request to actually . . . do something from an investigative measure on these individuals. So I reviewed the lead, and it was very clear in the lead that there was not a request to engage with anybody. Or we weren't being directed to do anything. But what I did on my own was . . . at the time, I was a co-chair of the SAC Advisory Committee, and I reached out to my colleague who was the SAC out of Springfield, Illinois, who was the chair of the SAC Advisory Committee. So we worked together on that just to see if he had been aware of this. And then we wound up together proactively communicating with the assistant director of the Counterterrorism Division [Jill Sanborn] at headquarters at the time just . . . to see if they were aware that this lead had at least been sent to two field offices. And the only knowledge I had at the time, obviously, was that it was sent to Boston, and it had been sent to Springfield. And we just wanted to make Counterterrorism Division aware of that just to let them know that we, based on the information provided in the lead, . . . we were not planning on doing anything with that information . . . and just so that Counterterrorism Division could be aware as well if in the event that it had been sent to other field offices . . . for awareness. And that was really my level of involvement with that particular lead.<sup>78</sup>

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<sup>78</sup> *Id.* at 13.

- Q. And it was also represented to us that individuals were prioritized on that list if they had a firearms purchase. Does that match your recollection?
- A. So . . . I don't have any knowledge of anybody being prioritized over a firearm purchase, but in one of the criteria that was in there in terms of Bank of America's data, it was related to purchases that had been made at either gun shops or, you know, stores that would sell firearms, but I can't speak to in terms of if any individual on that list was actually prioritized, or at least that wasn't conveyed to me.
- Q. And did the gun purchases have to be recent, or could it have been at any time in the past?
- A. That I just don't know.
- Q. And how many individuals were included on that list that were in the jurisdiction of the Boston Division?
- A. Approximately 6 or 7, or around that number.<sup>79</sup>

This testimony is highly alarming. The FBI seemingly worked with a major financial institution to receive, without legal process, financial records about Americans who used credit or debit card to purchase hotels, flights, or firearms in close proximity to January 6, 2021. This invasion of the privacy of American citizens in this manner is decidedly concerning.

#### **E. Line Agents Opposed Attorney General Garland's Memorandum Directing Federal Law Enforcement Resources Against Parents.**

As the radical left pushed its woke agenda on America's children, parents across the country started speaking out at school board meetings against critical race theory, unscientific mask mandates, transgender ideology in the classroom and bathroom, and anti-America curricula. Concerned parents were vocal and unafraid in their opposition to this indoctrination. The National School Boards Association (NSBA) and the Biden Administration, however, could not abide this growing parental rights revolution and colluded to create a pretext—articulated in an October 4 memorandum from Attorney General Garland—to use the federal law-enforcement apparatus to silence parents.<sup>80</sup>

The FBI was a witting participant in the Administration's anti-parent endeavor. A press release accompanying the Attorney General's memorandum highlighted the FBI's National

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<sup>79</sup> *Id.* at 17.

<sup>80</sup> Memorandum from Hon. Merrick Garland, Atty Gen., 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).

Threat Operations Center for tips about parents at school board meetings.<sup>81</sup> On October 20, 2021, the FBI operationalized Attorney General Garland’s directives. The FBI’s Assistant Director for the Counterterrorism Division and the Assistant Director for the Criminal Division sent an email to SACs around the country referencing the Attorney General’s October 4 directive and notifying FBI personnel about a new “threat tag” created to apply to school board investigations.<sup>82</sup> The FBI then began to open investigations with the EDUOFFICIALS threat tag across the nation and established case files on dozens of parents with information that included their political views and the application of this “threat tag” simply because they exercised their fundamental constitutional right to speak.<sup>83</sup>

The FBI informed the Committee that, between October 14, 2021, and the end of January 2023, the FBI applied the EDUOFFICIALS threat tag to “approximately 25” cases—only one of which “subsequently resulted in the opening of a Full Investigation.”<sup>84</sup> Additionally, the FBI stated that the majority of these 25 cases “were referred to state and local law enforcement, and the vast majority—all but one—have been closed at the FBI level.”<sup>85</sup> The FBI also provided that 17 of the 25 cases “were assigned to the [FBI’s] Criminal Investigative Division; six were assigned to the Counterterrorism Division; and the remaining two were assigned to the Weapons of Mass Destruction Directorate . . . .”<sup>86</sup> In other words, the FBI’s disclosure confirmed whistleblower allegations that the FBI had misused criminal and counterterrorism resources against parents attending school board meetings.

Despite the inexplicable willingness of FBI leadership to use federal law enforcement and counterterrorism resources to investigate parents, it is clear that some brave FBI agents in local field offices saw this memorandum for what it was—weaponization of the federal law enforcement community against moms and dads speaking up about their children’s education.<sup>87</sup> Whistleblower testimony from O’Boyle and Friend details the “shock and surprise” that line agents had when learning of the memorandum and the Attorney General’s directive to target parents.<sup>88</sup>

### **1. Special Agent O’Boyle Was “Stunned” to Learn that Attorney General Garland Intended to Pursue Concerned Parents for Investigation.**

On October 4, 2021, Attorney General Garland issued a memorandum that directed the FBI and U.S. Attorneys’ Offices to address the “disturbing spike in harassment, intimidation, and

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<sup>81</sup> Press Release, U.S. Dep’t of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

<sup>82</sup> E-mail from Mr. Carlton Peeples, Deputy Assistant Dir., Criminal Investigative Div., Fed. Bureau of Investigation, to FBI\_SACS (Oct. 20, 2021).

<sup>83</sup> See Letter from Rep. Jim Jordan and Rep. Mike Johnson, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep’t of Justice (May 11, 2022).

<sup>84</sup> Letter from Mr. Christopher Dunham, Acting Asst. Dir., Office of Cong. Affairs, Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Jud. (Mar. 1, 2023).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> See O’Boyle Interview at 78, 85.

<sup>88</sup> *Id.* at 81.

threats of violence” at school board meetings.<sup>89</sup> O’Boyle testified to the Committee about his reaction to the memorandum and that of his colleagues. O’Boyle recalled that he was “stunned” to learn “that the highest-ranking law enforcement official in the country would publish something like that to the workforce.”<sup>90</sup> He viewed “the content and overall direction” of the memorandum to be “leading towards targeting parents for speaking up about their children’s education.”<sup>91</sup> As a former police officer, he found it “most striking at first” that “such a high-ranking federal official” would use “federal law enforcement to hone in on” an area that is typically addressed by local law enforcement.<sup>92</sup>

O’Boyle also shared the reaction of Supervisory Special Agent (SSA) at the Wichita Resident Agency, Sean Fitzgerald. O’Boyle recalled SSA Fitzgerald, whom O’Boyle reported to, stating “we will not be going to school board meetings in this office.”<sup>93</sup> Fitzgerald’s reaction to the memorandum is not surprising to O’Boyle. As O’Boyle put it, “There’s nothing that I know of, based on my training and experience in the FBI, that brings this to a level of federal concern.”<sup>94</sup>

On October 20, 2021, in response to the Attorney General’s October 4 directive, FBI Counterterrorism and Criminal leadership in Washington created the EDUOFFICIALS threat tag to track and monitor school board-related investigations.<sup>95</sup> O’Boyle testified that the creation of the EDUOFFICIALS threat tag was “troubling” in that both the Criminal Investigative Division and Counterterrorism Division had signed off on the threat tag.<sup>96</sup> Particularly, O’Boyle questioned why federal law enforcement would be involved in local law enforcement matters, and stated that federal law enforcement involvement would “[a]bsolutely . . . chill parents from exercising their First Amendment right.”<sup>97</sup> O’Boyle testified:

- Q. And what was your reaction to seeing this EDUOFFICIALS threat tag on the news?
- A. Again, it was shock and surprise, especially—so Carlton Peeples was in charge of the Criminal Investigative Division, but also as part of that email was, I believe, Timothy Langan, who was from the Counterterrorism Division. And it was already surprising that the FBI’s CID would be involved in something like this, but then to have

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<sup>89</sup> Memorandum from Hon. Merrick Garland, Atty Gen., 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).

<sup>90</sup> O’Boyle Interview at 78-79.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.* at 78-79.

<sup>93</sup> *Id.* at 79.

<sup>94</sup> *Id.* at 86.

<sup>95</sup> E-mail from Mr. Carlton Peeples, Deputy Assistant Dir., Criminal Investigative Div., Fed. Bureau of Investigation, to FBI\_SACS (Oct. 20, 2021).

<sup>96</sup> O’Boyle Interview at 81.

<sup>97</sup> *Id.* at 82.

both CID and CTD, the Counterterrorism Division, sign off on a threat tag like that was troubling to say the least.

Q. And just like the memorandum, did agents and employees within your office discuss their reaction to hearing the news of the EDUOFFICIALS threat tag?

A. It is something we discussed just at the squad level, [task force officers] and agents, which I would say, in my experience, everybody I talked to about it was—had a similar reaction as me, like, why are we inserting ourself into this type of matter?

Q. Were you involved with any official conversations or correspondence about the creation of the EDUOFFICIALS threat tag?

A. No.

Q. And given your law enforcement background and your work at the FBI — or I guess when you were at the FBI—did you have any knowledge of or participate in any investigations that were labeled with the EDUOFFICIALS threat tag?

A. No.

Q. Are you generally aware that the FBI did in fact use that threat tag?

A. I am.

Q. And are you aware that several parents were investigated by the FBI for protected First Amendment activity?

A. I am.

Q. Given your law enforcement background and your work in the FBI, does this concern you?

A. It does.

Q. And do you think, given your background, does knowing that you could be investigated by the FBI for speaking up at your child's school board meeting, do you think that would chill parents from exercising their First Amendment right?

- A. Absolutely.
- Q. Given your law enforcement background and your work at the FBI, does the EDUOFFICIALS threat tag have any law enforcement utility? Is there any reason to have it?
- A. I don't believe so.<sup>98</sup>

Significantly, none of the veteran FBI employees interviewed by the Committee to date could articulate a law enforcement utility for the threat tag.<sup>99</sup>

## **2. Field Agents Viewed Attorney General Garland's Pursuit of Concerned Parents as a Chill on Parents' Protected First Amendment Activity.**

This infringement upon parents' constitutionally protected activity was evident to special agents in the field. In his transcribed interview with the Committee, Friend described how he was directed to surveil parents at an anticipated "contentious" school board meeting in an effort to connect January 6 subjects to the EDUOFFICIALS threat tag.<sup>100</sup> As Friend recounted, his supervisor at the time ordered Friend and another agent to go to the location of a local school board meeting.<sup>101</sup> As Friend testified:

- Q. So part of the pressure campaign, as you've testified, were these phone calls. Other than phone calls, was there any other medium in which that pressure campaign manifested? Emails? Directives? Other information?
- A. I didn't receive emails. I know that there was probably Instant Message within the FBI, because [a senior agent in our office] was corresponding with [the WFO] that way a lot. And there were communications, I know, for one group that they said they wanted surveillance done on them because they had been talking in online forums, so I know they were being monitored. And they wanted us to surveil them to a school board meeting.
- Q. What more can you tell us about that?
- A. There was an anticipated very—going to be a very contentious school board meeting in Flagler County, because there had been some disturbing books that had been found in the library, and a lot of parents were displeased, and some of these individuals were going to go attend the

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<sup>98</sup> *Id.* at 81-82.

