

United States Senate
WASHINGTON, DC 20510-0908

November 29, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Dear Attorney General Garland,

We write to request that you return to testify before the Senate Judiciary Committee to clarify your testimony of October 27 and to provide this Committee with additional information regarding the actions that the Department of Justice and the FBI are engaged in pursuant to your Memorandum of October 4.

We remain deeply concerned that your October 4 Memorandum is being used by the DOJ and the FBI as a basis to pursue investigations against American parents for First Amendment-protected activities.

During your testimony on October 27, you told the Senate Judiciary Committee that your Memorandum was merely about “setting up meetings.” You stated that the “purpose of this Memorandum is to get our law enforcement to assess the extent of the problem” and that the Memo “comes before investigations.” When asked why the DOJ was treating parents at school boards as domestic terrorists, you said: “[m]y Memo says nothing about domestic terrorism, says nothing about parents committing any such things.”

Your statements appear to be deeply misleading. They are inconsistent with the letter sent by Acting U.S. Attorney for the District of Montana to local officials to provide a roadmap for prosecution and to offer the FBI’s assistance. Acting U.S. Attorney Johnson listed 12 federal statutes under which parents could potentially be charged—including “repeated telephone calls” or “anonymous telecommunications harassment”—and offered to “collaborate” with local entities to bring “federal investigation[s] and prosecution[s].”

Additionally, an FBI whistleblower has recently revealed that the heads of the FBI’s Criminal Investigative Division and Counterterrorism Division have instructed their agents and analysts to use a designated threat tag whenever they encounter potential threats, harassment, and intimidation of school officials. This suggests that the Bureau is looking for opportunities to pursue investigations, including using counterterrorism authorities and tools, under the Memorandum.

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These facts raise concerns about the testimony you provided on October 27 and about the Department's and the FBI's ongoing efforts pursuant to your Memorandum.

It is critical for Members of the Judiciary Committee to engage in robust oversight of DOJ's actions, especially when those actions affect our nation's core principles, including federalism and the protection of robust and open debate. We respectfully request that you work with the Committee staff to schedule another hearing as soon as possible.

Sincerely,



Ben Sasse
Member, Senate Judiciary Committee



Lindsey O. Graham
Member, Senate Judiciary Committee



Mike Lee
Member, Senate Judiciary Committee



Ted Cruz
Member, Senate Judiciary Committee



Tom Cotton
Member, Senate Judiciary Committee



Thom Tillis
Member, Senate Judiciary Committee



Marsha Blackburn
Member, Senate Judiciary Committee