

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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July 17, 2023

The Honorable Christopher A. Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, DC 20535

Dear Director Wray:

The Committee on the Judiciary is continuing its oversight of the programs and operations of the Federal Bureau of Investigation (FBI). Of particular interest to the Committee is the FBI's weaponization of its law-enforcement powers against Americans who exercise their First Amendment rights. On February 3, 2023, the Committee issued a subpoena to you for documents and information regarding the FBI's targeting of concerned parents who speak out at school board meetings.<sup>1</sup> Similarly, on April 10, 2023, the Committee issued a subpoena to you for documents and information related to the FBI's profiling of traditional Catholics as domestic extremists.<sup>2</sup> To date, the FBI's compliance with these subpoenas has been wholly inadequate and has materially impeded the Committee's oversight efforts. After several accommodations, months of persistent outreach by the Committee, and attempts to negotiate and work with the FBI in good faith, we write to notify you that if the FBI does not improve its compliance substantially, the Committee will take action—such as the initiation of contempt of Congress proceedings—to obtain compliance with these subpoenas.

### **I. February 3 Subpoena Regarding School Board-related Threats**

On January 17 the Committee wrote to you requesting, among other things, documents concerning the FBI's actions in orchestrating and enforcing the Attorney General's October 4, 2021, memorandum directing federal law enforcement resources to address a purported increase in school board-related threats.<sup>3</sup> The FBI failed to sufficiently comply on a voluntary basis, and

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<sup>1</sup> Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Feb. 3, 2023) [hereinafter "School Boards Subpoena"].

<sup>2</sup> Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (April 10, 2023) [hereinafter "Catholic Memo Subpoena"].

<sup>3</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Jan. 17, 2023).

on February 3 the Committee issued a subpoena for documents.<sup>4</sup> On March 1—the deadline by which the FBI was required to comply in full with the subpoena—the Bureau produced just four redacted pages of school board-related documents.<sup>5</sup> According to the cover letter signed by Acting Assistant Director of Congressional Affairs Christopher Dunham, the “response provides information the FBI was able to prepare in the time since it received the subpoena on February 3, consistent with the accommodation process.”<sup>6</sup> As an accommodation to the FBI, the Committee agreed to accept documents on a rolling basis in an attempt to obtain compliance with the subpoena.

On March 8, the FBI produced only ten pages of documents and offered to make available for inspection an additional 346 pages of documents *in camera*.<sup>7</sup> Despite the fact that the Committee’s subpoena obligated the FBI to produce all responsive documents,<sup>8</sup> as an additional accommodation to the FBI the Committee reviewed these documents *in camera*.<sup>9</sup> The following day, Carlos Uriarte, the Assistant Attorney General for the Department of Justice’s (DOJ) Office of Legislative Affairs, testified on behalf of the DOJ and FBI before the Committee’s Subcommittee on Responsiveness and Accountability to Oversight.<sup>10</sup> At the hearing, Assistant Attorney General Uriarte testified that DOJ—and presumably the FBI—“have prioritized in [their] responses to this committee [] the documents and information that were subpoenaed related to the Attorney General’s October 4 memorandum.”<sup>11</sup>

Following the limited production on March 8, Committee staff participated in phone calls with the FBI’s Office of General Counsel (OGC) on March 13 and March 16, about the FBI’s compliance with the Committee’s oversight. On those calls, Committee staff reiterated that the FBI was not in compliance with the subpoena and queried OGC as to when the Committee, consistent with its accommodation in accepting a rolling production, could expect the next tranche of documents responsive to the subpoena. No specific dates for the next production could be provided by OGC.

As the FBI still was not in compliance with the Committee’s subpoena, the Committee invited Mr. Dunham again to testify at a hearing of the Subcommittee on Responsiveness and Accountability to Oversight on March 29, 2023. Mr. Dunham perplexingly testified that the FBI

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<sup>4</sup> School Boards Subpoena, *supra* note 1. The Committee issued subpoenas to Attorney General Merrick Garland and Education Secretary Miguel Cardona the same day for related documents.

<sup>5</sup> Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 1, 2023) [hereinafter “March 1 Production Cover Letter”].

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

<sup>7</sup> Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 8, 2023).