<sup>99</sup> *Id.* at 82; *see also* Sanborn Interview at 91.

<sup>100</sup> Friend Interview at 111, 127.

<sup>101</sup> *Id.*

meeting. And we were asked to surveil them to the meeting. And then, once we arrived, we kind of looked around and said, this looks bad. It was right after the EDU threat tag had emerged. They told us to get out before we were identified as Federal agents.<sup>102</sup>

In his interview, Friend noted that he had concerns about surveilling parents at school board meetings, believing this could chill parents' exercise of their First Amendment rights.<sup>103</sup> In fact, Friend testified that "I appeared at a school board meeting in September, so I was a little bit humored by the fact that I might be investigating myself."<sup>104</sup> He noted that his colleagues even teased him about this fact when they discussed the Attorney General's memorandum.<sup>105</sup> Friend stated that local law enforcement agencies were capable of handling any issues that might arise at school board meetings, and local law enforcement should properly handle those matters.<sup>106</sup> He testified that his colleagues had a similar dismissive reaction to the memorandum, stating, "We didn't take it seriously to the point where we were going to pursue investigations."<sup>107</sup>

This position was not just held by whistleblowers and their colleagues. It was apparently shared by the field and local law enforcement. In an initial set of documents produced to the Committee pursuant to a subpoena, the Justice Department's own documents demonstrate that there was no compelling nationwide law-enforcement justification for the Attorney General's directive or the Department components' execution thereof.<sup>108</sup> After surveying local law enforcement, U.S. Attorney's offices around the country reported back to Main Justice that there was no legitimate law-enforcement basis for the Attorney General's directive to use federal law-enforcement and counterterrorism resources to investigate school board-related threats.<sup>109</sup> In addition, in reports back to Main Justice, many of the U.S. Attorneys' Offices noted that their local law-enforcement partners opposed federal intervention at local school board meetings.<sup>110</sup> Similarly, Allen testified:

Q. Do you recall, subject to this memorandum, an email sent by Carlton Peeples, who was the Deputy Assistant Director of the Criminal Investigative Division, also in October of 2021, to announce the creation of an "EDUOFFICIALS" threat tag?

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<sup>102</sup> *Id.* at 110-11.

<sup>103</sup> *Id.* at 128.

<sup>104</sup> *Id.* at 121.

<sup>105</sup> *Id.* at 128.

<sup>106</sup> *Id.* at 121-22.

<sup>107</sup> *Id.* at 122.

<sup>108</sup> In fact, Attorney General Garland admitted as much in his October 2021 testimony to the Committee, conceding that the National School Boards Association letter was the only basis for the Department's actions. *See 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).

<sup>109</sup> Interim Staff Report, H. Comm. on the Judiciary & Select Subcomm. on the Weaponization of the Fed. Gov't, *A "Manufactured" Issue and "Misapplied" Priorities: Subpoenaed Documents show No Legitimate Basis for the Attorney General's Anti-Parent Memo* (Mar. 21, 2023) (hereinafter "School Board Report").

<sup>110</sup> *Id.*

A. I do remember seeing an email about a threat tag having to do with schools. I can't recall if that was the specific threat tag that I saw on the email, but I do remember there being a creation of a threat tag and some people having ire about it in the squad area.

Q. When you say some people had ire about it, what do you mean?

A. I mean, like, verbal responses like, "What, are we going after, like, people at school like, parents at school board meetings now?" Statements to that effect.<sup>111</sup>

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Q. And when you talked about, you know, individuals expressing ire within the JTTF squad area . . . were those individuals special agents . . . ?

A. Yes . . . [i]t was a combination of both. People were like, "Like, what is this? Like, this is ridiculous."

Q. Did they think it was a waste of FBI resources?

A. Yes.

Q. Was it your understanding and the understanding that you could tell from the individuals of the JTTF squad were they under the impression that this was a local law enforcement issue?

A. I don't know what their official, you know, motivation was. I just know that they had ire with the threat tag and comments of the nature of, "What are we doing, going after parents now?" You know, almost like a ridiculousness, you know?

Q. Would you say that the reaction among the JTTF squad to the "EDUOFFICIALS" threat tag, was it negative?

A. I would say yes.

Q. Did you share that ire that your colleagues expressed?

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<sup>111</sup> Allen Interview at 58.

A I thought it was concerning. You know, I thought it was very concerning.

Q And did you believe that the FBI should be using counterterrorism resources on this issue?

A No.<sup>112</sup>

According to Friend, the school board memorandum and the directives he had to surveil parents were consistent with the demand to show that DVE cases are on the rise around the country.<sup>113</sup> Friend testified to his belief that he and his fellow agents were told to surveil parents “in order to meet the metrics that we have in order to show that we’re a successful agency.”<sup>114</sup> Friend recognized, rightly, that they were overstepping their bounds and infringing on parents’ constitutional rights.<sup>115</sup>

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<sup>112</sup> *Id.* at 59-60.

<sup>113</sup> School Board Report, *supra* note 1099, at 123.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 128.

## II. FBI Leaders Weaponized the Security Clearance Adjudication Process Against Whistleblowers in Retaliation for Blowing the Whistle.

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Whistleblower testimony makes clear that the FBI rid itself of employees who dared to speak out against FBI leadership or to raise good-faith concerns about FBI operations. The FBI has taken personnel actions against whistleblowers who raised concerns within the Bureau and, later, to Congress. In several instances—Friend, O’Boyle, and Allen—the FBI weaponized the security clearance adjudication process to silence employees who fight against the politicized “rot” within the FBI leadership. Because a security clearance is necessary to work at the FBI, revoking or suspending an agent’s security clearance effectively indefinitely suspends the agent and leaves the agent to languish in an unpaid purgatory.

This section details whistleblower testimony about the retaliation they have faced at the hands of the FBI. Despite FBI statements that it is “committed to addressing misconduct head-on” and that it is “taking considerable steps to ensure that employees are aware of whistleblower protections,” the reality is otherwise.<sup>116</sup> As Friend explained, the FBI does all this in a way that “creates an impression that [whistleblowing] is frowned upon.”<sup>117</sup> The FBI’s actions against whistleblower employees, rather than its words, reveal how the FBI leadership truly views whistleblowing.

### A. Stephen Friend Was Suspended Without Pay After Questioning the FBI’s Handling of DVE Cases and Expressing Concern about January 6 Tactics.

The FBI retaliated against Friend after he expressed concerns about how DVE cases were being labeled and managed, the excessive force used in apprehending January 6 subjects, and for making protected disclosures to Congress.<sup>118</sup> Friend testified:

Q. And were you ever told or notified that the FBI SWAT team would be used during search and arrest warrants for January 6th subjects?

A. Yes.

Q. Did that concern you?

A. Yes.

Q. Why did the plans for the execution of these warrants concern you?

A. Because the subject of the arrest warrant had been in communication with the FBI at that point and had expressed a willingness to cooperate with the FBI. And, in my

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<sup>116</sup> *Id.* at 106.

<sup>117</sup> *Id.*

<sup>118</sup> Friend interview at 20, 22, 26-27, 30.

experience in dealing with subjects of crimes and bringing them into custody, the FBI tends to use the least amount of force necessary to do that safely, and I felt that the use of SWAT, and coming from my background of being a SWAT team member, I felt that that was an unnecessary tool to use for that particular individual.

Q. So the subject of the warrant that the SWAT team was going to be used for was cooperating with the FBI. Is that your understanding?

A. Yes.

Q. And had mentioned a willingness to come in voluntarily . . . ?

A. Yes.

Q. . . . And in your experience working on criminal cases and SWAT teams, you said that the FBI normally uses the least intrusive methods. Is that correct?

A. Yes.

Q. And is that per FBI or DOJ policy?

A. I don't know what policy. I just know that that is the general approach that we always used.

Q. Can you explain some of the less intrusive methods that might be used for a subject who is cooperating with the FBI and has said that they're willing to come in?

A. You can call the individual and ask them to surrender. You can issue a summons. You can contact their attorney, if they're represented, and ask them to surrender. You can ask for local law enforcement to execute an arrest warrant. You can use surveillance resources to interdict an individual while they're traveling and away from their home base of operations.

Q. And, to your knowledge, none of these were used for the January 6th subjects that you were tasked with executing search and arrest warrants for?

A. Not on the individual SWAT was going to be used for, no.

Q. Did you raise these concerns to your direct supervisor?

A. Yes.<sup>119</sup>

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Q. And what did you disclose to [your direct supervisor]?

A. I raised my concerns about the use of the SWAT team for the arrest. I also raised my concerns about the departures from the DIOG with regards to how the cases were being managed and told him that I believed that it was to manipulate the crime statistics. And I also said that I believed that we were infringing on individuals' Sixth Amendment rights.<sup>120</sup>

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Q. Okay. And how did [he] respond to your concerns?

A. He said that—he agreed that there was not a lot of work to be done on JTTF and that he was actually going to lobby to move me back into working child pornography investigations in the next fiscal year. He told me that he was concerned that he was doing file reviews on cases that none of his people in his—none of his subordinates were actually doing work on. And he then suggested that I might want to speak to the employee assistance program for counseling; and then asked me, if he brought my concerns up the chain of command, how they thought—how I believed that they would respond to that, and said that I had a good reputation and that my career could be in jeopardy if I wanted to beg out of participating in the upcoming arrest and searches.<sup>121</sup>

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Q. And so is it fair to say that you had two kind of tranches of concerns: You had one about the DIOG violations stemming from how the investigations were being labeled, and then a separate concern about the use of SWAT team for one of the January 6th subjects who had been cooperating with the FBI? Is that correct?

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<sup>119</sup> *Id.* at 18-20.

<sup>120</sup> *Id.* at 20.

<sup>121</sup> *Id.* at 20-21.

