United States Senate Committee On

HOMELAND SECURITY & GOVERNMENTAL AFFAIRS

Chairman Gary Peters

PLANNED IN PLAIN SIGHT

A Review of the Intelligence Failures in Advance of January 6th, 2021

HSGAC Majority Staff Report

June 2023

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY

On January 6, 2021, rioters attacked the U.S. Capitol in an unprecedented effort to disrupt the certification of the 2020 presidential election and our nation's long history of peaceful transitions of power. The attack followed months of repeated and false claims by former President Donald Trump, his lawyers, and certain elected officials, that the presidential election was stolen, culminating in President Trump's call during his speech at the Ellipse in front of the White House on January 6th for his supporters to march to the Capitol. During the violent attack, individuals dragged a police officer into the crowd and beat him, struck another officer with a flagpole attached to an American flag, hit another police officer with a fire extinguisher, and damaged the Capitol Building. Rioters committed hundreds of assaults on law enforcement officers, temporarily delayed the Joint Session of Congress, and contributed to the deaths of at least nine individuals. This attack on our democracy came in the wake of years of increasing domestic terrorism in this country – which top federal law enforcement and national security agencies had previously identified as the most persistent and lethal terrorist threat to the homeland.

In June 2021, this Committee and the Senate Committee on Rules and Administration released a report following a joint investigation on the security, planning, and response failures on January 6th. That report found that agencies tasked with security on January 6th failed to adequately prepare for the Joint Session and quickly respond to the attack. At the direction of U.S. Senator Gary Peters, Chairman of the Homeland Security and Governmental Affairs Committee (HSGAC), Majority Committee staff conducted a subsequent review focused on the intelligence failures leading up to the attack on the U.S. Capitol on January 6th. This investigation found that the breach of the Capitol on January 6th was also the result of a failure by federal agencies to assess and disseminate intelligence about the potential for violence that day.

The intelligence failures in the lead-up to January 6th were not failures to *obtain* intelligence indicating the potential for violence. On the contrary, the two primary domestic intelligence agencies – the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) Office of Intelligence and Analysis (I&A) – obtained multiple tips from numerous sources in the days and weeks leading up to the attack that should have raised alarms. Rather, those agencies failed to fully and accurately assess the severity of the threat identified by that intelligence, and formally disseminate guidance to their law enforcement partners with sufficient urgency and alarm to enable those partners to prepare for the violence that ultimately occurred on January 6th. At a fundamental level, the agencies failed to fulfill their mission and connect the public and nonpublic information they received. Internal emails and documents obtained by the Committee demonstrate the breadth and gravity of the threats these agencies received related to January 6th. For example, FBI and the Department of Justice (DOJ) received tips and information from multiple sources, including:

- In December 2020, FBI received a tip that the Proud Boys planned to be in DC and "[t]heir plan is to literally kill people. Please please take this tip seriously and investigate further."

- On Jan. 3, 2021, FBI also became aware of multiple posts calling for armed violence, such as a Parler user who stated, "[b]ring food and guns. If they don't listen to our words, they can feel our lead. Come armed"; plans to "set up 'armed encampment' on the [National] Mall"; and a tip about "a TikTok video with someone holding a gun saying 'storm the Capitol on January 6th.'"
- On January 4th, DOJ leadership noted multiple concerning posts, including "[c]alls to occupy federal buildings," discussions of "invading the capitol building," and individuals "arm[ing] themselves and to engage in political violence at the event."

In addition to these tips and intelligence, FBI also had the authority (with appropriate restrictions to protect Constitutional rights) to obtain and assess the myriad threats and warnings that were being publicly reported in the press and on social media. Yet while FBI was receiving these and other increasingly concerning reports, internal emails obtained by the Committee demonstrate that the Bureau continued to downplay the overall threat, repeatedly noting that FBI "identified no credible or verified threat."

I&A was also increasingly aware of calls for violence in the days and weeks before January 6th. For example:

- In late December 2020, I&A analysts "identified comments referencing using weapons and targeting law enforcement and the U.S. Capitol building."
- On Dec. 30th, I&A open-source intelligence collectors noted online "[d]iscussions of organizing in Virginia and then driving to DC armed together as the police/military won't be able to stop thousands of armed patriots."
- On Jan. 2, 2021, I&A collectors noted that individuals were sharing a map of the U.S. Capitol Building online, and the I&A collectors messaged each other, "feel like people are actually going to try and hurt politicians. Jan 6th is gonna be crazy," and "[l]ots of discussions of coming armed to DC."

Despite that intelligence, as late as 8:57am on January 6th, a Senior Watch Officer at the DHS National Operations Center wrote "[t]here is no indication of civil disobedience."

FBI and I&A failed to issue sufficient warnings based on the available intelligence indicating January 6th might turn violent. FBI issued only two documents specific to January 6th, both of which were issued by Field Offices the night before the attack, contained only limited raw intelligence, and had limited distribution. This investigation found that in lieu of formal products, FBI communicated intelligence to its partners informally while downplaying the severity of the threat. For example, FBI reported relaying information on calls with its partner agencies, but those agencies reported that on those calls FBI did not issue urgent warnings anticipating violence. This investigation found that part of the reason FBI failed to take more action to warn its federal partners and the public was because it failed to seriously consider the possibility that threatened actions would actually be carried out, and it dismissed each individual threat as not credible in isolation but failed to fully consider the totality of threats and violent rhetoric associated with such a contentious event. FBI also focused on potential clashes between protesters (e.g., the Proud Boys) and counter-protesters (e,g., Antifa) based on its experiences

with previous demonstrations, at the expense of focusing more attention and reporting on the growing threat to elected officials and the Capitol itself.

Similarly, I&A did not issue any intelligence bulletins specific to January 6th, and instead issued only high-level products in 2020 that described general threat trends nationwide. The DHS Office of Inspector General (OIG) and the Government Accountability Office (GAO) found that I&A circulated some intelligence internally but failed to share it with its agency partners, at least in one case because I&A assumed that the U.S. Capitol Police (USCP) was receiving the information from other agencies. Moreover, I&A's mistakes during racial justice demonstrations in 2020 – during which the agency was criticized for over-collecting intelligence on American citizens – resulted in a "pendulum swing" after which analysts were then hesitant to report open-source intelligence they were seeing in the lead-up to January 6th. Internal emails obtained by the Committee also show that even as the attack was unfolding and USCP was urgently requesting intelligence, I&A analysts struggled to assess the credibility of online posts calling for violence at the Capitol. For example, at 2:58pm on January 6th, after a riot had been declared and the Capitol had been locked down, I&A analysts internally noted online chatter that "called for more violent actions but at this time no credible information to pass on has been established."

FBI and I&A have the legal authority to monitor and report on open-source intelligence such as social media, with certain restrictions specific to First Amendment-protected activity – but both agencies failed to follow their own internal guidelines on how to collect and report that information. The Special Agent in Charge of the Intelligence Division at the FBI Washington Field Office on January 6th conflated the Bureau's standards for taking more intrusive investigative action on a tip versus merely reporting it to partner agencies, which was one reason FBI did not share more intelligence it was seeing. GAO also found that FBI employees wrongly concluded that they could not process certain online tips because they determined they were not credible – despite FBI policy requiring every tip to be logged, regardless of credibility. FBI's open-source monitoring capabilities were also degraded mere days before the attack, because the Bureau changed contracts for its third-party social monitoring tool. Internal emails obtained by the Committee show FBI officials were surprised by the timing of the contract change, and lamented the negative effect it would have on their monitoring capabilities in the lead-up to January 6th. Likewise, I&A analysts wrongly believed they could not report the concerning posts they were seeing about potential violence at the Capitol because they did not deem them credible, despite agency guidelines requiring them to report non-credible threat information if it meets other criteria such as providing additional information about a known threat or a risk of violence.

Finally, this investigation found that multiple federal agencies failed to effectively coordinate in the lead-up to January 6th, contributing to the failures that allowed the Capitol to be breached that day. Officials disagreed as to which agency was taking the lead role, with Department of Defense (DOD) officials pointing to DOJ as the lead, but DOJ and FBI officials stated that no agency had been designated the lead. Officials from other agencies also reported confusion about who was in charge. DHS also did not designate January 6th as a National Special Security Event, which it routinely does for significant events and which would have bolstered security and coordination. Furthermore, when asked about what went wrong on

January 6th, officials across agencies passed blame, largely pointing to failures at other agencies for what happened.

To address these failures, FBI and DHS should conduct full internal reviews of their actions in the lead-up to January 6th, improve their processes for assessing and sharing intelligence (including open-source intelligence on social media), designate Joint Sessions of Congress to certify the Presidential election as a National Special Security Event, and improve inter-agency coordination for other significant events, and Congress should review and reform I&A's mission in domestic intelligence. The Committee also faced challenges in obtaining full compliance with its requests, an increasingly regular occurrence across administrations. Congress should reassert its authorities in legitimate oversight of the Executive Branch.

II. FINDINGS OF FACT AND RECOMMENDATIONS

FINDINGS OF FACT

1. **FBI and I&A received numerous early warnings, tips, and other intelligence about plans for violence on January 6th.** Information provided to FBI and I&A included threats of violence and threats to the U.S. Capitol. As early as Dec. 22, 2020, FBI became aware of information about individuals planning for an attack, marching into the Capitol, coming armed, and committing violence. As early as Dec. 21, 2020, I&A noted concerning rhetoric related to January 6th such as online calls to overthrow the government, use weapons against law enforcement, and attack the Capitol.

2. **FBI produced only two limited raw intelligence documents related to January 6th, both issued the night before the attack.** At 6:57pm on January 5th, the FBI New Orleans Field Office issued an Intelligence Information Report that cited intelligence about a specific group planning a Quick Reaction Force in Northern Virginia. At 7:37pm, the FBI Norfolk Field Office issued a Situational Information Report that cited limited, specific online posts with threatening language. FBI did not distribute these documents to all federal partners, and FBI did not issue any products related to January 6th from its Washington Field Office or HQ.