<sup>8</sup> School Boards Subpoena, *supra* note 1.

<sup>9</sup> Committee staff reviewed 346 pages of documents *in camera* on March 16, 2023 and March 17, 2023.

<sup>10</sup> See *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. (Mar. 9, 2023) [hereinafter “March 9 RAO Hearing”]. The Committee invited Mr. Dunham to testify at the March 9 hearing in an effort to assess the state of the FBI’s compliance with the subpoena and other outstanding documents requests. See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Christopher Dunham, Acting Asst. Dir., Fed. Bureau of Investigation (Feb. 22, 2023). However, the FBI declined to participate.

<sup>11</sup> March 9 RAO Hearing, *supra* note 10, at 50.

was not aware of the Committee's requests for information regarding school board-related threats until it received the subpoena on February 3.<sup>12</sup> He declined to provide Members with an expectation on when the FBI would produce more responsive documents, vaguely stating that the FBI is "actively engaged in providing additional information to the committee."<sup>13</sup>

As the Committee's investigation has progressed, it is apparent that the FBI possesses documents responsive to the subpoena that it has not yet produced. For example, during an April 18 transcribed interview, Executive Assistant Director of the Criminal, Cyber, Response, and Services Branch Timothy Langan testified that he received an email on October 2, 2021, from then-Section Chief of Domestic Terrorism Operations Steve Jensen, about a letter from the National School Boards Association (NSBA) to President Biden that was the impetus for the Attorney General's memorandum.<sup>14</sup> Additionally, when asked whether he was provided the opportunity to weigh in on the substance of the Attorney General's memorandum before it was issued, Mr. Langan testified: "I reviewed some previous emails that looked like there was some type of at least knowledge that this was coming out, but I don't remember reviewing a draft. I don't think I would've – I don't recall reviewing the draft. But here – somehow there's communications, hey, this is coming out today, and I think that was it."<sup>15</sup> The Committee requested that the FBI produce these emails on the record during the interview and in informal discussions with the OGC attorneys who accompanied Mr. Langan.<sup>16</sup> The FBI committed to producing these emails.

On April 26, Committee staff followed up with OGC via email regarding the production of the emails that Mr. Langan referenced in his interview, seeking details as to when the FBI intended to make its next production.<sup>17</sup> OGC did not respond, and Committee staff followed up again via email on May 2.<sup>18</sup> Again OGC did not respond, and so Committee staff followed up a third time on May 5, to "confirm when the FBI will produce documents responsive to [the February 3] subpoena as mentioned during Mr. Langan's interview."<sup>19</sup> OGC finally responded on May 12, stating that it had "compiled additional communications regarding the February 3

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<sup>12</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. 69 (Mar. 29, 2023) [hereinafter "March 29 RAO Hearing"] ("We weren't aware of the school board request until we received the subpoena."); *but see* Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Feb. 10, 2022); Letter from Rep. Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Jan. 17, 2023).

<sup>13</sup> March 29 RAO Hearing, *supra* note 12, at 68.

<sup>14</sup> Transcribed Interview of Mr. Timothy Langan at 17 (April 18, 2023) [hereinafter "Langan Interview"]; *see also Oversight of the United States Department of Justice: Hearing Before the H. Comm. on the Judiciary*, 117th Cong. 32 (2021) (testimony from Hon. Merrick Garland, Attorney General, U.S. Dep't of Justice that the NSBA letter was the basis for the October 4 memorandum)

<sup>15</sup> Langan Interview, *supra* note 14, at 27.

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

<sup>17</sup> E-mail from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (April 26, 2023, 3:55 PM).

<sup>18</sup> E-mail from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (May 2, 2023, 3:49 PM) [hereinafter "May 2 E-mail"].

<sup>19</sup> E-mail from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (May 5, 2023, 1:27 PM) [hereinafter "May 5 E-mail"].

subpoena, including the documents referenced in EAD Langan’s interview, and is conferring with [DOJ] about the production timeline.”<sup>20</sup>

During a transcribed interview with the Committee on May 19, Mr. Jensen provided further details about the emails referenced by Mr. Langan during his transcribed interview. Specifically, Mr. Jensen testified that on October 1, 2021, he received an email from Kevin Chambers from DOJ’s Office of the Deputy Attorney General.<sup>21</sup> Mr. Jensen testified that Mr. Chambers emailed him a copy of the NSBA’s letter to President Biden and asked that he coordinate and look into whether the FBI could engage on the alleged threats.<sup>22</sup> At Mr. Jensen’s transcribed interview, the OGC attorneys accompanying Mr. Jensen agreed to produce these documents.