A. Yes.

Q. And you raised both of those concerns to [your direct supervisor]?

A. Yes.

Q. Who did you raise your concerns to next?

A. I was contacted by one of the assistant special agents in charge of my office . . . and asked to attend a meeting with him and another [assistant special agent in charge]. And [he contacted me] on August 22nd in the evening, and I went and attended that meeting the following day, on the 23rd.<sup>122</sup>

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Q. And how did [the two assistant special agents in charge] respond to your concerns?

A. They pushed back on my concerns. They said that I had the right to raise my concerns, but I had to follow through on the orders that I was given to do.

Q. During your conversation with [the two assistant special agents in charge], did you ever refuse to participate in the warrants?

A. I told them that I didn't want to and that, if assigned to, I would have to consider not going, but I would call ahead if that was going to be the case.

Q. And did you raise both your concerns about the labeling of the January 6th investigations as well as the use of the SWAT team?

A. Yes.

Q. And did you ever participate in any of the operations for the executions of the warrants on the January 6th subjects?

A. I didn't have the opportunity to.

Q. Why didn't you have the opportunity to?

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<sup>122</sup> *Id.* at 22.

- A. Following my meeting, I received an email from ASAC Markovski telling me that I was ordered to not come to work the following day and that I was going to be considered absent without leave.
- Q. So they ordered you to be on AWOL status? Is that correct?
- A. Yes.
- Q. How long were you on AWOL status?
- A. One day, August 24th.
- Q. And they never gave you the opportunity to come into the office on that day?
- A. No.
- Q. When did you go back into the office?
- A. August 25th. I emailed my supervisor, Greg Federico, in the evening on the 24th and asked him if I could come back the following day, and he said I could.
- Q. Okay. And so, following your AWOL status, did you raise your concerns with anyone else?
- A. Yes.
- Q. And who was that?
- A. I spoke to the special agent in charge of the Jacksonville Field Office, Sherri Onks.
- Q. And what did you tell Special Agent in Charge Onks?
- A. The same concerns that I had that I had raised with Greg Federico, Sean Ryan, and Coult Markovski . . . [m]y conversation with her was not as lengthy as it was with the ASACs. I essentially told her that my feelings on the matter were not changed after being placed AWOL and that I had concerns about the constitutionality of what we were doing.
- Q. And how did she respond to those concerns?

- A. She told me that I represented a very fringe belief within the FBI and that I needed to question whether or not I wanted to have a future with the agency.<sup>123</sup>

Shortly thereafter, as Friend recounted, when he arrived at work on September 19, 2022, four officials from his office, including the chief security officer, met him and took his badge, credentials, firearms, and all FBI property.<sup>124</sup> Friend testified:

They said that—they issued me a letter from Human Resources Division, signed by Executive Assistant Director Jen Moore, detailing the rationale for suspending my security clearance. And without a security clearance, I can't work in an FBI space and I can't fulfill my duties as a special agent, so I was suspended indefinitely. I was allowed to exhaust my accrued leave time. And they gave me a mechanism to—if I wanted to use sick time, it would need justification from a doctor. And I was given paperwork to seek outside employment if I wanted to, and escorted from the building.<sup>125</sup>

When asked about his reaction to the suspension, Friend testified:

- Q. What was your reaction when you were suspended?
- A. In the immediate aftermath, I called my wife to come pick me up, and that was pretty disturbing for her. She had a tumor removed from her spine a few weeks before that, and she was not actually supposed to be driving. So she had to come and drive me with a back brace on home. And then, at that point, I started to communicate with my attorneys about, you know, what to do as far as bringing my concerns to the OIG and to the Office of Special Counsel and to Congress. So we drafted a formal complaint and submitted that to all three.
- Q. And have you had any communication with your colleagues from the Daytona Beach Resident Agency since your suspension?
- A. I have one friend who is now a former task force officer. He was not assigned to the JTTF. He was assigned to the Safe Streets Task Force. And he and I are friends, and we go to the gun range together . . . [a]nd the secretary of the office,

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<sup>123</sup> *Id.* at 22-24.

<sup>124</sup> *Id.* at 27.

<sup>125</sup> *Id.*

she sends me text messages just of greetings and hello. But nobody else from the office.

Q. What was the reaction of your colleagues when they learned that you had been suspended?

A. I can only say what my task force friend said, and he said that everybody just kind of went along with whatever the proceedings were but that, in the aftermath, the office has been extremely reticent to do anything. They don't want to draw attention to the office. So the SSRA Federico is sort of nixing anything operational at this point.

Q. And when you say that people are hesitant to take actions, what do you mean by that?

A. Nobody ever got fired for doing nothing . . . [s]o it's pretty easy to extend an investigation out long, as opposed to being more aggressive in your investigative tactics that you use, and it's better to let the dust clear and settle around my situation before you draw a spotlight to yourself.

Q. And do you believe that you were retaliated against by the FBI for making protected disclosures to Congress?

A. Yes.

Q. And do you believe some of your colleagues, some of their hesitance is that they're nervous that they will be retaliated against for speaking up?

A. Yes.<sup>126</sup>

The retaliation did not end with Friend's indefinite suspension. Despite informing Friend that he could seek outside employment, the FBI refused to sign off on his requests to obtain it or to provide him with the documents necessary for other employment. He testified:

Q. Did you take any steps to seek outside employment?

A. I submitted two FD-331s requesting outside employment. The first one was rejected. And the second one I submitted with also a caveat that I requested my training records, which the FBI has yet to furnish me.

Q. So the first form that was rejected, who rejected that?

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<sup>126</sup> *Id.* at 29-30.

A. I was told that it was rejected by the executive management of the Jacksonville Field Office.

Q. Did you get a reason for why it was rejected?

A. No.

Q. And then you submitted a second form for outside employment and asked for records. What records did you request?

A. I'm seeking my firearms training records as well as my training records in general to prove my employment. Both of those are necessary to gain employment from the second outside entity. That's not the first request of those records that I've made either.

Q. . . . And have they given you the requested records?

A. No.

Q. Do you know why they have not given you the records?

A. No, I don't.

Q. Who has been denying your request to obtain your records?

A. I made a request to the firearms training unit and sent an email to their general counsel. And I sent the second request for outside employment to the chief security officer of Jacksonville Division.

Q. . . . And do you think this is just another episode of retaliation, by not giving you your records?

A. Yes.<sup>127</sup>

Coincidentally, Jennifer Moore, who serves as the Executive Assistant Director of the FBI's Human Resources Branch, testified that the agency's failure to give Mr. Friend his records was a "mistake" that she "owned."<sup>128</sup> Ms. Moore specifically testified:

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<sup>127</sup> *Id* at 32-33.

<sup>128</sup> Transcribed Interview of Ms. Jennifer Leigh Moore at 119-20 (Apr. 24, 2023) (hereinafter "Moore Interview").

Q. That wasn't done intentionally. What happened to Mr. Friend wasn't done intentionally. These are just all coincidences?

A. I'm not sure what you're referring to that happened to Mr. Friend.

Q Mr. Friend, where you denied his firearms training documents . . . .

A We did, and I owned that. That was a mistake . . . [m]istakes happen when you have a 37,000 employee organization.<sup>129</sup>

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Q. So it was a mistake not to give Mr. Friend his training records that he requested[?]

A. Yes, sir.<sup>130</sup>

Nevertheless, the FBI knew exactly what it was doing when it suspended Friend's security clearance. The Bureau suspended it as retaliation for Friend making protected whistleblower disclosures to Congress.<sup>131</sup> Without an active security clearance, he could no longer work as an FBI agent. As a husband and father, Friend needed to work to earn income. When asked how his suspension affected his family, Friend testified:

Q. And how has the FBI's retaliation against you affected you and your family?

A. Well, it's very unusual. My household, I have two young children, and they have asked, you know, why I'm not going to work and why my FBI vehicle is not in the driveway anymore, and that's sort of complicated to explain to grammar school children . . . [m]y wife lost her career shortly after my suspension, and she had to sign a nondisclosure about that, but it was under very suspicious circumstances, and I firmly believe that is related to my situation . . . [s]o neither one of us are gainfully employed, and that's been a financial burden on us as well as just a stressor, because we lost our health insurance, as well, with her employment termination.

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<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at 122.

<sup>131</sup> Friend Interview at 105.

- Q. And if you had to put an estimate on it, how much has this ordeal cost you both in time and financially?
- A. Well, I would say, it's difficult to calculate because she received a severance from her prior employer. But myself, you know, being out of work for about 20 weeks, 13 of which unpaid—you'd have to go back and calculate what my, you know, salary would've been for that time period. But I don't think you can put a price tag on the stress that it's put on our family. I voiced to my supervisors that working for the FBI was my dream job and that's all I ever wanted to do. So having that opportunity taken away from me earlier than I was expecting has been very disappointing. And the way that the Bureau has conducted itself against me in the aftermath—as opposed to actually considering and investigating the righteousness of my complaint, they've chosen to circle the wagons and go after me—I think is very disappointing and soured me greatly enough that I actually resigned today.<sup>132</sup>

In addition to his family's struggles, and to ensure maximum pressure—and, no doubt, to deter other potential whistleblowers—the FBI denied Friend's requests for outside employment and failed to provide him with records to obtain relevant employment. This ultimately led Friend to have no other option but to resign from his employment with the agency.

### **B. Garret O'Boyle Was Suspended Without Pay After Moving His Young Family Across the Country.**

Like Friend, O'Boyle was subject to FBI retaliation for making protected disclosures to Congress after expressing his concerns up his chain of command with no action being taken.<sup>133</sup> O'Boyle, too, had his security clearance suspended.<sup>134</sup> In his interview, he testified that the FBI has “weaponized that clearance process.”<sup>135</sup> He explained:

They know that if they claim national security that they, carte blanche, can do whatever they want. And you have to have a security clearance to work in the FBI. So if they find any reason to strip you of that clearance, they'll do it, and they'll send you packing, and then there's no – hardly any recourse for you to take because the FBI investigates itself.<sup>136</sup>

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<sup>132</sup> *Id.* at 33-34.

<sup>133</sup> O'Boyle Interview at 26-31.

<sup>134</sup> *Id.* at 13.

<sup>135</sup> *Id.* at 14.

<sup>136</sup> *Id.* at 15.

In his transcribed interview, O'Boyle shared his firsthand experience with the weaponization of the security clearance process. He described how the FBI suspended him right in the middle of his transfer and two weeks before his wife gave birth to their fourth child, causing their personal belongings—clothes, toys, furniture—to be stuck in an FBI-controlled storage unit for an extended period of time. O'Boyle testified:

A. You know, we're begging and borrowing from family for coats for our kids and warm clothes for our baby because the FBI won't let us have our stuff.