3. **I&A did not issue any intelligence products specific to January 6th, and instead provided only general information on nationwide threats.** In the months leading up to the attack on January 6th, I&A's intelligence products were not specific to January 6th or the U.S. Capitol. I&A published 15 reports in the preceding year, but they were about the general "heightened threat environment" around the country such as broad trends in election-related violence.

4. **Despite claims by some agency officials and analysts, FBI and I&A have authority to monitor open-source intelligence, including social media – and agency guidelines require them to report certain online threats.** DOJ guidance states that certain FBI activities "may involve proactively surfing the Internet" for public information, and FBI guidance further clarifies that agents may "conduct proactive Internet searches." Likewise, DHS guidance allows I&A to collect and report open-source information, including on social media, with protections to safeguard constitutionally-protected activity. I&A collectors may report open-source information if it contains true threats, enhances understanding of a known threat, or demonstrates a risk of violence.

5. **FBI had a contract with a third-party software provider to search and flag potential threats online that expired December 31, 2020, undermining their efforts days before January 6, 2021.** FBI officials raised concerns internally that its contract to identify potential threats on social media expired six days before January 6th, leaving FBI without certain capabilities. Internal communications reveal that FBI officials did not adequately plan for the transition to a new contract, which did not occur until January 1st, days before the attack.

6. **FBI and I&A failed to follow agency guidelines on the use of open-source intelligence.** The Special Agent in Charge of the Intelligence Division at the FBI Washington Field Office on January 6th conflated the Bureau's standards for what type of information is actionable for further investigation (a higher standard) versus what is merely reportable to partner agencies (a lower standard), and as a result, FBI did not share certain tips and intelligence about January 6th. FBI also did not develop certain tips about January 6th because they were deemed not credible, contrary to FBI policy that requires every tip received to be logged as long as it meets an "authorized purpose" for investigation, regardless of credibility. I&A also failed to report concerning online posts in the lead-up to the attack – including individuals who discussed storming the Capitol – because I&A intelligence collectors considered them to be hyperbole, despite I&A guidance requiring open-source information to be reported if it meets other criteria (such as information that demonstrates a risk of violence), regardless of credibility.

7. **DHS did not designate January 6th as a National Special Security Event (NSSE).** The DHS Secretary can designate an NSSE when a significant event has national interest and requires elevated and coordinated security, intelligence, and preparation across multiple agencies, such as an event that may be a target of domestic terrorism. DHS did not designate January 6th an NSSE, which likely would have increased security and response coordination and capabilities before and during the attack.

RECOMMENDATIONS

1. **Conduct internal after-action reviews on the intelligence collection, analysis, and dissemination processes in the lead-up to January 6th.** FBI and DHS have not yet completed comprehensive reviews of what went wrong in the lead-up to January 6th. FBI and DHS should complete full internal after-action reviews (directed by the Attorney General and DHS Secretary) to identify, at a minimum, what intelligence they obtained regarding the potential for violence on January 6th, what additional information they should have obtained, how they processed the information they obtained, what actions they took in response, and what additional actions the agencies should have taken. The reviews should then assess the agencies' internal procedures and practices to identify necessary changes, and the agencies should share the results of their reviews with relevant Congressional committees.

2. **Review and reform I&A's mission in domestic intelligence collection and dissemination.** Congress created I&A in the wake of the September 11, 2001, terrorist attacks to address intelligence sharing failures related to that attack, and coordinate homeland security efforts and related domestic intelligence. In the 20 years since its creation, and despite the shifting threat landscape, there has been no comprehensive review of I&A's mission. Congress should review and reform I&A's mission in domestic intelligence, including how it analyzes intelligence and coordinates intelligence sharing with federal agencies, other DHS components, and external partners such as fusion centers.

3. **Improve FBI and I&A policies, guidelines, and procedures for collecting, analyzing, and disseminating intelligence to partner agencies.** FBI and I&A should reassess how they determine the credibility of threats, consider the totality of threats (including non-credible threats), determine what is reportable, and characterize the threat in intelligence products. As part of those efforts, the agencies should assess potential biases toward discounting intelligence that indicates an unforeseen or unprecedented attack or event. DOJ and DHS should also evaluate the criteria for issuing Joint Intelligence Bulletins (JIBs).

4. **Clarify agencies' policies and procedures for using open-source information, including social media.** FBI and I&A should ensure their policies and guidelines clearly delineate how and when open-source intelligence should be collected and reported, and include all appropriate Constitutional protections. The agencies should then provide sufficient and recurring training on those policies and guidelines to ensure employees know their responsibilities and limitations for collecting and reporting this information. FBI should also provide guidance and training on the effective and consistent use of its third-party software tool for analyzing social media information, review why this contract migration led to degraded capabilities in the weeks before January 6th and the Inauguration, and mitigate the risk that similar challenges occur again.

5. **Designate Joint Sessions of Congress to certify the Presidential election as an NSSE.** The DHS Secretary should designate Joint Sessions of Congress to certify the Presidential election on January 6th as an NSSE.

6. **Improve inter-agency coordination for significant events and consider designating a lead federal agency.** Because an NSSE designation (with the U.S. Secret Service serving as the lead agency) might not be the appropriate posture for every significant event, federal law enforcement and intelligence agencies like FBI and I&A should also consider additional ways – such as through the Special Event Assessment Rating process – to increase coordination and intelligence sharing during preparations for significant events that are not NSSEs. Agencies should also assess whether to designate a lead federal agency for such events, and increase coordination during real-time responses to unfolding events. Because past experience might not be a reliable indicator of the potential for violence at a given event, agencies should also broaden their consideration of what events require increased coordination and take into account current intelligence.

7. **Responsibly reassert Congressional oversight authorities over the Executive Branch.** For decades, the Executive Branch has increasingly shielded itself from congressional scrutiny. To fulfill its Constitutional oversight obligations, Congress should consider additional ways to ensure compliance with its investigations and oversight requests, including reassessing the accommodations it grants the Executive Branch.

III. INTRODUCTION

On January 6, 2021, thousands of people attempting to disrupt the Joint Session of Congress to certify the 2020 presidential election committed a violent and unprecedented attack on the U.S. Capitol Building, threatening the security of the Vice President, Members of Congress, and staff. During this attempt, rioters threatened and assaulted law enforcement officers, broke into the Capitol and Senate chamber, vandalized and stole property, and ransacked offices.[1] Over 2,000 individuals participated in the seven-hour attack, assaulting at least 174 police officers and causing more than $2.7 billion in damage.[2]

Source: Reuters / Leah Millis.

Although the attack temporarily delayed the certification of the presidential election, Congress reconvened that night and fulfilled its Constitutional duty. These events contributed to the deaths of at least nine individuals, including five police officers.[3] To date, the Department of Justice (DOJ) has arrested over a thousand individuals in connection with the attack on the Capitol, with around 347 of these individuals arrested for assaulting, resisting, or impeding a law enforcement officer.[4] To date, approximately 587 people have pled guilty to federal charges, including 64 people pleading guilty to assaulting law enforcement officers and four pleading guilty to seditious conspiracy.[5] Of those cases that have reached a verdict after trial, 101

[1] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[2] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[3] Chris Cameron. *These Are the People Who Died in Connection With the Capitol Riot*, New York Times (Jan. 5, 2022).
[4] Department of Justice, *29 Months Since the Jan. 6 Attack on the Capitol* (Jun. 6, 2023) (https://www.justice.gov/usao-dc/29-months-jan-6-attack-capitol-0).
[5] *Id.*

defendants have been found guilty, including 33 individuals found guilty of assaulting, resisting, or impeding officers, and 10 found guilty of seditious conspiracy.[6]

On January 8, 2021, the Senate Committee on Rules and Administration and the Senate Committee on Homeland Security and Governmental Affairs announced a joint bipartisan oversight investigation into the security failures that led to the attack.[7] On February 8, 2021, the Committees wrote to 22 local and federal law enforcement and intelligence agencies requesting information regarding the agencies' actions in advance of and during the attack on the Capitol.[8] On February 23, 2021, the Committees held the first hearing on the attack, examining the security response with the former U.S. Capitol Police (USCP) Chief, USCP Field Commander, House and Senate Sergeant at Arms, and Acting D.C. Metropolitan Chief of Police.[9] The current and former government officials discussed security preparations for and response to January 6th, including the lack of preparedness by security entities for the scale of violence that occurred.[10] The Committees held a second hearing on March 3, 2021, examining the federal government's actions in the lead-up to and during the attack with witnesses from the Department of Defense, D.C. National Guard, Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS).[11] The witnesses discussed the delay in approving National Guard assistance and the breakdown in intelligence sharing by FBI and DHS's Office of Intelligence and Analysis (I&A).[12]

On June 8, 2021, the Committees released a joint bipartisan investigative report, entitled *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6*.[13] The report focused on security, planning, and response failures for January 6th, made 21 findings of fact, and proposed 20 recommendations to address identified failures.[14] The

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[6] *Id.*; Department of Justice, *Four Oath Keepers Found Guilty of Seditious Conspiracy Related to U.S. Capitol Breach* (Jan. 23, 2023) (https://www.justice.gov/opa/pr/four-oath-keepers-found-guilty-seditious-conspiracy-related-us-capitol-breach); Department of Justice, *Jury Convicts Four Leaders of the Proud Boys of Seditious Conspiracy Related to U.S. Capitol Breach* (May 4, 2023) (https://www.justice.gov/usao-dc/pr/jury-convicts-four-leaders-proud-boys-seditious-conspiracy-related-us-capitol-breach).

[7] Chairman Gary Peters: *Bipartisan Senate Homeland Security and Rules Committee Leaders Announce Joint Oversight After Attack on the Capitol Building* (https://www.peters.senate.gov/newsroom/press-releases/bipartisan-senate-homeland-security-and-rules-committee-leaders-announce-joint-oversight-after-attack-on-the-capitol-building).

[8] Letter from Senator Gary Peters, Senator Rob Portman, *et al.*, to Acting Sergeant at Arms and Doorkeeper Jennifer Hemingway, U.S. Senate, *et al.* (Feb. 8, 2021).

[9] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617).

[10] *Id.*

[11] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).

[12] *Id.*

[13] Chairman Gary Peters: *Peters, Portman, Klobuchar, Blunt Release Bipartisan Report Investigating January 6th Capitol Attack* (Jun. 8, 2021); Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).