On May 22, Committee staff and OGC spoke regarding the status of the requested communications mentioned by various FBI officials during their congressional testimony, and again inquired about the status of FBI’s next production pursuant to the Committee’s subpoenas.<sup>23</sup> On May 26, the FBI produced an additional 38 pages of redacted documents to the Committee responsive to the subpoena.<sup>24</sup> However, the FBI did not produce any of the documents mentioned during the two transcribed interviews. Committee staff followed up with OGC via email on June 5, asking when the FBI intended to make its “next production in response to the Committee’s outstanding subpoenas.”<sup>25</sup> OGC did not provide a date for the FBI’s next production.<sup>26</sup>

On June 27, the FBI produced 88 pages of heavily redacted communications between FBI and DOJ officials, including redactions to email senders and recipients, which frustrates the Committee’s ability to fully understand the nature and context of the communications.<sup>27</sup>

The FBI’s productions to date have not included material the Committee knows is, or has reason to believe may be, in the FBI’s possession and that is responsive to the subpoena. The following examples reference types of documents that the FBI may possess, and which are a priority for the Committee to receive in the FBI’s next rolling production. This list, however,

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<sup>20</sup> E-mail from Office of Gen. Couns. Staff, Fed. Bureau of Investigation, to Comm. Staff, H. Comm. on the Judiciary (May 12, 2023, 1:00 PM) [hereinafter “May 12 E-mail”].

<sup>21</sup> Transcribed Interview of Mr. Steve Jensen at 13 (May 19, 2023).

<sup>22</sup> *Id.* at 12, 13, 14, 20, 32, 37–38. Specifically, Mr. Chambers asked both Mr. Brzozowski and Mr. Jensen to look into (1) whether a federal nexus existed for the FBI to get involved, (2) if the FBI can serve as a clearing house (via the National Threat Operations Center to receive these alleged threats, and (3) how best to coordinate with state and local partners regarding enforcement action.

<sup>23</sup> Telephone call from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (May 22, 2023).

<sup>24</sup> Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (May 26, 2023).

<sup>25</sup> E-mail from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (June 5, 2023, 9:42 AM) [hereinafter “June 5 E-mail”].

<sup>26</sup> E-mail from Office of Gen. Couns. Staff, Fed. Bureau of Investigation, to Comm. Staff, H. Comm. on the Judiciary (June 7, 2023, 2:25 PM).

<sup>27</sup> *See* School Boards Subpoena, *supra* note 1.

should not be construed as an exhaustive or comprehensive set of potentially outstanding documents. For example:

- The FBI should possess responsive documents and communications referring or relating to the EDUOFFICIALS threat tag.<sup>28</sup> Specifically, the FBI has failed to produce complete communications between relevant officials involved in dispatching guidance on the EDUOFFICIALS threat tag to field offices nationwide. During a transcribed interview with the Committee on May 18, Carlton Peeples, former Acting Deputy Assistant Director of the Criminal Investigative Division at FBI Headquarters, testified that the email guidance to the field offices was drafted in collaboration with Mr. Jensen and Kevin Vorndran, former Deputy Assistant Director of the Counterterrorism Division.<sup>29</sup> Mr. Peeples confirmed that this email had to go up a chain of approval that included his supervisor, Acting Assistant Director of the Criminal Investigative Division Jay Greenberg.<sup>30</sup> Currently, the FBI has only produced the final draft of this guidance email that was sent out on October 20, 2021,<sup>31</sup> which fails to shed light or provide any background information to the Committee as to what the FBI originally believed necessitated the issuance of a threat tag.
- The FBI should possess responsive documents and communications referring or relating to investigations identified and labeled with the EDUOFFICIALS threat tag.<sup>32</sup> Mr. Dunham acknowledged in his March 1 letter that all but one of the 25 guardian files “have been closed at the FBI level.”<sup>33</sup> The letter further states that “[s]eventeen of the 25 Guardians were assigned to the Criminal Investigative Division; six were assigned to the Counterterrorism Division; and the remaining two were assigned to the Weapons of Mass Destruction Directorate, as they pertained to potential bomb threats.”<sup>34</sup> While the Committee has reviewed the physical guardian files on the investigations *in camera*, no email correspondence or other internal communications have been produced regarding these cases or subsequent actions taken.
- The FBI should possess responsive documents and communications regarding the FBI investigations of school board threats sent or received by former Deputy Assistant Director of the Support Branch of the Counterterrorism Division Kevin Vorndran.<sup>35</sup> Mr. Vorndran testified during his transcribed interview that he had conversations with Mr. Jensen regarding potential charges DOJ could pursue in these

