



December 20, 2022

VIA WEBSITE ONLY

Michael G. Seidel, Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
200 Constitution Drive
Winchester, VA 22602
<https://efoia.fbi.gov>

RE: FOIA Request about the FBI's statistical classification of domestic terrorism investigations.

Dear Mr. Seidel:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice ("ACLJ")¹ on behalf of its supporters.

To summarize, this Request seeks records pertaining to the FBI's classification and investigations regarding domestic terrorism.

BACKGROUND

Pursuant to DOJ FOIA regulation 28 C.F.R. §16.3(b), this Background addresses "the date, title or name, author, recipient, subject matter of the record[s]" requested, to the extent known.

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

115 STAT. 376, § 802 **DEFINITION OF DOMESTIC TERRORISM** (hereinafter § 802)², states:

(5) the term ‘domestic terrorism’ means activities that—

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.³

The FBI has a history of over-defining acts of domestic terrorism. For example, in the FBI’s 2005 “Honk for Peace” investigation, the FBI infiltrated an anti-war protest in North Carolina. A university student organization organized and hosted an event,⁴ which consisted of an “exchange of ideas through music, conversation, and speakers.”⁵ However, “[a]fter that event and separate from it, a small group of anarchists committed acts of vandalism in Raleigh against a Bank of America ATM and a North Carolina GOP headquarters.”⁶ Since some of the vandals had attended the aforementioned event, the FBI classified “Honk for Peace” as an “act of domestic terrorism,” equating a juvenile act to actual acts of terrorism where people are maimed and injured.⁷

More currently, on June 15, 2021, Attorney General Garland published his remarks on domestic terrorism, stating that the FBI has significantly increased its number of open investigations into domestic terrorism in response to an increased threat.⁸

However, on Wednesday July 27, 2022, the *Washington Times* reported that the FBI was padding domestic terrorism numbers. Representative Jim Jordan stated that whistleblowers from the FBI have come forward claiming that the FBI leadership is encouraging and incentivizing agents to reclassify cases to domestic terrorism even though the basis is dubious.⁹

Furthermore, Senior FBI Agent Timothy Thibault, who was implicated in ongoing political activism during his tenure with the FBI, has been implicated in the effort to pad domestic terrorism

² 115 STAT. 376, § 802.

³ *Id.*

⁴ Patrick G. Eddington, *The Government Doesn’t Need New Powers to Fight ‘Domestic Terror’*, CATO (Jan. 13 2022) <https://www.cato.org/commentary/government-doesnt-need-new-powers-fight-domestic-terror>

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Merrick B. Garland, *Domestic Terrorism Policy Address*, THE UNITED STATES DEPARTMENT OF JUSTICE (June 15, 2021) <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-remarks-domestic-terrorism-policy-address>.

⁹ Stephan Dinan, *Top Republican Says FBI is ‘Padding’ Numbers on Domestic Terrorism*, WASHINGTON POST (July 27, 2022), <https://www.washingtontimes.com/news/2022/jul/27/jim-jordan-says-fbi-padding-numbers-domestic-terror/>.

cases.¹⁰ Former agent Thibault, who has been accused of political bias for interference with investigation to the Biden laptop, has been named as one of the FBI's supervisors who incentivized the reclassifying of cases as domestic terrorism.¹¹ The fact that such a senior FBI agent is alleged to participate in falsifying records raises grave concerns as to the accuracy of the information presented to citizens of these United States.

Starting in 2019, the FBI implemented a process to 'tag' reports of possible DT incidents to enhance program management and operational oversight. It is important to note the tagging process has only been in effect since 2019 and is manual and user-dependent. Therefore, eGuardian reports of incidents referred by our partners that have DT tags may not capture all DT referrals and may inaccurately label some referrals as DT. The FBI received approximately 675 referrals of possible DT incidents in 2019.¹²

The purpose of this request is to confirming or refuting the reports that the FBI has engaged in the padding of domestic terrorism crimes.

RECORDS REQUESTED

For purposes of this Request, the term "record" means "any information" that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term "record" also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, "If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.").

For purposes of this Request, the term "domestic terrorism" or "domestic terrorist" or any of their acronyms used herein has the definition as given in 18 U.S.C. § 2331(5) or any definition or application utilized by the FBI.