[14] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).

report found that security agencies did not adequately prepare for and respond to the events on January 6th, despite awareness of a threat.[15] The Committees' report also provided a high-level discussion of failures within the federal intelligence community.[16] The report found that law enforcement entities largely rely on the federal domestic intelligence community to assess and communicate homeland security threats.[17] FBI and DHS had issued general warnings throughout 2020 of the potential for increased violence targeting law enforcement and government facilities and personnel.[18] However, despite publicly available calls for violence at the Capitol, neither agency issued a threat assessment or intelligence bulletin warning law enforcement responsible for securing the U.S. Capitol and Members of Congress.[19] Since the release of that report, the Committee has continued its investigation, focusing on the intelligence these agencies had obtained regarding the potential for violence, and whether they took sufficient action in response.

Concurrent to the Committee's investigation, the U.S. House of Representatives launched its own investigation into the events surrounding January 6th. After efforts failed to create a National Commission to investigate the attack, the House passed a resolution on June 30, 2021, to establish the House Select Committee to Investigate the January 6th Attack on the United States Capitol (the House Select Committee).[20] Over the course of its year and a half mandate, the House Select Committee held a series of hearings, released thousands of pages of evidence and testimony, and issued a final report.[21] The hearings included testimony from law enforcement officers on duty during the attack, among others, and the presentation of evidence gathered by the Committee.[22]

The House Select Committee's final report found that President Trump engaged in a multipronged effort to overturn the 2020 election by knowingly disseminating false and fraudulent allegations, pressuring state officials to submit false elector slates, pressuring DOJ officials to make false statements alleging election fraud, and calling on supporters to join him in Washington, D.C. on January 6th and subsequently encouraging them to march on the Capitol.[23] The House Select Committee's report largely focused on President Trump's role in attempting to overturn the 2020 election, and only briefly discussed federal intelligence efforts in the lead-up to the events of January 6th.[24] The House Select Committee report found that intelligence

[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] H. Res. 503, 117th Cong. 1st Sess. (2021); Clerk of the United States House of Representatives, Roll Call 197 | Bill Number: H. Res. 503 (Jun. 30, 2021) (https://clerk.house.gov/Votes/2021197).
[21] *See* House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Hearings Before the Select Committee to Investigate the January 6th Attack on the Capitol*, 117th Cong. (July 27, 2021); Jun. 9, 13, 16, 21, 23, and 28, 2022; July 12 and 21, 2022) (Serial No. 117-10); House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* (Dec. 2022) (H. Rept. 17-000).
[22] *See* House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Hearings Before the Select Committee to Investigate the January 6th Attack on the Capitol*, 117th Cong. (July 27, 2021; Jun. 9, 13, 16, 21, 23, and 28, 2022; July 12 and 21, 2022) (Serial No. 117-10).
[23] House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* (Dec. 2022) (H. Rept. 17-000).
[24] *Id.*

agencies, including FBI and I&A, had received intelligence on the potential for violence at the Capitol.[25] This intelligence included discussions of the Capitol complex's underground tunnels alongside violent rhetoric, information on the movements of violent militia groups like the Proud Boys and Oath Keepers, and numerous social media posts discussing storming the Capitol.[26] The report also found that security agencies did not adequately prepare for and respond to the threat.[27]

At the direction of U.S. Senator Gary Peters, Chairman of the Homeland Security and Governmental Affairs Committee (HSGAC), and following the Committee's initial review of the security, planning, and response failures in advance of and during the January 6th attack, Majority Committee staff conducted a subsequent review focused on the intelligence failures leading up to the attack on the U.S. Capitol on January 6th. This review included assessments of documents and information provided to the Committee pursuant to its original February 2021 request for information from relevant agencies, as well as documents, interview transcripts, and supporting materials related to the House Select Committee's investigation and final report.

This report assesses federal intelligence collection, analysis, and dissemination processes and interagency coordination in advance of January 6th. The report finds that FBI and I&A obtained large amounts of intelligence indicating the potential for violence on January 6th. However, neither FBI nor I&A issued sufficient warnings to their law enforcement partners based on that intelligence, partially because these agencies were biased toward discounting the possibility of such an unprecedented event. Federal agencies also suffered from a lack of coordination as they prepared for January 6th.

The Committee received responses to many of its questions and numerous document productions from the agencies in its investigation, including DOJ-FBI and DHS-I&A. However, at various points throughout its investigation, the Committee encountered significant delays, incomplete responses, denied document requests (including documents required to be provided to the Committee under federal law), and refusals to make certain witnesses available to the Committee for interviews. The Committee sought to obtain the necessary information through voluntary compliance by the agencies in its investigation, but this lack of full cooperation hinders the ability of the Committee, and Congress more broadly, to effectively and efficiently conduct legitimate oversight of the Executive Branch.

IV. FEDERAL AGENCIES' ROLES IN INTELLIGENCE COLLECTION, ANALYSIS, AND DISSEMINATION

In the aftermath of the September 11, 2001 terrorist attacks, Congress restructured the federal government to better address the security threats facing the nation.[28] The government's post-9/11 counterterrorism posture focused primarily on international terrorism, with legislation

[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *See* Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001, Pub. L. 107-56.

reorganizing counterterrorism responsibilities and authorities, including creating DHS. However, in the 20 years since this reorganization, acts of domestic terrorism have drastically increased. Since 2019, DHS and FBI have repeatedly identified domestic terrorism, in particular white supremacist and anti-government extremism, as the most persistent and lethal terrorist threat to the homeland.[29]

The Government Accountability Office (GAO) recently reported that the number of FBI open cases related to domestic terrorism grew 357 percent between 2013 and 2021, and that there were 231 domestic terrorism incidents from 2010 and through 2021 that resulted in 145 deaths, with racially or ethnically motivated violent extremists and anti-government or anti-authority violent extremists responsible for two-thirds of those incidents and three-quarters of the deaths.[30] According to the Center for Strategic and International Studies, 2020 alone saw 110 domestic terrorist plots and attacks.[31] In recent years, the expansion of social media has contributed to this rise in the domestic terrorism threat, as these platforms have allowed domestic terrorists to recruit new members, communicate, train, mobilize, and coordinate plots and attacks.[32]

On November 16, 2022, following an almost three-year investigation, Chairman Peters released a Majority Committee staff report examining the rising threat of domestic terrorism, the federal government's response to the threat, and the role of social media in the spread of extremist content.[33] The report identified that domestic terrorism – primarily white supremacist extremists – had surpassed international terrorism as the most significant terrorism threat. However, the Committee found that FBI and DHS over the last several years had not adequately aligned their resources to meet the current threat, and had failed to effectively track and report statutorily required data on the domestic terrorist threat that would enable comprehensive assessments of their efforts to counter the threat.[34] The report also found that social media companies' current incentive structures that aim to keep users engaged leads the platforms to

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[29] Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020) (https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf); Senate Committee on the Judiciary, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Oversight of the Federal Bureau of Investigation: The January 6th Insurrection, Domestic Terrorism, and Other Threats*, 117th Cong. (Mar. 2, 2021) (S. Hrg. 117-XX); House Committee on Homeland Security, Testimony Submitted for the Record of Director Christopher Wray, Federal Bureau of Investigation, *Hearing on Worldwide Threats to the Homeland*, 116th Cong. (Sep. 17, 2020) (H. Hrg. 116-83).

[30] Government Accountability Office, *Domestic Terrorism: Further Actions Needed to Strengthen FBI and DHS Collaboration to Counter Threats* (GAO-23-104720) (Feb. 2023).

[31] Seth Jones, *et al.*, *The Military, Police, and the Rise of Terrorism in the United States*, Center for Strategic and International Studies (Apr. 12, 2021) (https://www.csis.org/analysis/military-police-and-rise-terrorism-united-states).

[32] Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Seth Jones, Center for Strategic and International Studies, *Hearing on Domestic Terrorism and Violent Extremism: Examining the Threat of Racially, Ethnically, Religiously, and Politically Motivated Attacks Part I*, 117th Cong. (Aug. 3, 2021) (S. Hrg. 117-262); Digital Citizens Alliance, *The Domestic Extremist Next Door: How Digital Platforms Enable the War Against American Government* (Apr. 2021) (https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA_The_Domestic_Extremist_Next_Door.pdf).

[33] Majority Staff, Senate Committee on Homeland Security and Governmental Affairs, *The Rising Threat of Domestic Terrorism: A Review of the Federal Response to Domestic Terrorism and the Spread of Extremist Content on Social Media* (Nov. 2022).

[34] *Id.*

recommend increasingly extreme content, including white supremacist and anti-government content.[35]

A. Federal Bureau of Investigation

Within DOJ, the Federal Bureau of Investigation (FBI) is the nation's primary federal investigative agency and has statutorily-designated responsibilities to investigate criminal activity, including domestic terrorism.[36] When conducting investigations, FBI must adhere to several limitations on its actions. All federal agencies must comply with First Amendment protections of free speech, Privacy Act restrictions on record retention, and Executive Order 12333 restrictions on intelligence collection.[37] FBI is further restrained by *The Attorney General's Guidelines* (AGG) and the *FBI Domestic Investigations and Operations Guide* (DIOG). The AGG places certain restrictions on FBI surveillance activities and investigations, which can only be opened for an "authorized purpose."[38]

However, the AGG also requires FBI to "proactively draw on available sources of information to identify terrorist threats and activities."[39] With certain exceptions, the AGG allows FBI investigators to collect publicly available information, including proactively accessing public websites such as social media platforms, and to use online services and resources for searching the Internet, such as third-party Internet search services.[40] Specifically:

> FBI employees are permitted to conduct proactive Internet searches (i.e., searches that are not conducted as a result of incoming complaints, tips, leads, or referrals) of publicly available information to process observations or other information for authorized purposes, but they may only collect and retain this information if a law enforcement, national security, intelligence, or public [safety] purpose exists for doing so and the information is within the scope of an open Assessment or a predicated case, or if it serves as the basis for opening such.[41]