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<sup>28</sup> *Id.*

<sup>29</sup> Transcribed Interview of Mr. Carlton Peeples at 30 (May 18, 2023).

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

<sup>31</sup> See E-mail from Carlton Peeples to FBI\_SACS (Oct. 20, 2021).

<sup>32</sup> School Boards Subpoena, *supra* note 1.

<sup>33</sup> March 1 Production Cover Letter, *supra* note 5, at 3.

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

<sup>35</sup> School Boards Subpoena, *supra* note 1.

cases.<sup>36</sup> Specifically, Mr. Vorndran testified they discussed 18 U.S.C. § 875, which pertains to interstate communications and threats.<sup>37</sup> To date, the FBI has failed to produce these communications.

- The FBI’s June 27 production contained certain documents referenced during Mr. Jensen’s and Mr. Langan’s interviews with the Committee. However, these documents were heavily redacted. The Committee has requested unredacted copies of these documents. However, to date, the FBI has failed to produce these documents in unredacted form.

Finally, the FBI’s decision to produce documents with redactions to critical pieces of information frustrates the Committee’s ability to assess and understand the responsive material and prevents the Committee from fulfilling its oversight obligations. Although the subpoena requires the FBI to produce unredacted documents, or assert a privilege to shield information, the FBI has failed to assert any privilege pertaining to the redacted materials or provide an accompanying privilege log as required by the subpoena<sup>38</sup> and as reiterated by Committee staff.<sup>39</sup>

There remain open questions about how the FBI quickly operationalized the Attorney General’s directive, and whether the Bureau objected to the civil liberties concerns inherent in the Attorney General’s memorandum. The Committee has provided the FBI with ample time to provide answers to these questions, yet the FBI continues to be unresponsive.

## **II. April 10 Subpoena Regarding the Catholic Domain Perspective**

The Committee has also been conducting oversight of the FBI’s assessment of traditional Catholic Americans as domestic violent extremists based on their religious beliefs.<sup>40</sup> On February 16, the Committee requested documents and information relating to a memorandum issued by FBI’s Richmond Field Office dated January 23, 2023, that linked “racially or ethnically motivated violent extremists” (RMVEs) with a radical-traditionalist Catholic (RTC) ideology.<sup>41</sup> The Committee received no response from the FBI. On March 9, during a hearing of the Subcommittee on Responsiveness and Accountability to Oversight, Representative Lee questioned Assistant Attorney General Uriarte about the FBI’s lack of a response.<sup>42</sup> Assistant Attorney General Uriarte testified that the FBI would be “responding to this committee in the

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<sup>36</sup> Transcribed Interview of Mr. Kevin Vorndran at 22–23 (May 18, 2023).

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

<sup>38</sup> See School Boards Subpoena, *supra* note 1.

<sup>39</sup> E-mail from Comm. Staff, H. Comm. on the Judiciary, to Office of Gen. Couns. Staff, Fed. Bureau of Investigation (July 3 2023, 10:30 AM).

<sup>40</sup> Fed. Bureau of Investigation, U.S. Dep’t of Justice, Domain Perspective, Interest of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic Ideology Almost Certainly Presents New Mitigation Opportunities (Jan. 23, 2023) [hereinafter “Catholic Memo”].

<sup>41</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary and Rep. Mike Johnson, Chairman, Subcomm. on the Const. and Limited Govt., to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Feb. 16, 2023).