¹⁰ Gabe Kaminsky, *FBI Boss Who Quit After Allegedly Blocking Hunter Biden Probe Also Reportedly Pushed To Pad Domestic Terror Data*, SHORE NEWS NETWORK (Aug. 30, 2022)

<https://www.shorenewsnetwork.com/2022/08/30/fbi-boss-who-quit-after-allegedly-blocking-hunter-biden-probe-also-reportedly-pushed-to-pad-domestic-terror-data/>

¹¹ Charles E. Grassley, U.S. Senator, Letter Concerning the Polarization of the FBI (May 31, 2022)

[https://www.grassley.senate.gov/imo/media/doc/CEG%20to%20DOJ%20FBI%20\(WFO\).pdf](https://www.grassley.senate.gov/imo/media/doc/CEG%20to%20DOJ%20FBI%20(WFO).pdf)

¹² Federal Bureau of Investigation, Department of Homeland Security; Strategic Intelligence Assessment and Data on Domestic Terrorism May 2021

For purposes of this Request, the term “headquarters” and “Field Office” or any other **acronym** used herein has the definition as used in Federal Bureau of Investigation & Department of Homeland Security’s STRATEGIC INTELLIGENCE ASSESSMENT AND DATA ON DOMESTIC TERRORISM manual (hereinafter the SIADDT).

For purposes of this Request, all terms otherwise used herein have the definitions given by FOIA, 5 U.S.C. § 552 *et seq.*

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is January 1, 2019, to the date this request is processed.

The ACLJ hereby requests that the FBI produce the following:

1. The record outlining the “tags” to be used and the definitions of the “tags” in the electronic system mentioned in the SIADDT;
2. The records of communications by FBI Headquarters to FBI Field offices concerning the classification of parents appearing before school boards as alleged DVEs;
3. The Field Office and Headquarter record(s) showing the domestic terrorist classification(s) of Antifa and its crimes and protests, in Seattle, Washington, and Portland, Oregon;
4. The Field Office and Headquarter record(s) showing the domestic terrorist classification on the firebombing attack on CompassCare crisis care pregnancy clinic in Buffalo, New York;
5. The record containing the disaggregated number (by type, white supremacy, environmental terrorism, etc.) of domestic terror investigations opened and prosecuted for 2020, 2021, and 2022 at the Los Angeles, CA, Portland, OR, Chicago, IL, and Tampa, FL Field Offices;
6. The record(s) showing the domestic terrorist classification of the attackers who breached and attacked the U.S. Court House in Portland, Oregon, in March of 2021;
7. All documents and communications between or among employees of the Federal Bureau of Investigation at a GS-13 or appointee level or higher, and the Department of Justice or the Executive Office of the President referring or relating to classifying or reclassifying domestic violent extremism cases from January 1, 2020, to the present, which were submitted to Congress;
8. All documents and communications submitted to Congress referring or relating to the terms “eGuardians,” “preliminary investigation,” or “full investigation” and related to the classification of crimes as violent domestic extremism, including by types of case, from January 1, 2020, to the present;
9. Records containing the current and previous grading rubric template for evaluating FBI agents’ performance, including the weight conducting domestic terror crimes have on agents’ work performance evaluations;

10. All records in Headquarters at a GS-13 or appointee level or higher, of communications with Facebook (including Meta) and Twitter about domestic terrorism;
11. All records concerning the classification of Jane's Revenge in Headquarters at a GS-13 or appointee level or higher, and the Field Office responsible for Madison, Wisconsin;
12. All records at Headquarters at a GS-13 or appointee level or higher, from July 1, 2022, to the date of processing this request, concerning the July 27, 2022, Congressional letter of Rep. Jim Jordan (attached as Exhibit 1).

As to all Requests above, the ACLJ does NOT request the law enforcement investigation record of any investigation.

REQUEST FOR WAIVER OF FEES

The ACLJ requests a waiver of all fees for this request. Disclosure of the requested information to us is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in our commercial interest. The documents requested are to provide transparency on the perceived politicization of the FBI. Thank you for your consideration of this request.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

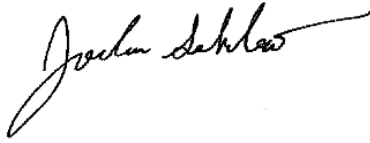
Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jordan Sekulow".

Jordan Sekulow
Executive Director

A handwritten signature in black ink, appearing to read "Ben P. Sisney".

Benjamin P. Sisney
Senior Litigation Counsel

A handwritten signature in blue ink, appearing to read "John A. Monaghan".