The AGG further states that when FBI is engaged in "its protective functions, the FBI is not constrained to wait until information is received indicating that a particular event, activity, or

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[35] *Id.*
[36] Federal Bureau of Investigation, *What We Investigate* (accessed Feb. 28, 2023) (https://www.fbi.gov/investigate/terrorism); Majority Staff, Senate Committee on Homeland Security and Governmental Affairs, *The Rising Threat of Domestic Terrorism: A Review of the Federal Response to Domestic Terrorism and the Spread of Extremist Content on Social Media* (Nov. 2022).
[37] U.S. Const. amend I; Exec. Order No. 12333, 73 Fed. Reg. 45325 (July 30, 2008); 5 U.S.C. § 552a (as amended).
[38] Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (https://www.justice.gov/archive/opa/docs/guidelines.pdf).
[39] Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (https://www.justice.gov/archive/opa/docs/guidelines.pdf). The AGG also allows FBI assessment activities to "involve proactively surfing the Internet to find publicly accessible websites and services through which recruitment by terrorist organizations and promotion of terrorist crimes is openly taking place." *Id.*
[40] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version).
[41] Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (https://www.justice.gov/archive/opa/docs/guidelines.pdf).

facility has drawn the attention of those who would threaten the national security. Rather, the FBI must take the initiative to secure and protect activities and entities whose character may make them attractive targets for terrorism or espionage."[42]

FBI must also comply with restrictions and guidelines in the DIOG.[43] The DIOG's Appendix L provides further details and examples as to how investigators may access publicly available information online, including on social media.[44] The DIOG allows FBI personnel to use publicly available information in different forms during specific types of investigations. Even prior to opening an official investigation at the lowest level, called an assessment, "employees may conduct Internet searches of 'publicly available information' for authorized purposes," which includes proactive Internet searches.[45]

When analyzing information for potential criminal activity or threats to national security, FBI must adhere to its processes, guidelines, and restrictions. FBI often obtains tips from outside sources, such as from agency partners or the public, and conducts investigations to obtain further information on potential criminal activity.[46] FBI takes in public tips at the National Threat Operations Center (NTOC), which gathers as much information on the circumstances as possible.[47] After gathering the information, NTOC reviews the tip to determine if it is actionable and which FBI Field Office or state or local agency to send the information to, and documents the tip in FBI's Guardian system.[48] Once FBI personnel gather and assess the information as actionable, FBI documents threat information in reports, both raw and finished, that can be shared with law enforcement partners.[49]

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[42] *Id.*

[43] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version). The 2020 National Defense Authorization Act required FBI to provide to Congress the most recent version of the DIOG; however, FBI has failed to comply with this statutory requirement for nearly three years and has not provided the most recent DIOG to the Committee. National Defense Authorization Act of 2020, Pub. L. 116-92. FBI has made a redacted version publicly available online.

[44] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version).

[45] *Id.* Appendix L explains that "publicly available information" means information that is "available to the employee in the same manner that it is to the general public." Once FBI personnel open an assessment, investigators may use additional investigative methods such as "automated regular searches (e.g. Google alerts)," to access information from websites with restricted access from a consenting party, and record public real-time communications. When moving to a higher level of review, called a predicated investigation, investigators may monitor communications based on the consent of one party to the communication and record "private real-time communications that is restricted from public access," and may engage in some undercover activities.

[46] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).

[47] Federal Bureau of Investigation, *No Average Call: A Look Inside the FBI's National Threat Operations Center* (Nov. 7, 2019) (https://www.fbi.gov/news/stories/inside-the-national-threat-operations-center-110719).

[48] *Id.*

[49] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 6).

1. FBI Threat Assessment and Information Sharing.

When FBI receives tips, it reviews the content for value and to determine the proper response.[50] When reviewing tips, FBI personnel must determine if a tip is credible and therefore warrants further investigation.[51] As part of the credibility determination, FBI personnel will assess whether the tip constitutes speech that is protected by the First Amendment. While the First Amendment protects a wide array of speech, this protection does not include speech involving credible threats, or "true threats."[52] The Supreme Court defines "true threats" as "statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals."[53] According to DOJ guidance, a "true threat" must convey a genuine threat that is not simply exaggeration or hyperbole.[54] FBI has recognized that when collecting information online, it must adhere to these protections and has stated that in doing so it applies the "Brandenburg test" to determine whether the speech is protected by the First Amendment.[55] Under this test, established by the Supreme Court in *Brandenburg v. Ohio*, FBI must determine whether the speech is "directed to inciting or producing imminent lawless action," and it is "likely to incite or produce such action."[56] When applying the "Brandenburg test," FBI examines information for "threats to life," which it defines as an "imminent or potential threat involving serious bodily injury or significant violent action to anyone regardless of location."[57] In an interview with the Committee, former Principal Associate Deputy Attorney General Richard Donoghue discussed some of the criteria that go into assessing the credibility of threats. Donoghue explained that when examining a threat, FBI considers "the source of the threat. You're looking at how specific it is. You're looking at whether the source of the threat actually has the capability to carry it out. You're looking at whether or not they're associated with a larger group, which would mean their capabilities are greater than that of an individual."[58]

However, even if a tip is not deemed credible, FBI still logs the tip in its database for informational purposes and may still share the information with partners.[59] The DIOG states that FBI has "a responsibility to provide information as consistently and fully as possible to agencies

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[50] David Bowdich, transcribed interview with House Select Committee (Dec. 16, 2021) (pg. 74-76).
[51] *Id.*
[52] *Watts v. United States*, 394 U.S. 705 (1969); Department of Justice, *Real-Time and Open Source Analysis Resource Guide: Understanding and Using Open Source Resources for Law Enforcement Operational and Analytic Activities* (July 2017) (https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/rosa_resource_guide.pdf).
[53] *Virginia v. Black*, 538 U.S. 343 (2003).
[54] *Watts v. United States*, 394 U.S. 705 (1969); Department of Justice, *Real-Time and Open Source Analysis Resource Guide: Understanding and Using Open Source Resources for Law Enforcement Operational and Analytic Activities* (July 2017) (https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/rosa_resource_guide.pdf).
[55] *Brandenburg v. Ohio*, 395 U.S. 444 (1969); *Watts v. United States*, 394 U.S. 705 (1969); Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021).
[56] *Brandenburg v. Ohio*, 395 U.S. 444 (1969).
[57] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[58] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 79).
[59] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 28-29, 33, 81); Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).

with relevant responsibilities to protect the United States and its people from terrorism and other threats to the national security."[60] This means that when FBI deems a tip to be not credible, it can still share the tip with relevant agencies as appropriate for informational purposes such as to build a threat picture, rather than as specific intelligence of a credible threat.[61]

FBI is responsible for sharing information with any agency partner if it "is necessary to protect the safety or security of persons or property, to protect against or prevent a crime or a threat to the national security, or to obtain information for the conduct of an authorized FBI investigation."[62] When disseminating information to agency partners, FBI shares both raw and assessed intelligence. Raw intelligence is information that FBI analysts have not fully evaluated.[63] When sharing raw intelligence, FBI can utilize Intelligence Information Reports (IIRs).[64] These reports must comply with collection restrictions and must only be shared within FBI, with the Intelligence Community, or with other national law enforcement entities.[65] FBI may also transmit raw intelligence through Situational Information Reports (SIRs), which are used to share information with state, local, and tribal law enforcement entities.[66] FBI Field Offices may disseminate SIRs to partners in their area of responsibility, and FBI Headquarters' intelligence programs may produce and disseminate SIRs on national level issues.[67] A key mechanism for FBI to share information are the approximately 200 Joint Terrorism Task Forces (JTTFs) around the country, where FBI brings together representatives from federal, state, local, and tribal partners to address criminal and national security threats.[68]

FBI has contracted with third-party services to aid in its use of social media platforms to identify potential criminal activity or potential threats to national security. Through December 2020, FBI used the third party search service Dataminr, which identified content based on specific search terms identified and approved by FBI.[69] This contract expired on December 31, 2020, and while FBI was aware of this and had a new contract in place, as discussed further

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[60] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version).
[61] *Id.*; Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 28-29, 33, 81).
[62] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version).
[63] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023) (summarizing FBI Intelligence Program Policy Guide and FBI Raw Intelligence Reports Manual).
[64] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023) (summarizing FBI Intelligence Program Policy Guide).
[65] *Id.*
[66] *Id.*
[67] *Id.*
[68] Federal Bureau of Investigation, *What We Investigate: Joint Terrorism Task Forces* (accessed Apr. 10, 2023) (https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces); Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[69] David Bowdich, transcribed interview with House Select Committee (Dec. 16, 2021) (pg. 68); Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021).

below in Section VII, officials did not build in time to fully transition and train staff on the use of the capabilities under the new contract in advance of January 6th. On January 1, 2021, FBI entered into a new contract with ZeroFox.[70] When ZeroFox identifies potentially concerning content, it generates automatic alerts for FBI to investigate further. Due to First Amendment protections, FBI policy requires that data to be automatically deleted within a certain amount of time if it does not meet FBI requirements.[71]

2. FBI's role on January 6th.

FBI reported to the Committee that in addition to its usual law enforcement responsibilities, FBI took additional actions to prepare for January 6th and assist its law enforcement partners.[72] In the lead-up to January 6th, FBI had responsibilities relating to collecting, analyzing, and disseminating intelligence on potential criminal or national security threats.[73] This included the lawful collection of publicly available information from social media platforms, and sharing threat assessments and information with federal, state, and local law enforcement partners.[74] Second, FBI led the Strategic Information Operations Center (SIOC) in the lead-up to January 6th and on that day itself, which brought together relevant federal and local agencies, including the Department of Defense (DOD), DHS, and the Metropolitan Police Department (MPD), to coordinate and share information about the events.[75] FBI also activated the National Crisis Coordination Center (NC3) within the SIOC to "collect, analyze, and share intelligence with law enforcement partners so that every agency in the command post would have a common operating picture."[76]

Lastly, in advance of January 6th, FBI prepared to provide law enforcement support if requested.[77] At the Washington Field Office, FBI had on standby "three SWAT teams and [its]

[70] Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021); Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[71] Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021); Majority Staff, Senate Committee on Homeland Security and Governmental Affairs, *The Rising Threat of Domestic Terrorism: A Review of the Federal Response to Domestic Terrorism and the Spread of Extremist Content on Social Media* (Nov. 2022) (summarizing additional information on FBI's efforts to update its efforts to monitor social media threats).
[72] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[73] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022); Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022); Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 20); Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[74] *Id.*
[75] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 23); Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).
[76] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[77] Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).