<sup>42</sup> March 9 RAO Hearing, *supra* note 10, at 39–40.

coming weeks” and that something was “forthcoming soon” in response to the Committee’s request.<sup>43</sup> The Committee then reiterated its outstanding requests in a March 20 letter.<sup>44</sup>

On March 23, the Committee received a substandard and partial response consisting of only 18 pages—many with significant redactions of “personally identifiable information” or “specific non-public information about [FBI] investigations, sources, and methods”—that prevented the Committee from fully assessing the content and context of the documents.<sup>45</sup> In response to questions from Members at a March 29 subcommittee hearing regarding the extensive redactions in the scant production, Mr. Dunham testified that the redactions were in place to protect “non-SES employee information.”<sup>46</sup> However, the redactions obscured key information specifically responsive to the Committee’s request.

On April 10, as a result of the FBI’s failure to comply voluntarily, the Committee issued a subpoena to you for documents about the Catholic memorandum.<sup>47</sup> On April 28—the day the FBI was required to comply in full of the subpoena—248 pages of documents in response to the subpoena were produced.<sup>48</sup> However, the vast majority of these documents were related to an Interfaith Awareness Briefing event hosted by the FBI’s Richmond Field Office. The FBI did not produce an unredacted version of the memorandum or any documents or communications concerning the process of drafting, reviewing, approving, or disseminating the memorandum—information that the subpoena compelled the FBI to produce.<sup>49</sup> Again, as an accommodation to the FBI, the Committee agreed to accept document productions on a rolling basis.

Committee staff followed up with OGC via email on both May 2<sup>50</sup> and May 5,<sup>51</sup> to inquire about the status of the FBI’s next production and to note the Committee’s view that the initial production did not sufficiently comply with the subpoena. The Committee further inquired as to when the FBI intended to make its next production and which documents would be included in the production.<sup>52</sup> A week later, OGC responded that it is “continuing to identify additional documents responsive to the April 10 subpoena.”<sup>53</sup>

On May 16 and May 22, Committee staff reiterated the need for responsive documents to the April 10 subpoena during phone calls with OGC. Committee staff followed up via email on June 5, asking OGC to “advise when the FBI will be making its next production in response to

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

<sup>44</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Mar. 20, 2023).

<sup>45</sup> Letter from Christopher Dunham, Acting Asst. Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 23, 2023) [hereinafter “March 23 Production Cover Letter”].

<sup>46</sup> March 29 RAO Hearing, *supra* note 12, at 55.

<sup>47</sup> Catholic Memo Subpoena, *supra* note 2.

<sup>48</sup> Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Apr. 28, 2023).

<sup>49</sup> See Catholic Memo Subpoena, *supra* note 2.

<sup>50</sup> May 2 E-mail, *supra* note 18.

<sup>51</sup> May 5 E-mail, *supra* note 19.

<sup>52</sup> *Id.*

<sup>53</sup> May 12 E-mail, *supra* note 20.

the Committee’s outstanding subpoenas.”<sup>54</sup> During a hearing of the Subcommittee on Responsiveness and Accountability to Oversight on June 22, Subcommittee Chairman Cline noted the FBI’s compliance with the subpoena was still deficient.<sup>55</sup> In response, Assistant Attorney General Uriarte testified, “I understand that that [the FBI’s internal] review is nearing the end . . . and the FBI plans to brief the Committee on the findings . . . .”<sup>56</sup> And in your testimony before the Committee on July 12, you only stated that you would “find out” if the FBI could produce a less redacted version of the memorandum while the internal investigation is pending.<sup>57</sup>

While the FBI recently indicated in a July 3 email to Committee staff that it is “working” towards a date for a briefing on the internal review, the Bureau has not provided a date certain nor advised the Committee when it will be next producing documents pursuant to the subpoena.<sup>58</sup>

Information and testimony received from the Committee indicates that the FBI possesses additional responsive documents that have not yet been produced to the Committee. For example:

- The “Opportunities” section of the memorandum suggests that the FBI relied on information derived from at least one undercover employee, who sought to use local religious organizations as “new avenues for tripwire and source development.”<sup>59</sup>
- The memorandum itself shows that its contents, including its proposal to develop sources in Catholic churches, were reviewed and approved by two senior intelligence analysts and even the local Chief Division Counsel—the FBI’s top lawyer in the Richmond Field Office. Redactions of these names frustrates the Committee’s ability to conduct oversight, and this information is responsive to the Committee’s subpoena.
- Whistleblower testimony confirms that the FBI distributed this document to field offices across the country. To date, the FBI has not produced any documents or communications regarding the dissemination of the memorandum.
- The memorandum noted two other opportunities to engage in outreach with religious institutions in the Richmond area, citing a desire “to sensitize the congregation to the warning signs of radicalization and enlist their assistance to serve as suspicious activity

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<sup>54</sup> June 5 E-mail, *supra* note 25.

<sup>55</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. 3 (June 22, 2023).

<sup>56</sup> *Id.* at 26; see also March 23 Production Cover Letter, *supra* note 45 (noting that “[t]he FBI also initiated a review—which is now ongoing—[of] the process preceding the internal publication of the January 23rd Domain Perspective”).

<sup>57</sup> *Oversight of the Federal Bureau of Investigation: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. 74 (July 12, 2023).

<sup>58</sup> Email from Office of Gen. Couns. Staff, Fed. Bureau of Investigation, to Comm. Staff, H. Comm. on the Judiciary (July 3, 2023, 11:09 AM).

<sup>59</sup> Catholic Memo, *supra* note 40.



tripwires.”<sup>60</sup> This outreach plan even included contacting so-called “mainline Catholic parishes” and the local “diocesan leadership[.]”<sup>61</sup> Redacted documents produced to the Committee highlight communications between the FBI and the Diocese of Richmond, but the redactions preclude the Committee from fully understanding the nature of these interactions. Further, the Committee believes additional communications exist, such as the organizing and scheduling of the March 24 meeting between FBI Richmond and the Catholic Diocese of Richmond, that are responsive to the subpoena.”

Additionally, the FBI has failed to produce information regarding open-sources, FBI case files, and liaison and local law enforcement reporting used to create the memorandum—all of which are responsive to the subpoena and are compelled to be produced. In addition, the FBI has produced material with heavy redactions, which frustrates the Committee’s ability to assess and understand the responsive material and prevents the Committee from fulfilling its oversight obligations. The FBI has failed to assert any privilege pertaining to the redacted materials or provide an accompanying privilege log as required by the subpoena.<sup>62</sup>

Although the FBI claims to have “numerous” and “rigorous” policies to protect First Amendment rights,<sup>63</sup> the FBI’s Richmond memorandum plainly undercuts these assertions. The document itself shows that its contents, including its proposal to develop sources in Catholic churches, were reviewed and approved by two senior intelligence analysts and even the local Chief Division Counsel. The Committee also knows from whistleblowers that the FBI distributed this document to field offices across the country. The FBI’s refusal to provide the names of the FBI employees involved in drafting, reviewing, approving, or disseminating the memorandum—despite repeated requests from the Committee—is particularly concerning, as accountability is necessary to ensure the First Amendment guarantee of free exercise of religion is protected from government overreach.

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The Committee’s subpoenas impose legal obligations on you to comply and produce responsive materials. Thus, your refusal to produce documents responsive to the Committee’s subpoenas—months after the return dates—is unacceptable. Accordingly, the Committee expects the FBI to substantially improve its compliance with the subpoenas by no later than July 25, 2023, at 12:00 p.m. If the FBI fails to do so, the Committee will take action, such as the invocation of contempt of Congress proceedings, to obtain compliance with these subpoenas.

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

<sup>61</sup> *Id.*

<sup>62</sup> Catholic Memo Subpoena, *supra* note 2.

<sup>63</sup> March 23 Production Cover Letter, *supra* note 45.

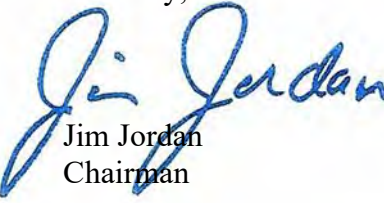
The Honorable Christopher A. Wray

July 17, 2023

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is stylized with a large, looped "J" and a cursive "Jordan".

Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member