Q. And so I just want to make sure that we have everything, kind of, the facts straight on this. So you're notified in June that you make the new unit and you're going to be transferred from Kansas to Virginia, correct?

A. Correct.<sup>137</sup>

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Q. So then in order to retrieve your goods after a month of them being held by the FBI, you had to spend over \$10,000 of your own money, correct, to retrieve those?

A. I would have to do the math, but it's right around ten grand.

Q. And in your opinion, do you believe this whole ordeal with recovering your personal goods and having to cover those costs, was that just another episode of retaliation?

A. I believe it was. I think every step of the way it just—the whole process continues to get weaponized. And people are complicit in it because they claim, well, I'm just doing my job and I was told to tell you that I can't let you come get your stuff, or whatever other excuse they can come up with to justify it in their own minds.<sup>138</sup>

O'Boyle further testified:

Q. And let's talk a bit more about your transfer from Kansas to Virginia. You said that you accepted the position in June and then moved. Your first day was September 26th, I think you said. Is that correct?

A. Correct.

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<sup>137</sup> *Id.* at 20.

<sup>138</sup> *Id.* at 21-23.

Q. So during that time, you sold your house in Kansas, correct?

A. Correct.

Q. And then were your personal belongings moved or shipped to Virginia at some point?

A. They were. So after we closed on our house in—or I guess right before we closed on our house in Kansas, we had a contract—I mean, they contract through the government to some degree, came to our house, they packed up our stuff, put it in a truck and brought it to Virginia, where it was put in storage. And we were supposed to get that—those belongings delivered to the new house once we closed on it. So I'm trying to think of my dates here. So September 26th I get suspended. So between September 26th and November 3rd we're trying to figure out how we can get our stuff. And for the vast majority of that time, we essentially got the runaround from the FBI and the business they contract with on how to release our goods, on if we can get them shipped or not. And I think I have most of that in email. But essentially we kept being told, oh, they're not going to release your goods, they're not releasing your goods, we can't give you your stuff. And then eventually it was certain criteria for me to come get it myself. And so typically all of this is paid for, it's part of the transfer, and you pay, like, the tax bill on this stuff. But instead, in my case, they said, you can come and get it, you have to inspect all of your stuff at the warehouse that it's being stored, and then sign off on the paperwork, and see ya. So at my own expense, again, I rented moving trucks. A friend of mine came with me from Wisconsin. Honestly, I couldn't have done it without him. He has worked in the moving industry for many years. And without his expertise, I don't think my brother and I, who also — he flew in to help — would've been able to even pack it up correctly, because they essentially just pull it all out and say, here's your stuff, make sure it's all there. So we spent the whole day doing that. And, yeah, it cost about \$10,000 out of my own expenses to handle that. That doesn't even account for the labor costs that would've been associated with it. And then it's interesting that on that same day is when I was told that my pay was suspended . . . .<sup>139</sup>

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<sup>139</sup> *Id.* at 18-21.

Q. And so for over a month you weren't able to access your personal goods. And can you describe what that includes furniture wise, what?

A. Everything. I mean, it was, yeah, other than, you know, I think our daughters all had, like, a backpack with, like, a toy and some clothes. And then my wife and I, same, had, like, a backpack of clothes and stuff like that. And we obviously did not anticipate this happening, so when our stuff got packed up in August, we had summer clothes because we thought, oh, by late September, early October, we'll be here, which the climate is much more moderate than in Wisconsin. So in October in Wisconsin it's practically winter and we're—just give me a minute.

Q. Take your time.<sup>140</sup>

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Q. And so to accommodate this transfer, you put your Kansas City home on the market and sell it, correct?

A. Our Wichita home.

Q. Your Wichita home.

A. Well, we lived in a suburb called Derby—

Q. And during that time, did you look for housing in Virginia?

A. We did. And that's another interesting aspect of it. So as part of the transfer, you're supposed to get a house hunting trip, 10 days. I didn't know at the time, but I found out later, that once you accept orders essentially your job is to focus on that transfer and work on that transfer. Instead, I was directed by my boss to try to finish up some casework that I had. So I didn't even really get to focus on that transfer like I should have. But I was able to come back to Virginia. I was here, I think, for 9 days or so, for training for that new position. So every night after—or just about every night after training was over, I would meet with my realtor, and we'd go look at houses. I think in those evenings over that time span, I think I looked at around 30 or 35 houses. So even though I didn't get the 10 day house hunting trip or

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<sup>140</sup> *Id.* at 20.

anything like that, I was able to look for housing while I was at that training, which was in August.

Q. So then did you put an offer on in a house here?

A. We did. My last day of that training, which I think was like either the last day of August or the first day of September, is the last house I looked at, and I was like, oh, this is the one. And once I got back to Kansas, I talked to my wife about it, showed her pictures and stuff. And we put an offer in on it which was accepted and—yeah, so we were, like, okay, that part's done, now let's have this baby and then carry on. But obviously that—it didn't work out as planned.

Q. And so you packed up all your belongings in August, and then the FBI moved those belongings to Virginia, correct?

A. Correct.

Q. So you're now in Virginia, your Kansas City—or your Wichita house is sold, and your belongings are in Virginia, and then on the first day at your new job in Virginia, you're walked out, correct?

A. Correct.

Q. So then you have to wait over a month to retrieve your belongings because, as you've said, the FBI was giving you the runaround, correct?

A. Correct.

Q. Did you have access to those belongings during that period of time?

A. I did not.

Q. And did you ask the FBI for access to those belongings?

A. We did. We asked if we could come get them and because there was really no other way than—that's when it was just back and forth, back and forth, or then not hearing from them, and then them saying, oh, we're trying to figure out the best way to get you your stuff. And then at one point, were, like, well, can you ship them here? Because we're not living in Virginia now. And then I think at one point they

were, like, oh, we might be able to do that, but it's going to cost you \$17,000. And we were, like, whoa, no, we—I'm suspended. Like, we knew my pay was going to get suspended. It hadn't been suspended yet. But we were, like, no, we're not paying you \$17,000 for you to send us our stuff that you took to Virginia. So then we were able—they eventually they agreed to let me go and get it. That still cost, like I said, about ten grand, but I guess that beats 17.

Q. And the FBI wouldn't—in the normal course of things, if you're transferred, the FBI pays for those expenses, and then, as you said, you're in charge of the tax bill. Is that correct?

A. Correct.<sup>141</sup>

“Nearly 180 days” after his suspension, O’Boyle testified that he had not heard from the FBI regarding the status of his security clearance.<sup>142</sup> Ms. Moore, who signed O’Boyle’s notice that his security clearance was suspended, testified that O’Boyle’s situation was a mere “coincidence.”<sup>143</sup> Ms. Moore specifically stated:

Q. The date that's on Mr. O'Boyle's letter? That was . . . October 22<sup>nd</sup>[?]

A. Yeah. And what day did Mr. O'Boyle execute his actual move?

Q. His first day was on September 23, 2022.

A. And so what was the date of the letter?

Q. September 23, 2022.

A. Okay.

Q. So that's just some big coincidence, that it was his first day [in Virginia]?

A. Absolutely.<sup>144</sup>

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<sup>141</sup> *Id.* at 21-23.

<sup>142</sup> *Id.*

<sup>143</sup> Moore Interview at 121-23.

<sup>144</sup> *Id.* at 121.

Pointedly, however, O'Boyle believes that the agency was intentionally weaponized against him.<sup>145</sup> As O'Boyle testified:

Q. Culture wise, is the current FBI the same FBI you signed up to work for?

A. Not at all.

Q. Why?

A. I think the biggest reason is how they have become weaponized against anyone who doesn't just toe the line that they want them to toe. I think I'm a primary example of that. I start shedding light on things, on wrongdoing that is happening in the FBI; I get suspended. And I know I'm not alone. There are a number of other whistleblowers out there who are in a similar situation after being suspended. Some of them, after—it said—they claim they don't retaliate for First Amendment protected activity. I know for a fact that they do, because one of my protected disclosures was about that, about the FBI retaliating against employees for engaging in First Amendment protected activity, and those employees got suspended.<sup>146</sup>

Many other FBI whistleblowers told O'Boyle that they believe his experience is perhaps the most severe exhibition of the FBI's weaponization.<sup>147</sup> As O'Boyle told the Committee and Select Subcommittee:

Q. The retaliation that you've testified to today seems to have an enhanced feature of cruelty to it.

A. I agree. I agree.

Q. You know, are you and the other whistleblowers, the cases that you're aware of, are there features of such acute cruelty?

A. Not like this. My situation is one that all the other whistleblowers I've talked to are like, "I just can't believe" — I mean, and they're in a similar situation, they're suspended without pay, and they say, "I can't believe what has happened to you." You know, earlier, I alluded I went to Iraq and Afghanistan, a year each, as an infantryman. I received the Combat Infantryman Badge for—I mean, that

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<sup>145</sup> O'Boyle Interview at 37-38.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 108-09.

is awarded to infantrymen who fight the enemy. So I've been shot at. I've had rockets shot at me, IEDs. And it's different, but this, what I'm going through right now, is harder than those deployments. When I got home from Afghanistan, I knew I was getting out of the Army. I had 10, 11 months left. And I was like—I had just turned 25, and I was like, "I'm done. The hardest thing I will do in my life, I've done it, and now I can move on." And then this happened. And it's not war, but it's very war like, in what it has done to me mentally, what it's doing to me and my family. And I didn't have a family then. You know, I just had my wife. And, you know, yeah, it's just—it's hard to believe.

Q. Yeah . . . In these other suspensions, there doesn't seem to be this purposeful manifestation of cruelty to someone's family, to someone's living situation, to someone's ability to secure future employment. Why do you think the acuity of the cruelty is so much higher with you?

A. I wish I knew. I think it probably just goes back to the pervasiveness of how the FBI has deemed—they've decided they're going to do what they want, on their agenda, on their terms, that they're the law, and they're not going to have someone internally shining a light in the darkness on the bad things that they are doing. And I think they realized, we have him in the perfect position to completely flip his life upside down and cause torment to him. Because then they can come back and say, well, look at his mental status, or, you know, he's clearly unstable, he hasn't had a job, or whatever they might try to drum up in the future, which I wouldn't be surprised at anything they try to drum up. But—

Q. Do you believe they're making an example out of you?

A. I do, yeah. I think it's clear. I mean, and I think that also has a cooling effect on speech, because any FBI employee who hears my story I'm sure would be stunned.