Special Agent Bomb Technicians and Evidence Response Teams."[78] FBI also had two SWAT teams from Baltimore and FBI's Hostage Rescue Team on standby.[79] On January 6th, FBI provided direct law enforcement assistance, in response to a request from USCP after the Capitol had been breached.[80] This support included taking responsibility for securing one of the two Chambers of Congress and responding to two pipe bomb threats.[81]

As discussed in the sections below, this investigation found that these efforts proved insufficient to properly prepare for the threat of violence on January 6th.

B. Department of Homeland Security

When Congress created DHS in 2002, it tasked DHS with supporting terrorism investigations and providing security against terrorist attacks.[82] In the twenty years since then, Congress has made several reforms to DHS and expanded its intelligence authorities.[83] In 2004, Congress created DHS's Office of Intelligence and Analysis (I&A), giving it the primary responsibility for collecting and analyzing terrorism-related intelligence, with the Under Secretary for I&A serving as the Chief Intelligence Officer for all of DHS.[84] I&A is also charged with delivering intelligence to state, local, and tribal partners, and one of its Operating Principles is to "[p]roduce strategic intelligence products" for its partners, including other federal agencies.[85] I&A receives, assesses, and analyzes "law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities."[86] I&A then uses this information to detect, identify, and understand terrorist threats to the homeland.[87] Once it has collected this information, I&A disseminates summarized intelligence reports to other federal entities, state and local law enforcement agencies, and private sector partners.[88] Shortly after the January 6th attack, I&A created its Domestic Terrorism Branch "to ensure DHS develops the expertise necessary to produce the sound, timely intelligence needed to combat threats posed by domestic terrorism and targeted violence."[89]

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[78] *Id.*
[79] *Id.*
[80] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 127).
[81] Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).
[82] Homeland Security Act of 2002, Pub. L. 107-296.
[83] *Id.*; Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458; Department of Homeland Security, Department Six-point Agenda (Jan. 30, 2022) (https://www.dhs.gov/department-six-point-agenda).
[84] Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458; Department of Homeland Security, Office of Intelligence and Analysis (accessed Mar. 2, 2023) (https://www.dhs.gov/office-intelligence-and-analysis).
[85] Department of Homeland Security, Office of Intelligence and Analysis (Oct. 7, 2022) (https://www.dhs.gov/office-intelligence-and-analysis).
[86] 6 U.S.C. § 121(d)(1).
[87] 6 U.S.C. § 121(d)(1)(A-C).
[88] 6 U.S.C. § 121(d)(6, 14, 15).
[89] Department of Homeland Security, Office of Intelligence and Analysis, *DHS Note to Congress: Establishment of a new Domestic Terrorism Branch within I&A focused on Domestic Violent Extremism* (Apr. 27, 2021) (on file with Committee); Department of Homeland Security, *DHS Creates New Center for Prevention Programs and Partnerships and Additional Efforts to Comprehensively Combat Domestic Violent Extremism* (May 11, 2021)

Like DOJ and FBI, DHS and I&A must adhere to prohibitions and restrictions in the First Amendment, the Privacy Act, and Executive Order 12333.[90] DHS incorporated these and other legal restrictions and requirements regarding I&A's intelligence activities into its *Intelligence Oversight Guidelines for I&A*.[91] The guidelines require I&A to engage in intelligence activities only when it has "a reasonable belief that the activity supports one or more of the national or departmental missions," which include domestic terrorism.[92] When collecting intelligence on U.S. citizens or permanent residents, "I&A personnel are required to use the least intrusive collection techniques feasible and sufficient," which can include collecting "intelligence or information from publicly available sources."[93]

1. I&A Threat Assessment and Information Sharing.

I&A intelligence collectors are only authorized to use overt intelligence collection methods or collect through publicly available sources.[94] When collecting intelligence, I&A obtains potentially concerning information meeting validated collection requirements based on national and departmental information needs through a variety of means, such as appropriately tailored proactive searches or from partner agencies.[95] Because I&A collects intelligence primarily to detect, identify, assess, and understand threats to the homeland, and not for the purpose of conducting criminal investigations, it may collect publicly available information provided it does not do so for the sole purpose of monitoring lawfully protected activities.[96]

However, I&A must determine the credibility of a threat to inform whether and how I&A reports information about the threat. When determining the credibility of a threat, I&A evaluates whether it is a true threat, which DHS defines as "a statement where the subject means to communicate a serious expression of an intent to commit an act of unlawful violence to a

(https://www.dhs.gov/news/2021/05/11/dhs-creates-new-center-prevention-programs-and-partnerships-and-additional-efforts).

[90] *See* U.S. Const. amend I; Exec. Order No. 12333, 73 Fed. Reg. 45325 (July 30, 2008); 5 U.S.C. § 552a (as amended).

[91] Letter from Department of Homeland Security to Chairman Gary Peters (Mar. 8, 2022); Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf).

[92] Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf).

[93] *Id.* DHS defines publicly available information as: "Information that has been published or broadcast for public consumption, is available on request to the public, is accessible on-line or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer, is made available at a meeting open to the public, or is obtained by visiting any place or attending any event open to the public. Social media sites, Internet sites, chat rooms, bulletin boards, and other electronic and other fora, or portions of the same, belonging to individuals or groups that limit access by use of criteria that cannot generally be satisfied by members of the public are not publicly available sources."

[94] Department of Homeland Security, *Office of Intelligence and Analysis Intelligence Oversight Program and Guidelines* (Jan. 19, 2017) (https://www.dhs.gov/sites/default/files/publications/office-of-intelligence-and-analysis-intelligence-oversight-program-and-guidelines.pdf).

[95] *Id.*

[96] *See*, e.g., 6 U.S.C. § 121(d)(1).

particular individual or group of individuals."[97] However, even if the information is not deemed credible, I&A may – and in some situations, should – still include it as raw intelligence and share it through different I&A reports.[98]

I&A has several reporting options that allow for the dissemination of raw and unevaluated intelligence. I&A may issue Field Intelligence Reports (FIRs) when the report supports a DHS intelligence requirement and may share these reports with non-DHS entities.[99] If the report relates to Intelligence Community collection requirements, I&A may create an Intelligence Information Report (IIR) and share this report outside and within the Intelligence Community, depending on the classification level.[100] If using publicly available information, I&A may use an Open Source Information Report to disseminate the intelligence outside DHS.[101] I&A issued approximately 1,100 Open Source Information Reports per year between 2018 and 2021.[102] I&A also may create products jointly with other intelligence agencies under the seal of the partner agency.[103] When sharing evaluated information, I&A creates Finished Intelligence products, which include I&A analysts' "assessment, judgement [sic], and analytic input" of the information, and may be shared outside DHS.[104] I&A shares these reports with numerous partners at the federal, state, local, and tribal levels. One of the key vehicles for sharing information and reports is through fusion centers, which are state and local-run centers that act as a hub for receiving, analyzing, and sharing threat information among partners at all levels of government, law enforcement, and the private sector.[105]

In response to a request from the Committee, DHS said that I&A "does not broadly and widely monitor social media absent specific predicated targeting," but it is authorized to "collect intelligence overtly or from publicly available information, including publicly available social media, in support of national and departmental missions."[106] Those missions are broad and include "intelligence related to domestic terrorism, threats to critical infrastructure and key resources, and other threats to homeland security."[107] Within I&A, the Open Source Collection Operations branch leads the agency's efforts in identifying and reporting threats made on social media platforms and other publicly available online sources.[108] Once collectors obtain intelligence, the branch shares this information with partner law enforcement entities.[109]

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[97] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[98] *Id.*
[99] *Id.*
[100] *Id.*
[101] Department of Homeland Security Office of Inspector General, *The Office of Intelligence and Analysis Needs to Improve Its Open Source Intelligence and Reporting* (OIG-22-50) (Jul. 6, 2022).
[102] *Id.*
[103] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[104] *Id.*
[105] Department of Homeland Security, Fusion Centers (Oct. 17, 2022) (https://www.dhs.gov/fusion-centers).
[106] Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021).
[107] *Id.*
[108] Department of Homeland Security Office of Inspector General, *The Office of Intelligence and Analysis Needs to Improve Its Open Source Intelligence and Reporting* (OIG-22-50) (Jul. 6, 2022).
[109] *Id.*

2. I&A's role on January 6th.

In the lead-up to January 6th, I&A's intelligence responsibilities included authority "to access, receive, and analyze law enforcement information, intelligence information, and other information from Federal, state, and local government agencies, and private sector entities, and to disseminate such information to those partners."[110] Different I&A components had responsibilities consisting of "provid[ing] indication and warning of threats directed against the United States through the collection, analysis, and dissemination of intelligence and information 24 hours a day," participation in fusion centers, and "analyz[ing] terrorism-related intelligence and produc[ing] analytic intelligence products."[111] DHS also told the Committee that I&A "participated in planning and synchronization efforts across the National Capital Region leading up to" January 6th and assigned personnel to monitor for potential threats of violence on January 6th itself.[112] The sections below describe how I&A's efforts in the lead-up to January 6th and during the attack were insufficient to effectively communicate the threat of violence to its law enforcement partners.

