

United States Senate

October 6, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Garland,

I write regarding your October 4th memo addressing protests against local school board policies.

Your memo was issued shortly after the National School Boards Association (NSBA) sent a letter to President Biden urging him to task federal law enforcement, including the Federal Bureau of Investigation (FBI), with investigating a “growing number of threats of violence and acts of intimidation” against local school board officials. The NSBA letter requested that the Biden administration examine whether these purported acts violated several statutes, including the PATRIOT Act and the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. The letter further asserted that these acts may amount to a form of “domestic terrorism.”¹

It is never appropriate to use violence or threats of violence to achieve political goals. However, NSBA went much further by suggesting that concerned parents, who are merely exercising their constitutionally protected rights to speak freely and protect their children, should be treated as domestic terrorists. Your memo, issued just five days after the NSBA letter and copying some of its recommendations, certainly appears to be a response to and tacit approval of that letter. The Department of Justice’s endorsement of such outlandish allegations threatens to intimidate parents, chill free speech, and discourage lawful assemblies.

Given these concerns, please respond to the following questions by 5:00 p.m. on Wednesday, October 13, 2021:

1. Did the NSBA letter prompt you to issue the aforementioned memorandum? If not, what considerations prompted you to issue the memorandum?
2. Have any state or local authorities or other organizations besides the NSBA requested or encouraged the Biden administration to take action against this alleged rise in violence and intimidation against school officials? If so, which organizations?
3. Please provide all sources to support your claim in the memorandum that “there has been a disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff.”

¹ <https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf>

3. Please provide all sources to support your claim in the memorandum that “there has been a disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff.”
4. Please document any cases of physical violence committed against school district officials in recent protests against school policies and curriculum.
5. When, according to your analysis, did this purported spike in harassment, intimidation, and threats of violence occur? Do you agree with the NSBA’s claim that the alleged spike is being fomented by mask mandates and curricula teaching critical race theory?
6. Do you agree with the NSBA’s assessment that protests against school district policies and curricular instruction may amount to domestic terrorism?
7. The NSBA requested that you invoke specific authorities to prosecute as “domestic extremists” parents who disagree with the positions of their school boards. Please explain whether you believe any of the following federal laws could be used to prosecute those who protest against local school board policies and their members:
 - a. Gun-Free School Zones Act
 - b. PATRIOT Act
 - c. Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act
 - d. Violent Interference with Federally Protected Rights statute
 - e. Conspiracy Against Rights statute

I look forward to your prompt response regarding this important matter.



Tom Cotton
Tom Cotton
United States Senator