Q. So you believe that you and your family are being . . . tortured so that the FBI can send a message to any future whistleblowers that this is what life will be like for you?

A. I do.<sup>148</sup>

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<sup>148</sup> *Id.*

### C. Marcus Allen Was Suspended for Merely Forwarding Open-Source News Articles to His Colleagues.

The FBI retaliated against Marcus Allen, a decorated Marine and former FBI Staff Operations Specialist in the Charlotte Field Office, for simply performing the duties of his job.<sup>149</sup> Like other whistleblowers, Allen was suspended without pay.

Allen, who held a top-secret security clearance for approximately two decades, had worked as part of FBI Charlotte's Joint Terrorism Task Force (JTTF) while employed by the Bureau.<sup>150</sup> In addition to the JTTF, Allen's duties included "respond[ing] to the intelligence program."<sup>151</sup> In order to meet the requirements of the intelligence program, Allen testified he was required to perform "all-source analysis" in which he would "research publicly available information [and] anything on the open web . . . to help out with our assessments and cases that the FBI has."<sup>152</sup> While reading open-source news articles and watching open-source opinion videos concerning the events at the U.S. Capitol on January 6, 2021, Allen testified that he sent around links to these articles for his squad's "situational awareness" related to the FBI's investigation.<sup>153</sup> Because these open-source articles questioned the FBI's handling of the violence at the Capitol, the FBI suspended Allen for "conspiratorial views in regards to the events of January 6th . . . ."<sup>154</sup> However, Allen testified that passing along such articles was "part of [his] job."<sup>155</sup> Allen particularly stated:

Q. And why exactly did you send th[e] email[s]?

A. I sent [the emails] just for awareness because the[y] . . . indicated potential problems with the investigation as far as informants were concerned, and our organization's potential forthrightness about the utilization of informants there on that day. That might have some impact on our cases and the subjects that we're looking up, and just a general awareness overall for the investigation as a whole, that there might have been some kind of potential Federal involvement with the activities on January 6th, and I thought it was important enough that it like warranted our attention, you know.

Q. Is it safe to say that you sending th[ose] email[s] was part of your job at the time?

A. Yes.

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<sup>149</sup> Allen Interview at 49.

<sup>150</sup> *Id.* at 10.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at 25.

<sup>154</sup> *Id.* at 19.

<sup>155</sup> *Id.* at 30.

Q. Did you direct any of your colleagues to take any action regarding [these emails]?

A. No.<sup>156</sup>

Worse yet, the FBI did not even give Allen the opportunity to rebut the allegations or to meet with agency leadership in his office.<sup>157</sup> Instead, Allen testified:

Q. So I want to talk more about the actual day of your suspension. I know that might be tough. So can you walk us through what happened that day?

A. Yes. So on the actual day of my suspension, I met with the chief security officer . . . , as well as [the] assistant special agent in charge . . . . The assistant special agents in charge are like the top three or four agents in the office right underneath the special agent in charge who's the chief essentially. And I met with them in a parking lot at a Cracker Barrel off of Carowinds Boulevard in Charlotte. They met me, and they read off a letter in the parking lot that I was being suspended for conspiratorial views in regards to the events of January 6th, and that my suspension—the date of the start was January 10th. The day of the meeting was January 19th, and it would be without pay as well.<sup>158</sup>

However, the retaliation did not end with Allen's suspension. During his suspension, Allen testified that he sought the FBI's permission to seek outside employment, but the FBI has refused to acknowledge his requests or provide him with the documentation necessary for other employment. Allen specifically testified:

Q. Have you ever sought [the FBI's] approval for outside employment?

A. Yes.

Q. Can you expand upon that and tell us when you sought outside employment?

A. Yes. I sought outside employment within the past month. I went through the process. Because of the nature of the employer, I needed to correspond with an ethics attorney, which I did. I explained to him the announcement and the type of job, and we had a correspondence back and forth.

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<sup>156</sup> *Id.* at 30-31.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

And he relayed to me to go ahead and submit the outside employment form, the 331B, to the chief security officer at the Charlotte Field Office, . . . , which I did. I reached out to her. I submitted it, and she said she put it within the [Enterprise Process Automation System].<sup>159</sup> That employment approval—there’s a 15 business day response time, and that 15 day response time has been expired for several days, and I’ve received no correspondence back from the Bureau in its regard.<sup>160</sup>

Allen additionally testified:

Q. And so you have received no answer as of today about your outside employment request?

A. No.

Q. And before that, did you submit to the FBI a prayer journal for prepublication review?

A. Yes.

Q. And when, about, was that?

A. Let’s see. That would’ve been October of 2022.

Q. And why did you submit it to the FBI for prepublication review?

A. I just wanted to make sure that it was okay; that, you know, I had their okay to go ahead and do it. Because of the nature of the situation, I conveyed, you know, there is nothing in here referencing my time as an employee for the FBI. You know, there’s nothing in reference to the FBI like, basically conveying to them that there’s nothing there that I’m trying to profit off of my association with the FBI. And I just want to make sure that I’ve got the, “Hey, we’re good to go. You can go ahead and do whatever you want with your prayer journal.” There was a correspondence back and forth, and then the correspondence dropped off, and I got no response after that.

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<sup>159</sup> *Privacy Impact Assessment for the Enterprise Process Automation System (EPAS)*, FED. BUREAU OF INVESTIGATION (July 15, 2011), <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act/department-of-justice-fbi-privacy-impact-assessments/enterprise-process-automation-system>.

<sup>160</sup> Allen Interview at 66-67.

Q. So your goal was to publish the prayer journal. Is that correct?

A. Yes.

Q. And maybe gain some income, since you weren't earning any income at that point in time?

A. Yes.

Q. So you're suspended from the FBI February of 2022. Is that correct?

A. Yes.

Q. And then you get a month of pay due to your service to the country. Is that correct?

A. Yes.

Q. And then you are without pay from February until today, correct?

A. Correct.

Q. So you sought prepublication of your prayer journal in October of 2022 to earn some income, and then you never heard back from the FBI as to whether or not you could go ahead and publish it?

A. Correct.

Q. And then, just this month, you requested outside employment approval. Is that correct?

A. Yes.

Q. And you have never heard back from the FBI?

A. No.

Q. So you've been languishing now for over a year on unpaid suspension. Is that correct?

A. Correct.

Q. And, during that time, you have earned no income. Is that correct?

A. Correct.<sup>161</sup>

Allen further testified about the financial hardship that the FBI's decision to suspend him without pay has had on his family. He explained:

My family and I have been surviving on early withdrawals from our retirement accounts while the FBI has ignored my request for approval to obtain outside employment during the review of my security clearance.<sup>162</sup>

The FBI officially revoked Mr. Allen's security clearance one day after his transcribed interview to this Committee.

**D. Whistleblowers Have Described How the FBI's Politicization Has Crowded Out its Traditional Law Enforcement Function.**

Whistleblowers have told the Committee that the FBI's Washington hierarchy is "rotted at its core" and maintains a "systemic culture of unaccountability." The FBI and the Department of Justice have been deeply politicized by its current partisan leadership. This politicized behavior has adversely affected front-line FBI agents.

According to O'Boyle, the FBI has allowed itself to be "enveloped in this politicization and weaponization" so much so that it is "a cancerous point."<sup>163</sup> O'Boyle testified:

Q. Are you aware of allegations that the FBI is using security clearance revocations as a tool to purge conservatives from its ranks?

A. I am.

Q. Do you believe that's occurring?

A. I do.

Q. Do you believe that the FBI has become political?

A. I do.

Q. Do you think the extent of the politicization at the FBI is a

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<sup>161</sup> *Id.* at 68-70.

<sup>162</sup> *Id.* at 6.

<sup>163</sup> O'Boyle Interview at 154.

problem that festers within its hierarchy, or is it nationwide, enterprise-wide?

- A. I think it's encompassed in the hierarchy and then it trickles down throughout the rest of the Bureau. And those who are especially geared towards promoting will adhere themselves to whatever they need to promote. I think most people out in the field try to avoid that politicization of the agency, which is good. But it's gotten to a point, it seems to me, that it's like a cancerous point where the FBI has let itself become enveloped in this politicization and weaponization that I don't know how to even begin to fix it.<sup>164</sup>

When asked about characterizations of the FBI's hierarchy, Friend stated that it was "consistent" with what he has heard from other FBI employees.<sup>165</sup> Friend testified:

- Q. Whistleblowers told committee Republicans that the FBI's Washington hierarchy is, quote, "rotted at its core," end quote, maintains a, quote, "systemic culture of unaccountability," end quote, and is full of, quote, "rampant corruption, manipulation, and abuse," end quote. Do you agree with these statements?

A. Yes.

- Q. And what is your reaction to hearing that this is how people characterize the FBI?

A. It sounds consistent with just about everybody that I've talked to who has never gone to headquarters.

- Q. So it doesn't surprise you that fellow FBI employees and agents are making these characterizations?

A. No.<sup>166</sup>

Similarly, Allen testified about the politicization that he has witnessed within the FBI. He explained:

- Q. Mr. Allen, do you feel that you've been treated fairly?

A. No.

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<sup>164</sup> *Id.*

<sup>165</sup> Friend Interview at 130-31.

<sup>166</sup> *Id.*

- Q. Do you believe that the FBI has become political?
- A. Yes.
- Q. Given your experience, do you see any other recent actions that we haven't discussed today by the Biden administration, DOJ, and the FBI as problematic?
- A. Problematic? I would say, by appearance, some of the information that's been made available in the public domain about public corruption that on the surface appears to not be being pursued seems problematic, especially in regards of public corruption when it comes from the highest offices in the land.
- Q. Is it fair to say that you've lost confidence in the FBI's leadership?
- A. Yes.
- Q. So the FBI told this committee that it . . . "does not target or take adverse actions against employees for exercising First Amendment rights or for their political views." Do you think that's accurate?
- A. I don't agree with that statement.<sup>167</sup>

In Hill's view, similarly, the FBI needs "tough love" to eliminate its highly politicized culture and return to a "highly functioning, apolitical, high-performing FBI."<sup>168</sup>

For whistleblowers who have spoken with the Committee and the Select Subcommittee, working for the FBI was their dream job.<sup>169</sup> They came to Congress with the goal of helping to return the FBI to its origins as an effective, apolitical law enforcement agency.<sup>170</sup> The FBI's motto—Fidelity, Bravery, Integrity—has long been used to describe the motivation of the men and women who serve.<sup>171</sup> Yet agents like O'Boyle and Friend do not believe the FBI has kept

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<sup>167</sup> *Id.*

<sup>168</sup> Hill Interview at 103.