C. Multi-Agency Responsibilities

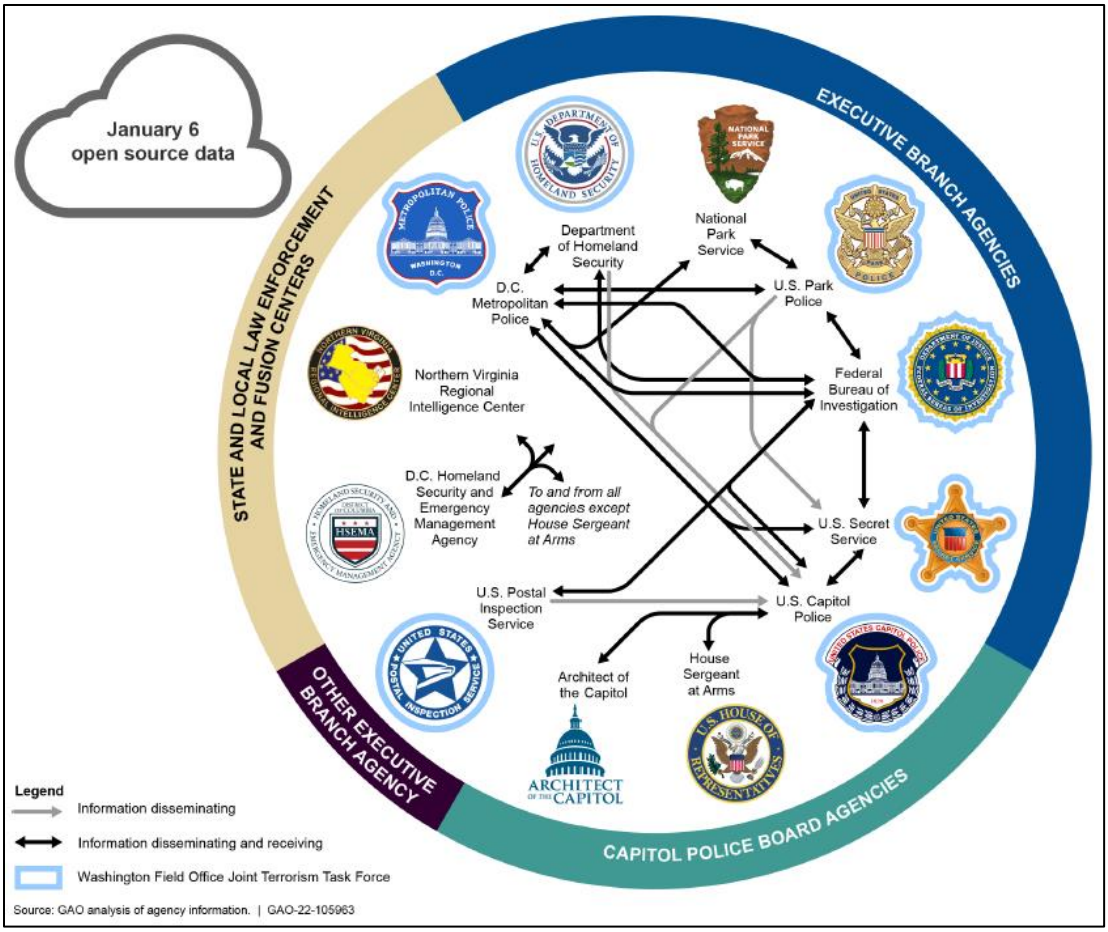
Several different federal agencies have responsibilities relating to intelligence and security preparations, and these agencies often coordinate through different means. FBI and DHS may coordinate to issue intelligence products together, such as through Joint Intelligence Bulletins (JIBs), which "are finished intelligence products the FBI writes jointly with DHS and/or [the National Counterterrorism Center] and are typically designed for dissemination to a wide array of U.S. intelligence and law enforcement partners."[113] In June 2020, these agencies issued two JIBs relating to domestic violent extremism and warning of violent activity during lawful protests. The first highlighted "recent arrests of domestic violent extremists (DVEs) for threats of violence, and the potential for increased violent extremist activity occurring during lawful protests taking place in communities across the United States in response to the deaths of three unarmed African-American individuals in Georgia, Kentucky, and Minnesota."[114] This JIB reported that "the greatest threat of lethal violence continues to emanate from lone offenders with racially or ethnically motivated violent extremist (RMVE) ideologies and DVEs with personalized ideologies."[115] The second JIB highlighted "the elevated threat militia extremists pose to state and local law enforcement, government personnel, and associated facilities due to a

[110] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[111] *Id.*
[112] Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021).
[113] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[114] Department of Homeland Security, Federal Bureau of Investigation, National Counterterrorism Center, *Domestic Violent Extremists Could Exploit Current Events to Incite or Justify Attacks on Law Enforcement or Civilians Engaged in First Amendment-Protected Activities* (IA-44638-20) (Jun. 8, 2020). This JIB also acknowledged the threat from anarchist extremists and militia extremists. *Id.*
[115] Department of Homeland Security, Federal Bureau of Investigation, National Counterterrorism Center, *Domestic Violent Extremists Could Exploit Current Events to Incite or Justify Attacks on Law Enforcement or Civilians Engaged in First Amendment-Protected Activities* (IA-44638-20) (Jun. 8, 2020).

confluence of drivers which have built on long-held militia extremist grievances."[116] This report found that "[m]ilitia extremists likely pose an increased threat to state and local law enforcement, government personnel and associated facilities due to a perceived resurgence in recent months of activity surrounding state-level gun control legislation, as well as concerns specific to state and local government responses to the COVID-19 pandemic."[117] As discussed below in Section VI, these agencies produced additional products in 2020 but they were not specific to January 6th.

Agencies reported sharing intelligence in the lead-up to January 6th, including open-source information such as social media, through emails, phone calls, briefings, and information reports.[118] Although such information sharing among agencies was intended in part to prevent the kind of intelligence failures that preceded the Sept. 11th attacks, FBI and I&A failed to effectively assess the intelligence it had obtained in the lead-up to January 6th and disseminate threat assessments to enable its law enforcement partners to prepare for the potential violence, as described in sections below.

[116] Federal Bureau of Investigation and National Counterterrorism Center, *Militia Extremists Present Elevated Threat to Law Enforcement and Government Personnel* (Jun. 18, 2020).
[117] *Id.*
[118] *See*, e.g., Federal Bureau of Investigation Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee); Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).



Source: GAO-22-105963.

Another mechanism of multi-agency coordination are the procedures prior to and during a National Special Security Event (NSSE). An NSSE is an event that has national interest and requires elevated and coordinated security, intelligence, and preparation across multiple agencies before and during a significant event, such as the Presidential Inauguration.[119] The DHS Secretary may designate an NSSE if the event "warrant[s] the full protective, incident management, and counterterrorism capabilities of the federal government, given the potential for the event to be a target by foreign or domestic terrorists."[120] The DHS Secretary may make this designation as a result of a request from a federal official or state governor or on the advice of the NSSE Working Group made up of relevant agencies, including FBI.[121] Factors taken into consideration for designation include "anticipated attendance by U.S. officials and foreign dignitaries, size of the event, [and] significance of the event," among others.[122] Once the DHS Secretary designates an NSSE, the U.S. Secret Service (USSS) acts as the "lead agency for the

[119] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021); United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).
[120] *Id.*
[121] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021).
[122] *Id.*

design and implementation of the operational security plan."[123] For significant events that are not designated an NSSE, the DHS Secretary may alternatively designate a Special Event Assessment Rating (SEAR) event, which "[m]ay require extensive federal interagency support" and for which the DHS Secretary may appoint a Federal Coordinator.[124]

As a member of the NSSE Working Group, FBI also plays a role in the planning and operation of an NSSE, and leads any incident investigations stemming from the NSSE.[125] FBI has stated that its role "includes the investigation of potential federal criminal violations or threats to national security, and the mitigation of those threats. Additionally, if partner agencies requested authorized assistance, the FBI provides tactical assistance for specialized incident response."[126] FBI and DHS also often issue joint threat assessment products in advance of an NSSE.[127] Former DHS official Ken Cuccinelli has stated that preparations for NSSEs begin months in advance, noting that the planning for the January 2021 Presidential Inauguration NSSE began in May 2020.[128] As discussed below in Section VIII, the Joint Session of Congress to certify the presidential election on January 6, 2021, was not designated an NSSE.[129]

V. FEDERAL AGENCIES OBTAINED A LARGE AMOUNT OF INTELLIGENCE INDICATING THE POTENTIAL FOR VIOLENCE ON JANUARY 6TH

In the lead-up to January 6th, social media and other publicly-accessible forums were inundated with open threats and violent rhetoric. In advance of the attack, multiple news agencies, research organizations, and individuals publicly reported on and tried to warn about the large amount of communications about plans for violence.[130] For example, on Dec. 30. 2020, the

[123] United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).
[124] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021).
[125] *Id.;* Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee); United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).
[126] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[127] Department of Homeland Security Office of Intelligence and Analysis, *et al.*, *Joint Threat Assessment 59th Presidential Inauguration, Washington, DC* (IA-49381-21) (Jan. 14, 2021); Department of Homeland Security Office of Intelligence and Analysis, *et al.*, *Super Bowl XLV: Joint Special Event Threat Assessment* (IA-0123011) (Jan. 11, 2011); Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021).
[128] Ken Cuccinelli, transcribed interview with House Select Committee (Dec. 7, 2021) (pg. 120).
[129] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021).
[130] *See*, e.g., Marissa J. Lang, *Jan. 6 protests multiply as Trump continues to call supporters to Washington*, Washington Post (Dec. 30, 2020); Brandy Zadrozny and Ben Collins, *Violent threats ripple through far-right internet forums ahead of protest*, NBC News (Jan. 5, 2021); Craig Timberg and Drew Harwell, *Pro-Trump forums erupt with violent threats ahead of Wednesday's rally against the 2020 election*, Washington Post (Jan. 5, 2021); Melanie Zanona, Sarah Ferris, and Jyle Cheney, *Threats of violence and the virus grip Capitol Hill*, Politico (Jan. 4, 2021); Vera Bergengruen and W.J. Hennigan, *Washington Braces for Chaos as Trump Supporters Descend for 'Final Stand'*, TIME (Jan. 5, 2021).