John A Monaghan
Senior Litigation Counsel

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

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July 27, 2022

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

Dear Director Wray:

We continue to hear from brave whistleblowers about disturbing conduct at the Federal Bureau of Investigation. From recent protected disclosures, we have learned that FBI officials are pressuring agents to reclassify cases as “domestic violent extremism” even if the cases do not meet the criteria for such a classification. Given the narrative pushed by the Biden Administration that domestic violent extremism is the “greatest threat” facing our country,¹ the revelation that the FBI may be artificially padding domestic terrorism data is scandalous.

The FBI defines a domestic violent extremist (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.”² According to you and other Biden Administration officials, investigations into DVEs have increased “significantly.”³ In June 2021, you testified that the FBI has a “very, very active domestic terrorism investigation program” and that you had “doubled the amount of domestic terrorism investigations.”⁴ Attorney General Merrick Garland has repeated this talking point, stating that “[t]he number of open FBI domestic terrorism investigations this year has increased significantly.”⁵

¹ “*The Way Forward on Homeland Security*”: *Hearing of the H. Comm. on Homeland Sec.*, 117th Cong. (2021) (statement of Homeland Security Secretary Alejandro Mayorkas).

² FED. BUREAU OF INVESTIGATION AND DEP’T OF HOMELAND SECURITY, STRATEGIC INTELLIGENCE ASSESSMENT ON DATA AND DOMESTIC TERRORISM at 2, note 3 (May 2021).

³ “*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 FBI Director Christopher Wray); Remarks, U.S. Dep’t of Justice, Attorney General Merrick B. Garland Remarks: Domestic Terrorism Policy Address (Jun. 15, 2021).

⁴ *Oversight of the Federal Bureau of Investigation, Hearing Before H. Comm. on the Judiciary*, 117th Cong. at 154 (2021) (statement of Director Christopher Wray).

⁵ Remarks, U.S. Dep’t of Justice, Attorney General Merrick B. Garland Remarks: Domestic Terrorism Policy Address (Jun. 15, 2021).

New whistleblower disclosures made by multiple FBI employees from different field offices indicate that the Biden Administration's narrative 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 explained that because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases even though there is minimal, circumstantial evidence to support the reclassification. Another whistleblower—who led at least one high profile domestic terrorism investigation—stated that a field office Counterterrorism Assistant Special Agent in Charge and the FBI's Director of the Counterterrorism Division have pressured agents to move cases into the DVE category to hit self-created performance metrics. According to whistleblowers, the FBI uses these metrics to dispense awards and promotions. Every whistleblower has called it an environment of "pressure" within the FBI.

These whistleblower allegations that the FBI is padding its domestic violent extremist data cheapens actual examples of violent extremism. This information also reinforces our concerns—about which we have written to you several times—regarding the FBI's politicization under your leadership. As we have detailed, multiple whistleblowers have disclosed how the Biden FBI is conducting a "purge" of FBI employees holding conservative views. You have ignored these concerns. It appears instead that the FBI is more focused on classifying investigations to meet a woke left-wing agenda.

To inform our ongoing oversight of the politicization at the FBI, please provide the following documents and information:

1. All documents and communications referring or relating to eGuardians, preliminary investigations, and full investigations classified as domestic violent extremism, including by type of case, for the period of January 1, 2020, to the present;
2. All documents and communications between or among employees of the Federal Bureau of Investigation, the Department of Justice, and the Executive Office of the President referring or relating to classifying or reclassifying domestic violent extremism cases, for the period of January 1, 2020, to the present;
3. The total number of preliminary investigations and full investigations of domestic violent extremism, including by type of case, for the period of January 1, 2020, to the present; and
4. The total number of Confidential Human Sources that contributed to any reports of domestic violent extremism cases, for the period of January 1, 2020, to the present.

Please provide this information as soon as possible, but no later than 5:00 p.m. on August 10, 2022. In addition, we ask for a briefing about this topic, including the FBI's Threat Review Prioritization process to review and prioritize threats to inform its strategies.

The Honorable Christopher A. Wray

July 27, 2022

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If a full response requires the disclosure of classified information, please provide such information under separate cover. We remind you that whistleblower disclosures to Congress are protected by law and that we will not tolerate any effort to retaliate against whistleblowers for their disclosures.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan
Ranking Member

cc: The Honorable Jerrold L. Nadler
Chairman

The Honorable Michael E. Horowitz
Inspector General, U.S. Department of Justice