<sup>169</sup> See Friend Interview at 34; see also O'Boyle Interview at 8, 25.

<sup>170</sup> See, e.g., O'Boyle Interview at 26 ("[W]hen we see things that are wrong, that are harmful to people, that are unloving, or that are against the law, it's my duty to speak up."); see also *id.* at 25 ("Every single American deserves the rights that are provided to us in the Constitution. And every single FBI agent should uphold those rights. And every single FBI agent, when they see that the agency they work for are treading over those rights, they have to speak up."); see also *id.* at 30 ("I think in a lot of ways I was, like, oh, the FBI's not actually what I thought it was, where you have people who want to serve this great nation and keep it strong and uphold the Constitution. Rather, you have people who just do what they're told and want to climb that ladder and get that pension.").

<sup>171</sup> See *Seal & Motto*, FBI, <https://www.fbi.gov/history/seal-motto> (last visited May 17, 2023).

faith with this motto, stating it “couldn’t be further from the truth.”<sup>172</sup> And when they spoke out against what they reasonably believed were abuses and violations of law, they were silenced and their lives were upended. The efforts to silence whistleblowers, treat them cruelly, and ruin their careers are intended to prevent other agents from speaking out. The first step toward treatment is diagnosing the illness, and these brave whistleblowers have outlined the systemic sickness at the FBI’s core.

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<sup>172</sup> O’Boyle Interview at 90; *see also id.* (stating that other agents have supported his whistleblowing but “when they see something that’s wrong, most of them don’t report it, because they’re trying to get to that 20-year mark and get that pension or whatever ... is inhibiting them”).

### **III. Committee Democrats Attacked and Defamed FBI Whistleblowers to Advance a Political Agenda.**

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On March 2, 2023, Committee Democrats released a misleading document based on selective, cherry-picked information to attack some of the FBI whistleblowers who bravely testified to the Committee and Select Subcommittee.<sup>173</sup> Rather than engage in good faith with the substance of the concerns raised by these FBI whistleblowers, the Democrats mischaracterized much of the whistleblowers' testimony, reached conclusions not based in fact or law, and denigrated these Americans with *ad hominem* attacks. The Democrat's report was so egregiously inaccurate that news organizations reporting on it were forced to later correct the record about the whistleblowers.<sup>174</sup>

Wildly, the Democrat report asserted that “[n]o law protects witnesses who speak to Congress.”<sup>175</sup> This assertion is plain wrong. But worse, it reveals the Democrats' broader posture toward these brave federal law-enforcement officers: distort, distract, and discredit any effort to expose federal bureaucratic misconduct. The Democrats similarly deployed this strategy during the Select Subcommittee's March 9, 2023, hearing to expose the government-censorship complex. During that hearing, several Democrat Members pressured two independent and highly respected journalists to reveal their sources, and Ranking Member Stacey Plaskett attacked them as “so-called journalists.”<sup>176</sup>

#### **A. The Democrat Report Erroneously Claims that the FBI Whistleblowers Who Have Appeared Before the Committee Are Not *Real* Whistleblowers.**

During their transcribed interviews, each of the FBI whistleblowers detailed episodes in which they had firsthand knowledge of what they reasonably believed to constitute fraud, waste, abuse, mismanagement, or violations of a law, rule, or regulation at the FBI. Despite the unsupported conclusions in the Democrats' report asserting otherwise, these episodes as detailed by the whistleblowers in their own words are exactly the types of protected disclosures contemplated by whistleblower protection laws.

Federal law—specifically, 5 U.S.C. § 2303—protects federal employees, including FBI employees, from retaliation for disclosing what he or she *reasonably believes* to be evidence of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.<sup>177</sup> Under the law, a whistleblower is protected even if what he or she discloses ends up being wrong or mistaken, so

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<sup>173</sup> Democratic Staff of H. Comm. on the Judiciary, 118th Cong., *GOP Witnesses: What Their Disclosures Indicate About the State of the Republican Investigations 1* (hereinafter “Democrat Report”).

<sup>174</sup> See, e.g., Luke Broadwater and Adam Goldman, *G.O.P. Witnesses, Paid by Trump Ally, Embrace Jan. 6 Conspiracy Theories*, N.Y. TIMES (Mar. 2, 2023); Justine McDaniel, *Democrats Challenge Credibility of GOP Witnesses Who Embrace False Jan. 6 Claims*, WASH. POST (Mar. 3, 2023).

<sup>175</sup> See Democrat Report, *supra* note 173, at 10.

<sup>176</sup> *The Twitter Files Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov't*, 118th Cong. 8 (2023) (statement of Rep. Stacey Plaskett, Delegate, United States Virgin Islands).

<sup>177</sup> 5 U.S.C. § 2303 (emphasis added).

long as it is a reasonable, good-faith belief.<sup>178</sup> The law is not overly complicated, yet the Democrats’ report claims without evidence that “[n]one of the three witnesses interviewed to date comes close to meeting that definition” of a whistleblower.<sup>179</sup> Democrats concede, as they must, that an FBI employee is protected from reprisal if a whistleblower makes a disclosure that he or she reasonably believes to evidence such violations.<sup>180</sup> Nevertheless, throughout their report, they ignored the reasonable belief standard and, instead, invented a beyond a reasonable doubt standard that whistleblowers must satisfy.<sup>181</sup>

The Democrats’ report improperly tries to disqualify the whistleblowers’ numerous meritorious claims by mischaracterizing their disclosures, manipulating their testimony, and making false claims to support the Democrats’ conclusion that Hill, O’Boyle, and Friend are not *real* whistleblowers. Despite the Democrat’s bluster, the record is crystal clear. Each of these whistleblowers had a good-faith basis for believing wrongdoing had occurred.

### 1. George Hill.

Retired FBI Supervisory Intelligence Analyst George Hill provided the Committee with detailed allegations of FBI abuses. However, instead of engaging with Hill’s allegations, the Democrat report minimized the allegations by trying to discredit Hill. The report claims that “Hill explained that he himself did not handle any cases . . . and, while he viewed an electronic communication referencing the list in the FBI’s case management system, he never opened or viewed the actual list himself.”<sup>182</sup> *Rolling Stone*, in an article based on information leaked from Democrats, assumed this biased framing, asserting that Hill “learned about [the allegations] only through secondhand chatter from colleagues.”<sup>183</sup> In a response to *Rolling Stone*, Hill’s attorney explained that this assertion was “factually incorrect, misleading, and lacked context.”<sup>184</sup> An examination of Hill’s testimony demonstrates that the *Rolling Stone* article—and the Democrat assertion on which it is based—is wrong.

Hill testified that he observed the FBI Sentinel electronic message bringing the list of Bank of America customers’ transactions purportedly related to January 6th into the FBI’s internal system, and that “the [Supervisory Special Agent] and I had already talked about it, and the SSA had already talked to the [Assistant Special Agent in Charge] about it.”<sup>185</sup> Hill believed the FBI’s receipt of this information was a violation of law, explaining that “there was no legal

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<sup>178</sup> See *id.*; see also *Whistleblower Rights and Protections*, U.S. Department of Justice Office of Inspector General, <https://oig.justice.gov/hotline/whistleblower-protection> (last visited May 17, 2023) (explaining the requirements for a disclosure to be protected).

<sup>179</sup> See Democrat Report, *supra* note 173, at 4 (internal quotations omitted).

<sup>180</sup> *Id.*

<sup>181</sup> See *id.* at 29 (claiming O’Boyle “did not present any violation of a law, rule, or regulation, or of gross mismanagement, waste of funds, an abuse of authority, or a substantial danger to public health or safety”); see also *id.* at 49-50 (claiming Friend also did not provide any evidence).

<sup>182</sup> Democrat Report, *supra* note 173, at 11.

<sup>183</sup> Kara Voght, Adam Rawnsley, Asawin Suebaeng, *Inside Jim Jordan’s Disastrous Search for a ‘Deep State’ Whistleblower*, ROLLING STONE (March 2, 2023).

<sup>184</sup> See Jason Foster (@JsnFostr), Twitter (Mar. 3, 2023, 9:45 AM), <https://twitter.com/JsnFostr/status/1631667084512903170>.

<sup>185</sup> Hill Interview at 74.

process . . . asking for it . . . from the Bureau or from DOJ or anybody.”<sup>186</sup> On these facts, it is clear that Hill had a reasonable belief that there was a violation of law.

## 2. Garret O’Boyle.

The Democrat’s attempt to discredit the disclosures of O’Boyle by creating a procedural strawman around his allegations. They criticized O’Boyle for not providing information in his transcribed interview that was included in his protected disclosures to Congress. The Democrats concede “[t]hat material may well include relevant, probative evidence that would bear on the validity of his claims,” but still wrongly assert that O’Boyle provided no “evidence of a violation of law, rule, or regulation . . . .”<sup>187</sup> Here too, the Democrats ignored the substance of O’Boyle’s testimony.

During his transcribed interview, O’Boyle highlighted his numerous firsthand experiences with fraud, waste, and abuse at the FBI.

- In highlighting the FBI’s attempt to inflate DVE numbers, he testified to one instance in which the FBI instructed him to divide one case into four cases, to “open a case for every individual that I had an articulable, factual basis that there may have been potential Federal law being violated.”<sup>188</sup> He said this was done so the FBI could show Congress that DVE cases were on the rise and in turn receive more funding.<sup>189</sup>
- In another part of his interview, O’Boyle testified about the EDUOFFICIALS threat tag, used by the FBI to investigate parents who attended school board meetings. O’Boyle testified that investigating parents for First Amendment-protected free speech was “absolutely not” a proper use of FBI resources.<sup>190</sup>
- He also testified to the FBI’s use of “arbitrary” metrics to award bonuses to Special Agents in Charge.<sup>191</sup> By basing bonuses on arbitrary metrics like how many Title III wiretaps or FISAs were obtained, O’Boyle stated that this focus on metrics “leads to a pervasive culture of not letting the cases dictate where the investigation goes, but it’s the manager or the agent pushing for a certain avenue.”<sup>192</sup>

This testimony establishes that O’Boyle had a reasonable belief that the FBI was violating the law, abusing its authority, or wasting taxpayer funding.

## 3. Stephen Friend.

The Democrat report also presents a strawman to discount FBI whistleblower Friend’s allegations of FBI abuse. The report asserts that because the Office of Special Counsel (OSC)

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<sup>186</sup> *Id.* at 76.