Washington Post reported that "[t]hreats of violence […] have proliferated in online chats about the Jan. 6 day of protest."[131] On Jan. 5, 2021, NBC News reported that "[o]nline forums popular with conservatives and far-right activists have been filled in recent days with threats and expectations of violence ahead of" the protests planned for January 6th, including posts that "called for people to arm themselves."[132] That same day, Time reported that "some online forums and messaging app participants are discussing 'armed Americans' seizing the capital, hanging politicians, how to evade D.C. gun laws, and urging protestors to bring 'as much ammo as you can carry.'"[133]

Documents obtained by the Committee demonstrate that in addition to that publicly-available information, FBI and DHS-I&A also received non-public intelligence, warnings, and other information from numerous sources that further demonstrated the threat of violence in the days and weeks before the attack on January 6th. However, as discussed in later sections, the agencies failed to properly assess and disseminate that intelligence and information to enable their law enforcement partners to better prepare for the threat of violence on January 6th.

A. DOJ and FBI

"IF EVERYBODY KNEW AND ALL THE PUBLIC KNEW THAT THEY WERE GOING TO STORM CONGRESS, I DON'T KNOW WHY ONE PERSON DIDN'T TELL US, WHY WE DIDN'T HAVE ONE SOURCE COME FORWARD AND TELL ME THAT. […] I WISH I DID."
– Former Special Agent in Charge of the Intelligence Division, FBI Washington Field Office, Jennifer Moore[134]

"[…] NONE OF US HAD ANY INTELLIGENCE THAT SUGGESTED INDIVIDUALS WERE GOING TO STORM AND BREACH THE CAPITOL […]"
– Former Assistant Director for the Counterterrorism Division, FBI, Jill Sanborn[135]

Despite this hand-wringing from FBI, documents obtained by the Committee demonstrate that not only was FBI warned about the potential for violence on January 6th, but it was warned repeatedly, by multiple sources, and specifically about threats to the U.S. Capitol. In fact, among the multiple sources that came forward to raise concern with FBI was Congress itself: a day before the attack on the Capitol, a senior staffer on the House Permanent Select Committee on Intelligence emailed FBI to request an update on its preparations for the Joint Session of Congress the next day, and stated "[t]his matter is of high interest to the Committee, especially in light of recent press reporting suggesting that individuals, possibly with links to violent extremist

[131] Marissa J. Lang, *Jan. 6 protests multiply as Trump continues to call supporters to Washington*, Washington Post (Dec. 30, 2020).
[132] Brandy Zadrozny and Ben Collins, *Violent threats ripple through far-right internet forums ahead of protest*, NBC News (Jan. 5, 2021).
[133] Vera Bergengruen and W.J. Hennigan, *Washington Braces for Chaos as Trump Supporters Descend for 'Final Stand'*, Time (Jan. 5, 2021).
[134] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 144).
[135] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).

groups, may be involved with violence or criminal activity in the vicinity of the U.S. Capitol or in relation to the event."[136]

This warning from Congress was far from the only such warning FBI had received at that point. Evidence obtained by the Committee shows that FBI received intelligence, tips, and other warnings in the weeks leading up to January 6th about increasingly threatening rhetoric and plans for violence in Washington, D.C. and the Capitol on January 6th. Internal FBI communications obtained by the Committee also demonstrate that even after the Bureau started receiving these warnings, it continued to downplay the threat. The following is a selection of such warnings and communications within FBI, based largely on documents obtained by the Committee.

December 22, 2020

On Dec. 22, 2020, Mary McCord – who was then the Legal Director and Visiting Professor of Law at the Georgetown University Law Center's Institute for Constitutional Advocacy and Protection, and formerly served as the Acting Assistant Attorney General for National Security – sent FBI screenshots of online posts from members of the Oath Keepers. One user stated "There is only one way in. It is not signs. It's not rallies. It's fucking bullets!" That same user stated they were ready to die for the cause as a "sacrificial lamb" and called on others to join him.[137]

Source: Email from Mary McCord, Georgetown University Law Center, Institute for Constitutional Advocacy and Protection, to FBI Counterterrorism Division staff (Dec. 22, 2020).

[136] Email from House Permanent Select Committee on Intelligence staff to Federal Bureau of Investigation Office of Congressional Affairs staff (Jan. 5, 2021).
[137] Email from Mary McCord, Georgetown University Law Center, Institute for Constitutional Advocacy and Protection, to Federal Bureau of Investigation Counterterrorism Division staff (Dec. 22, 2020).

December 23, 2020

On Dec. 23rd, the U.S. Postal Inspection Service sent multiple agencies – including FBI and the U.S. Capitol Police (USCP), among others – a Threat Assessment regarding the planned demonstrations on January 6th, noting "[p]otential attendees made inflammatory remarks on Parler alluding to potential violence." The Assessment included screenshots of concerning posts such as "NO MORE MARCHING[.] ACTION TIME," "[t]hey will only listen if you destroy and burn things like the Left does," and "Take up your arms […] Hang EVERY TRAITOR ON JAN 6TH!"[138] The Threat Assessment concluded, "analysts assess a high potential for individuals to incite civil unrest during the demonstration."[139]

That same day, the U.S. Marshals Service sent FBI, USCP, and USSS "a referral regarding a TikTok user calling for the use of snipers during the planned march in DC on 6 JAN." The user stated "In about two weeks there is gonna be a march in D.C. You know those cops are going to be lined up with their shields and shit, you know what I mean? We gotta get some shit going on with snipers."[140]

December 24, 2020

FBI also received flagged posts directly from social media companies themselves. On Dec. 24th, Parler sent FBI a screenshot of a user post about January 6th that stated it would be "not just a peaceful March[.] I want to start eliminating people."[141]

December 26, 2020

On Dec. 26th, FBI's National Threat Operations Center (NTOC) received an anonymous tip "regarding a group possibly planning disruptions in DC." The tipster wrote "[t]hey plan to meet at a bridge in VA and they will all be armed. They think that they will have a large enough group to march into DC armed and will outnumber the police so they can't be stopped. They believe that since the election was 'stolen' that it's their constitutional right to overtake the government and during this coup no US laws apply."[142] The tipster also wrote that the Proud Boys plan to be in DC and "[t]heir plan is to literally kill people. Please please take this tip seriously and investigate further. […] I think they will have large numbers and every single one of them is expecting and eager to use their weapons." FBI sent the tip to USCP via email.[143] As discussed below in Section VI, while FBI sent its law enforcement partners such as USCP some

[138] Email from U.S. Postal Inspection Service staff to Federal Bureau of Investigation, U.S. Capitol Police, *et al.* (Dec. 23, 2020).
[139] *Id.*
[140] Email from U.S. Marshals Service staff to Federal Bureau of Investigation, U.S. Capitol Police, and U.S. Secret Service (Dec. 23, 2020).
[141] Email from Parler staff to Federal Bureau of Investigation staff (Dec. 24, 2020).
[142] Email from Federal Bureau of Investigation Washington Field Office staff to U.S. Capitol Police staff (Dec. 26, 2020).
[143] *Id.*

individual tips such as this one, FBI did not provide those partners like USCP with a full threat assessment of the various threats and other intelligence it obtained.

> (U) Submitted Text:
> They plan to meet at a bridge in VA and they will all be armed. They think that they will have a large enough group to march into DC armed and will outnumber the police so they can't be stopped. They believe that since the election was "stolen" that it's their constitutional right to overtake the government and during this coup no US laws apply. Another group of proud boys will be in DC already and are planning on blocking the roads with their cars in order to stop traffic. Their plan is to literally kill people. Please please take this tip seriously and investigate further. Especially after what happened in Nashville today, this could be a test run. Please look into this. I have listed links to websites above in which the proud boys detail their plans. Many have already bought plane tickets. I think they will have large numbers and every single one of them is expecting and eager to use their weapons
> Violation: Mass Shootings, Bombings, Weapon of Mass Destruction, Terrorism

Source: Email from FBI Washington Field Office (WFO) staff to USCP staff (Dec. 26, 2020).

December 27, 2020

FBI told the Committee that it created a tag called "CERTUNREST" in its Guardian system on Dec. 27th to track assessments "related to the Election certification on January 6th."[144] The Guardian system is used by FBI to track "incidents to determine whether there is a nexus to terrorism, cyber, or other criminal activity to warrant further investigation or to apply additional investigative resources."[145]

By creating the "CERTUNREST" tag, FBI enabled its agents and analysts around the country to track all incidents or investigative leads potentially related to January 6th – indicating that the Bureau was concerned as early as December 27th about unrest on January 6th. FBI later told the Committee "there were several dozen pertinent and specific Guardians opened in advance of January 6th. This means that these Guardians included a reference to January 6, Washington D.C., and either the U.S. Capitol or a specific threat of violence. […] The majority of the Guardians originated from social media platforms."[146] Despite creating this tag to track all leads potentially related to January 6th, FBI did not sufficiently assess all of the intelligence it was receiving that indicated the potential for violence on January 6th, as discussed below in Section VI.

December 28, 2020

On Dec. 28th, the D.C. Homeland Security and Emergency Management Agency (HSEMA) Fusion Center sent FBI (as well as other agencies including USCP and DHS) a report that included a Parler post from a user planning an attack on January 6th in Washington, D.C.