<sup>187</sup> Democrat Report, *supra* note 173, at 29.

<sup>188</sup> O’Boyle Interview at 92.

<sup>189</sup> *Id.* at 92-93.

<sup>190</sup> *Id.* at 85.

<sup>191</sup> *Id.* at 98-100.

<sup>192</sup> *Id.* at 99.

and the Department of Justice’s Office of Inspector General (OIG) declined to open an investigation into Friend’s claims, his whistleblower claims are invalid.<sup>193</sup> Neither the facts nor the law support the Democrats’ anti-whistleblower assertions.

While OSC and OIG did not open investigations into Friend’s whistleblower claims, OIG did *not* reject Friend’s retaliation claim.<sup>194</sup> In response to erroneous media reporting relying on the Democrats’ report in early March 2023, Friend’s attorney explained that “the OIG ’had not investigated Friend’s claims at that point, but did not reject them either—it simply claimed it did not have enough resources and chose not to open an investigation.<sup>195</sup> The OIG asked Friend for his permission to refer the disclosure back to the FBI to investigate itself, which Friend declined to provide.”<sup>196</sup>

By obsessing on OSC’s failure to open an investigation, Democrats ignored serious allegations of FBI wrongdoing. Specifically, Friend’s written complaint, which he provided to the Democrats in advance of his transcribed interview, included allegations that the FBI engaged in at least three systemic abuses.<sup>197</sup> Friend testified about matters concerning:

- The manipulation of case management policies to drive a false narrative supporting an FBI priority;<sup>198</sup>
- The violation of the DOJ’s Use of Force policy and FBI policy to send a message to disfavored actors; and<sup>199</sup>
- Whistleblower retaliation.<sup>200</sup>

During his transcribed interview, Friend testified about how the FBI’s focus on January 6 cases led to wasted resources and a de-emphasis on child exploitation crimes.<sup>201</sup> Friend related one example in which the FBI ordered Friend to make a three-hour round-trip to conduct an in-person interview of a January 6 subject, even though other less-intrusive methods had not substantiated the allegations.<sup>202</sup> Friend explained that he learned the subject was not in D.C. on January 6 because he was at his son’s funeral in Florida.<sup>203</sup> Friend testified that by confronting the man about his whereabouts on that day, he needlessly forced the man to re-live the worst day of his life.<sup>204</sup> As Friend’s attorney explained to the media, “Friend’s disclosures are protected

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<sup>193</sup> Democrat Report, *supra* note 173, at 30-31.

<sup>194</sup> Friend Interview at 92-96.

<sup>195</sup> See Letter from Tristan Leavitt, President, Empower Oversight, to Hon. Michael E. Horowitz, Inspector Gen., U.S. Dep’t of Investigation; See also Letter from Jason Foster, Founder & President, Empower Oversight, to U.S. Dep’t of Justice, Office of Inspector Gen. (Jan. 31, 2023).

<sup>196</sup> Letter from Jason Foster, Founder & President, Empower Oversight, to U.S. Dep’t of Justice, Office of Inspector Gen. (Jan. 31, 2023).

<sup>197</sup> See Democrat Report, *supra* note 173, at 175.

<sup>198</sup> *Id.* at 131.

<sup>199</sup> *Id.* at 19-20, 26.

<sup>200</sup> Friend Interview at 21, 23, 32-33.

<sup>201</sup> *Id.* at 8.

<sup>202</sup> *Id.* at 192.

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

whistleblower disclosure about wasted resources<sup>205</sup>—and Friend testified accordingly<sup>206</sup>—but the Democrats edited that portion of the transcript out of their one-sided presentation.”<sup>207</sup>

## **B. The Democrat Report Slandered the Integrity of Veteran Federal Law Enforcement Officers in the Service of Partisan Politics.**

Committee Democrats ignored the substance of O’Boyle’s, Friend’s, and Hill’s allegations of FBI wrongdoing. Instead, they attacked the messengers with *ad hominem* attacks. Throughout their report, Democrats implied and then explicitly accused these former FBI employees of being “insurrectionists” and “conspiracy theorists” who only sought to profit from their whistleblowing activities.

In their report, Democrats asserted that these FBI whistleblowers objected to the arrest of January 6 subjects who had committed crimes. This is wrong and easily contradicted by the actual whistleblower testimony. For example:

- In questioning from Democrat staff, Friend explicitly condemned the individuals who committed violence on January 6th. He testified: “[A] lot of these guys are bad dudes, and they should go to jail. And we didn’t follow our rules, and we set ourselves up to get crushed at trial . . . lose on appeal. I want to win.”<sup>208</sup> Friend explained that his concern was with the *process* leading to the arrests, not with the people, especially when certain January 6 subjects were cooperating with investigators.<sup>209</sup>
- Hill similarly testified: “I don’t support, under any circumstances, attacking police officers, breaking into restricted areas, destroying of government property. . . . Every person that broke the law needs to be identified and prosecuted to the fullest extent. What I take umbrage with is casting in a sea net covering miles and scooping up everything that they can and the erosion of civil liberties surrounding that.”<sup>210</sup>
- When asked whether he believes the government should be prosecuting individuals that were involved on January 6th, O’Boyle testified: “Some of them, yes.”<sup>211</sup>

Rather than address the content of the whistleblower allegations, Democrats attacked the whistleblowers for their personal, constitutionally protected views. At each transcribed interview, Democrats spent a majority of their time badgering the witnesses about their personal opinions on public matters. Democrats confronted the witnesses with cherry-picked social media posts, hoping to portray the whistleblowers as holding controversial, disfavored, or unpopular

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<sup>205</sup> Katelynn Richardson, *DOJ Internal Watchdog Shuts Down House Democrats’ Claims Against FBI Whistleblower Steve Friend*, DAILY CALLER (Mar. 16, 2023), <https://dailycaller.com/2023/03/16/doj-inspector-general-office-whistleblower-corrects-democrat-claims/> (last accessed May 16, 2023).

<sup>206</sup> Friend Interview at 30, 135.

<sup>207</sup> See generally Democrat Report, *supra* note 173.

<sup>208</sup> Friend Interview at 173.

<sup>209</sup> *Id.* at 19, 173.

<sup>210</sup> Hill Interview at 125.

<sup>211</sup> O’Boyle Interview at 65.

personal opinions.<sup>212</sup> The Democrats used this information in their report to complain that each whistleblower “offered a wide range of personal opinions,” and suggest that the substance of their whistleblower disclosure was therefore discredited.<sup>213</sup>

Democrats even pried into the private finances of the whistleblowers, hoping to malign them as having pecuniary motivations for disclosing FBI wrongdoing. The Democrats criticized Friend for receiving help from a former Trump Administration official in finding a job *after* the FBI all but forced him to resign.<sup>214</sup> Because Friend’s new employer supports the important work of the Select Subcommittee,<sup>215</sup> the Democrat report concluded that “[p]ublicity generated by the Committee’s investigation would benefit Friend in his new role by increasing the visibility of that organization” and, therefore, “Friend has a monetary incentive to continue pursuing his claims.”<sup>216</sup>

Moreover, the Democrat report baselessly chastised Friend for accepting a monetary gift from a friendly organization during his FBI suspension. The Democrats implied that this gift colored the reliability of Friend’s testimony,<sup>217</sup> but they conveniently omitted that the FBI had denied Friend’s request to seek outside employment, leaving him to exhaust his accrued leave time, expend his personal savings, and eventually go without pay.<sup>218</sup> The Democrat report also failed to mention that Friend’s wife lost her job and, at the time, was recovering from a serious surgery.<sup>219</sup> When Friend again asked the FBI to seek outside employment and for his training records—so he could pursue other employment opportunities—he never heard back.<sup>220</sup>

In his testimony, Friend denied, clearly and unequivocally, that he was paid to come forward with his allegations against the FBI.<sup>221</sup> Friend testified that he never took money from a fundraising account that he promoted for suspended whistleblowers’ living expenses,<sup>222</sup> he denied making money from the articles he wrote,<sup>223</sup> and he declared that he has not yet made any money off of a book he authored about his experience.<sup>224</sup> Only after the FBI denied Friend’s requests for outside employment and only after Friend and his family survived 150 days of unpaid suspension did Friend take a job as a fellow with a conservative organization to provide for his family and “be a productive citizen.”<sup>225</sup>

Like Friend, O’Boyle experienced Democrat slander during and after his transcribed interview. The Democrat report insinuates that O’Boyle had a “financial connection” to a former Trump Administration official and his attorney “appeared to surprise his client with an

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<sup>212</sup> *Id.*

<sup>213</sup> *Id.*

<sup>214</sup> Democrat Report, *supra* note 173, at 7.

<sup>215</sup> *Id.* at 76.

<sup>216</sup> *Id.* at 34.

<sup>217</sup> *Id.* at 72.

<sup>218</sup> *Id.* at 32.

<sup>219</sup> Democrat Report, *supra* note 173, at 101.

<sup>220</sup> *Id.* at 32-33.

<sup>221</sup> *Id.* at 73-77, 83.

<sup>222</sup> *Id.* at 76-77.

<sup>223</sup> *Id.* at 82.

<sup>224</sup> Democrat Report, *supra* note 173, at 82-83.

<sup>225</sup> *Id.* at 43.

announcement that he was now representing O’Boyle *pro bono*.”<sup>226</sup> Conveniently, the Democrat report omitted that O’Boyle spent over \$10,000 to retrieve his personal belongings from FBI storage after the FBI gave him the “run around” when it suspended him on his first day after a cross-country transfer.<sup>227</sup>

Notably, their attack on Hill’s credibility was so unfair that it prompted an apology from Democrats at the interview for impugning his credibility.<sup>228</sup> Particularly, during Hill’s testimony to this Committee and Subcommittee, counsel for Democrats on the Committee and Subcommittee castigated Hill for some social media posts and podcast appearances in which Hill disseminated his political opinions based on his concerns that were apparent during his time at the FBI. After the Democrats’ counsel ceased the attacks, Hill testified:

Q. So, just before we close, the minority staff spent a lot of time going through various what I would call political opinions that you have posted since leaving the FBI. Is it fair to say that those opinions were based on the concerns that you had about what you saw while you were in the FBI as well as public reporting?

A. Yes. Nothing’s changed. I love the FBI. But, like with any parent, I mean—or if someone calls themselves your friend, if they’re not willing to say, “Hey, you need to adjust yourself,” they’re not your friend. If all they do is just say, “Hey, this is great, this is great, this is great, keep going the way you’re going,” they’re truly not your friend and they’re not a very good parent. Nothing’s changed. I want the FBI to be successful.

Q. So the minority staff also, in the first round of questioning, said that your statements on the podcast went to your claimed that they went to your credibility. I didn’t hear anything that suggested that you were dishonest in any way, in any form, anywhere, anytime. Is everything that you testified to today with regard to the facts accurate and truthful, to the best of your knowledge?

A. Regarding fact testimony, yes. Opinions are opinions, and, unfortunately, I probably gave too many of those.

[Minority Counsel]. And I should clarify. I did say “credibility.” I meant to say “bias.”

A. Huge difference.

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<sup>226</sup> *Id.* at 7.

<sup>227</sup> O’Boyle Interview at 23.

<sup>228</sup> Hill Interview at 147-48.

[Minority Counsel]. And I—yeah, I did not mean to impugn your credibility, and I do apologize.

A. I—for the record, I—quite frankly, I found it offensive.

[Minority Counsel]. I apologize.

A. I don't know if you've ever been subject to a full scope lifestyle poly, but it's—yeah. You went there.<sup>229</sup>

### **C. Democrats Deployed the Same Abusive Tactics to Attempt to Discredit Journalists Matt Taibbi and Michael Shellenberger.**

The Democrat report exemplifies their tactics of personal destruction. These tactics were on full display during the Select Subcommittee's March 9, 2023, hearing about government censorship revealed by two journalists in the Twitter files. There, as they did when they accused the FBI whistleblowers of not being *real* whistleblowers, Democrats suggested that the journalists covering the Twitter Files—Matt Taibbi and Michael Shellenberger—were not *real* journalists, but merely “so-called journalists.”<sup>230</sup>

During her line of questioning at the hearing, Democrat Representative Debbie Wasserman Schultz told Taibbi, “Being a Republican witness today certainly cast[s] a cloud over your objectivity.”<sup>231</sup> This is no different from the attack Democrats lodged against the whistleblowers, telling the *New York Times* that by testifying to a Republican-led Committee, the whistleblowers “have engaged in partisan conduct that calls into question their credibility.”<sup>232</sup> Just as the Democrat report accused Friend and O'Boyle of receiving money from a conservative organization in order to shape their testimony, Democrat members asked Taibbi if he benefitted financially from exposing misconduct. During her questioning, Representative Wasserman Schultz admonished Taibbi:

Before the release of the emails . . . in August of last year, you had 661,000 Twitter followers. After the Twitter Files, your followers doubled, and now it's three times what it was last August. I imagine your Substack [r]eadership, which is a subscription, increased significantly because of the work you did for Elon Musk. Now, I'm not asking you to put a dollar figure on it, but it's quite obvious that you've profited from the Twitter Files. You hit the jackpot on that Vegas slot machine to which you referred. That's true, isn't it?<sup>233</sup>

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<sup>229</sup> *Id.*

<sup>230</sup> *The Twitter Files Hearing Before the Select Subcomm. On the Weaponization of the Fed. Gov't*, 118th Cong. 8 (2023) (statement of Del. Stacey Plaskett).

<sup>231</sup> *Id.* at 33 (questioning from Rep. Debbie Wasserman Schultz).

<sup>232</sup> See Broadwater and Goldman, *supra* note 174.

<sup>233</sup> *The Twitter Files Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov't*, 118th Cong. 34-35 (2023) (questioning from Rep. Debbie Wasserman Schultz).

Taibbi denied the insinuation that his reporting was profit-motivated—calling it “a wash” between income generated and income spent on his reporting—and defended the integrity of his work.<sup>234</sup>

The startling Democrat attacks on the First Amendment continued when they pressed the journalists to reveal their sources for the information contained in the Twitter Files. They pressed Taibbi and Shellenberger:

Ms. Plaskett: And then who gave you access to these emails? Who was the individual that gave you permission to access the emails?

Mr. Taibbi: Well, the attribution from my story is sources at Twitter, and that’s what I’m going to refer to.

Ms. Plaskett: Okay. Did Mr. Musk contact you, Mr. Taibbi?

Mr. Taibbi: Again, the attribution from my story is sources at Twitter.

Ms. Plaskett: Mr. Shellenberger, did Mr. Musk contact you?

Mr. Shellenberger: Actually, no. I was brought in by my friend, Bari Weiss.<sup>235</sup>

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Ms. Garcia: Mr. Taibbi, I want to follow up a little bit on the ranking member’s questions. When was the first time that Mr. Musk approached you about writing The Twitter Files?

Mr. Taibbi: Again, Congresswoman, that would –

Ms. Garcia: I just need a date, sir.

Mr. Taibbi: But I can’t give it to you, unfortunately, because this is a question of sourcing, and I don’t give up – I’m a journalist. I don’t reveal my sources.

Ms. Garcia: It’s not a question of sources. It’s a question of chronology.

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<sup>234</sup> *Id.*

<sup>235</sup> *Id.* at 51 (questioning from Del. Stacey Plaskett).

Mr. Taibbi: No. That’s a question of sources.

Ms. Garcia: Because you earlier said that someone had sent you to the internet, some message about whether or not you would be interested in some information.

Mr. Taibbi: Yes. And I refer to that person as a source.

Ms. Garcia: So you’re not going to tell us when Musk first approached you?

Mr. Taibbi: Again, Congresswoman, you’re asking me to –

Ms. Garcia: You can answer yes or no.

Mr. Taibbi: You’re asking a journalist to reveal a source.

Ms. Garcia: So do you consider Mr. Musk to be the direct source of all of this?

Mr. Taibbi: No. Now you’re trying to get me to say that he is the source. I just can’t answer your question about sources.

Ms. Garcia: Well, he either is or he isn’t. If you’re telling me you can’t answer because it’s your source, well, then, the only logical conclusion is that he is, in fact, your source.<sup>236</sup>

Committee Democrats have opposed the Committee’s critical oversight work since its inception. The conduct of Democrats in attacking brave FBI whistleblowers and intrepid investigative journalists speaks volumes to their motives. Although deeply disappointing, it is consistent with their promises to sabotage the Committee’s work. As Leader Jeffries and Ranking Member Nadler promised: Democrats would fight our work “tooth and nail.”<sup>237</sup>

From the outset of the 118th Congress, Democrats have reached new lows in their obstruction. They released nonpublic copies of the Committee’s first subpoenas to the White House, which in turn provided them to *Punchbowl*. Committee Democrats were the source of the leak because only the Committee—and not any subpoena recipients—had possession of the versions of the subpoenas that later appeared in *Punchbowl*.<sup>238</sup> Just weeks later, Democrats

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<sup>236</sup> *Id.* at 65-66 (questioning from Rep. Sylvia Garcia).

<sup>237</sup> Rep. Hakeem Jeffries (@RepJeffries), Twitter.com (Jan. 11, 2023, 10:03 AM), <https://twitter.com/RepJeffries/status/1613189897237438467>; Press Release, Rep. Jerrold Nadler, Nadler Blasts Formation of New Partisan Select Subcommittee (Jan. 10, 2023).

<sup>238</sup> See Max Cohen, *Punchbowl News PM: Inside Jordan’s Subpoenas*, *Punchbowl News* (Feb. 3, 2023).

provided cherry-picked excerpts of transcripts of whistleblower interviews to *Rolling Stone* and *CNN* to preemptively discredit their testimony. The Democrats' tactics in their subsequent report and the hearing is more of the same.

**A. The Actions of Committee Democrats Discourage Whistleblowing and Facilitate Citizens' Fear of Government.**

Because the Committee Democrats' report outed FBI whistleblowers' identities and substance of their testimonies to the public, one whistleblower, Allen, approached the Committee on the condition that they could speak initially only in presence of Republicans. Regarding this choice, Allen testified:

While I have agreed to this voluntary transcribed interview to help the committee fulfill its constitutional oversight function, I have concerns about the ability of the committee to protect me from further retaliation and protect confidential information I share during the interview. I have seen news coverage where excerpts of other FBI whistleblower testimony to this committee has been selectively leaked to fuel deceptive political attacks on those who have cooperated and provided voluntary testimony. That naturally makes me reluctant to subject myself to the same abuse, and that is why I was not comfortable agreeing to testify in a private setting with the same staff who are responsible for the previous leak and smear campaign against other whistleblowers. I am comfortable testifying to the chairman's staff based on assurances that confidential information provided during this interview will not be released without my consent and authorization by the chairman.<sup>239</sup>

Democrats' behavior regarding their treatment of brave FBI whistleblowers is a disgrace and an affront to the service that these whistleblowers have provided to this country. It is obvious from whistleblowers' testimonies that the Democrats' actions have had their desired chilling effect on whistleblowers who wish to come forward to expose unlawful activities within the FBI.

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<sup>239</sup> Allen Interview at 5-6.

## Conclusion

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The FBI, under Director Christopher Wray and Attorney General Merrick Garland, is broken. The leadership at the FBI and Justice Department have weaponized federal law enforcement against everyday Americans, seeking to silence those who dare to have a different viewpoint. Whistleblowers play a vital role in identifying and rooting out waste, fraud, abuse, and mismanagement in the federal government. When they speak out against such abuses, federal law protects them from retaliation.<sup>240</sup> If you are an FBI whistleblower, however, this is not the case. As detailed above, the brave agents who have testified to the Committee and Subcommittee have faced devastating retaliation from the agency for their protected disclosures, with such retaliation taking the form of indefinite suspensions without pay and being left homeless and without income by the country's once-preeminent law enforcement agency.

Meanwhile, whistleblower testimony highlights that the FBI's partisan leadership is currently engaging in a "purge" of agents who hold conservative political beliefs. Particularly, the testimony from Friend demonstrates the agency's blatant targeting and dismissal of conservatives within its ranks. In Friend's case, he was indefinitely suspended and had his security clearance suspended for simply asking why the FBI was unnecessarily using force to arrest individuals suspected of participating in the events at the U.S. Capitol on January 6, 2021. The agency's attacks on bold agents must cease, and this Committee and Select Subcommittee will consider legislation aimed to curb such attacks. Additionally, the matters concerning the FBI's treatment of O'Boyle, Friend, Hill, and Allen will be referred to the U.S. Office of Special Counsel and the Inspector General for further investigation.

The Committee's and Select Subcommittee's investigation into the weaponization of the federal law enforcement apparatus continues. Consistent with the charge to keep the House of Representatives informed of the oversight work, this interim report provides a summary of the whistleblower testimony received so far. The Committee and Select Subcommittee will continue to uncover facts to inform legislative reforms to protect civil liberties and rein in federal law enforcement.

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<sup>240</sup> 5 U.S.C. § 2303.