[144] Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).
[145] *Id.*
[146] *Id.*

The post told people to bring body armor and stated that the user was "bringing a bigger bag of tools (hammers, screw drivers, etc)."[147]

December 29, 2020

The next day, the D.C. HSEMA Fusion Center again sent FBI, USCP, and other agencies a post from a neo-Nazi-affiliated Telegram channel that "encouraged supporters to march into the Capitol on January 6."[148] That same day, despite the intelligence FBI had received at that point indicating the potential for violence (as described above), an FBI Washington Field Office (WFO) email stated, "[a]t this time, we have not identified any specific threats for [January 6th]."[149]

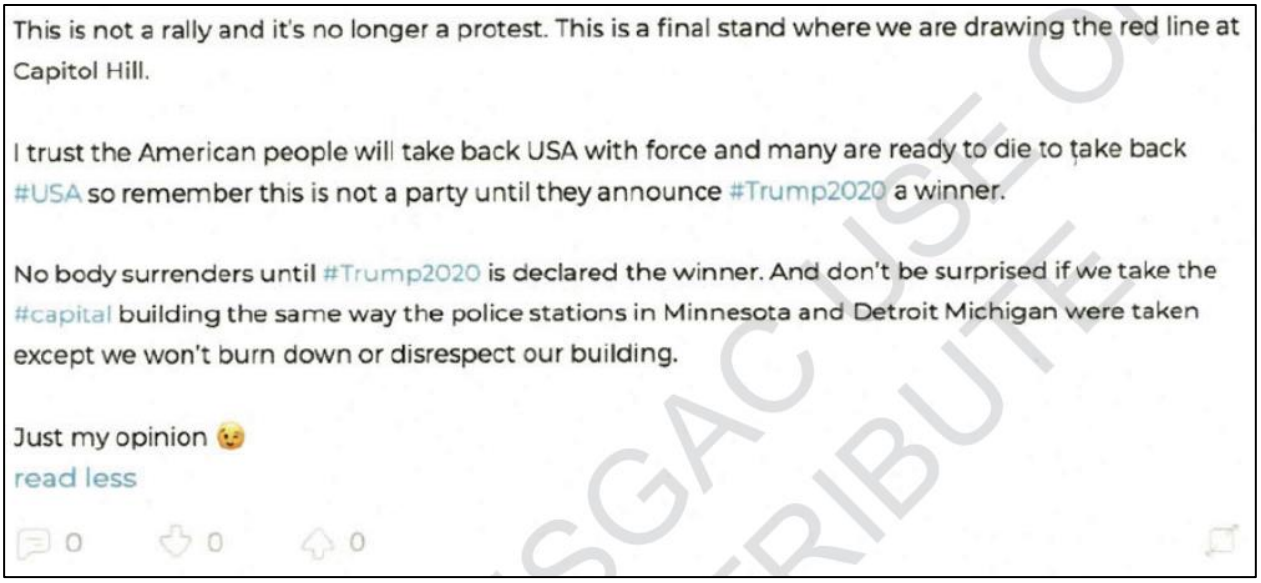
January 1, 2021

On Jan. 1, 2021, FBI-NTOC received a tip about a significant increase in visits to a historical website that posted maps of the Capitol complex's tunnel system.[150] After receiving the tip, a USCP official stated in a January 5th email that they had "identified numerous open source comments indicating groups [sic] intentions of finding the tunnel entrances and confronting/blocking the [Members of Congress] [...] Additionally, we have seen a huge uptick with reporting via open source of the groups [sic] intentions of forming a perimeter around the campus."[151] According to GAO, FBI and USCP found the threat credible, and FBI took additional steps to investigate.[152]

January 2, 2021

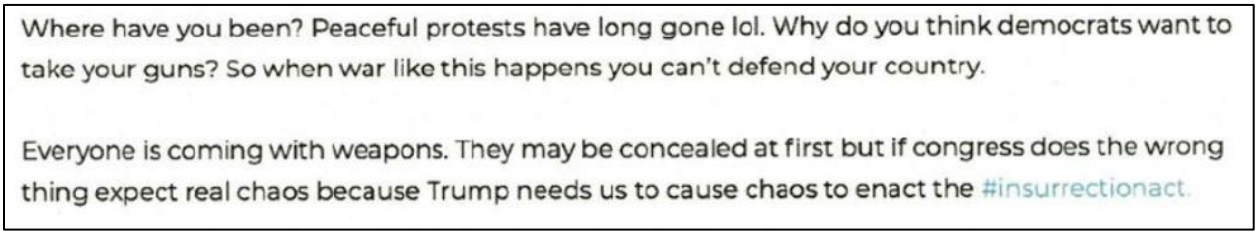
Parler sent FBI a post on January 2nd that stated, "[t]his is not a rally and it's no longer a protest. This is a final stand where we are drawing the red line at Capitol Hill. […] don't be surprised if we take the #capital [sic] building."[153]

[147] Email from D.C. Homeland Security and Emergency Management Agency staff to Federal Bureau of Investigation, U.S. Capitol Police, Department of Homeland Security, *et al.* (Dec. 28, 2020).
[148] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[149] Email from Federal Bureau of Investigation Washington Field Office staff to Federal Bureau of Investigation Critical Incident Response Group staff (Dec. 29, 2020).
[150] Federal Bureau of Investigation technical comments on Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023) (on file with Committee); Email from U.S. Capitol Police staff to Senate Sergeant at Arms staff (Jan. 5, 2021).
[151] Email from U.S. Capitol Police staff to Senate Sergeant at Arms staff (Jan. 5, 2021).
[152] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023); Email from Government Accountability Office staff to Committee staff (Feb. 21, 2023).
[153] Email from Parler to Federal Bureau of Investigation (Jan, 2, 2021); House Select Committee, *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* (Dec. 2022).



Source: Email from Parler to FBI (Jan, 2, 2021).

Another post warned "[p]eaceful protests have long gone […] Everyone is coming with weapons. They may be concealed at first but if congress does the wrong thing expect real chaos because Trump needs us to cause chaos to enact the #insurrectionact."[154] Parler also sent FBI screenshots of a user account on January 2nd and stated, "[m]ore where this came from. Concerned about Wednesday [January 6th]."[155]



Source: Email from Parler to FBI (Jan, 2, 2021).

January 3, 2021

On January 3rd, an internal WFO email marked "for FBI internal use only" cited "unsubstantiated" open-source reporting that "ranges from threats to the DC water supply to armed insurrection to various groups threatening to kill those with opposing viewpoints."[156] Among the reports cited, the email noted an open-source post regarding January 6th that said "[i]t needs to be more than a protest. We need to kick doors down and fuck shit up" and another user commented, "will kill if necessary."[157]

[154] Email from Parler to Federal Bureau of Investigation (Jan, 2, 2021).
[155] *Id.*
[156] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).
[157] *Id.*

6. (U//FOUO) [redacted] Open-source user posting that it is "time to kill liberals" and re: 01/06, "It needs to be more than a protest. We need to kick doors down and fuck shit up..." There is a string of posts in agreement with the thread with comments such as, "We have to start killing these motherfuckers," and "will kill if necessary." "I will use deadly force to defend myself from police..."

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, FBI-WFO (Jan. 3, 2021).

Another social media post stated, "I'm just waiting for the 6th so I can 1776 them… January 6th we burn the place to the ground, leave nothing behind."[158]

11. (U//FOUO) [redacted] A social media post reported by [redacted] "...I'm just waiting for the 6th so I can 1776 them... January 6th we burn the place to the ground, leave nothing behind... " User encourages others not to surrender to authorities.

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, FBI-WFO (Jan. 3, 2021).

The internal FBI-WFO email noted that a tipster reported that individuals on fringe websites were discussing an overthrow of the government if President Trump did not remain in office, and stated "[d]ate of attack 01/06."[159] A Parler user stated, "[b]ring food and guns. If they don't listen to our words, they can feel our lead. Come armed."[160]

9. (U//FOUO) [redacted] from a Parler user, "Bring food and guns. If they don't listen to our words, they can feel our lead. Come armed BLM...Antifa is...cops are..."

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, FBI-WFO (Jan. 3, 2021).

The email also reported social media posts that noted plans to bring firearms into the District and "set up 'armed encampment' on the [National] Mall," and that the Proud Boys planned to "dress 'incognito' in order to more effectively target 'antifa' in the city."[161]

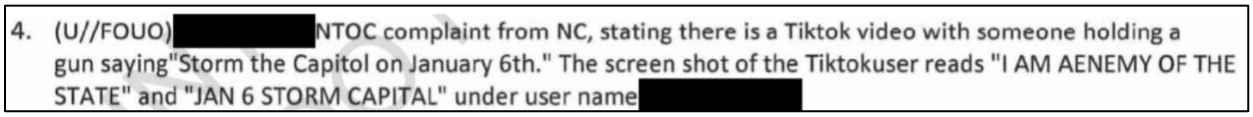
(U) A review of open source reporting shows a collection of wide ranging and unsubstantiated threats of various kinds of violence in DC. For example, the Proud Boys founder noted on social media the group will not wear its usual black and yellow colors on 6 January but might dress "incognito" in order to more effectively target "antifa" in the city. Other posts have noted plans to bring firearms into the District and set up an "armed encampment" on the Mall.

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, FBI-WFO (Jan. 3, 2021).

A tipster from Georgia told FBI that the Proud Boys were planning to come to D.C. on January 6th and warned "[t]hese men are coming for violence."[162] Another tipster told FBI that a Proud Boy told her they were planning an attack on January 6th to shut down the government.[163]

[158] *Id.*
[159] *Id.*
[160] *Id.*
[161] *Id.*
[162] *Id.*
[163] *Id.*

Another tip stated "there is a TikTok video with someone holding a gun saying 'storm the Capitol on January 6th.'"[164]


4. (U//FOUO) [redacted] NTOC complaint from NC, stating there is a Tiktok video with someone holding a gun saying"Storm the Capitol on January 6th." The screen shot of the Tiktokuser reads "I AM AENEMY OF THE STATE" and "JAN 6 STORM CAPITAL" under user name [redacted]

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, FBI-WFO (Jan. 3, 2021).

Despite all of that reporting, the FBI summary concluded, "FBI WFO does not have any information to suggest these events will involve anything other than [First Amendment] protected activity" and that FBI had "identified no credible or verified threat to the activities associated with 6 January 2021."[165] This was also despite the fact that the Proud Boys were known to engage in violence, including at protests in Washington, D.C. in late 2020.[166]

After Steven D'Antuono, Assistant Director in Charge of WFO, received this intelligence summary, he indicated that he sent it to then-FBI Deputy Director David Bowdich, stating "I just sent the whole thing, I don't want him getting a sanitized version of events."[167]

Later that morning, Director of the DHS Office of Operations Coordination Rear Admiral Christopher Tomney emailed then-FBI Deputy Director Bowdich, stating "[t]here exists potential for violence between apposing [sic] protest groups this coming week (specifically on 5 and 6 Jan), mainly in DC, but possible at other locations in the U.S." and invited FBI to attend a DHS SITROOM "in preparation for the potential violence."[168] Rear Admiral Tomney then sent Bowdich a document titled "Preparations for Civil Disturbances Week of 3 January 2021" that stated, "[DHS] I&A further judges that violent extremists or other actors could quickly mobilize to violence or generate violent disruptions of otherwise lawful protests in response to a range of issues, including possible disputes over the results of the US presidential election."[169]

That afternoon, McCord sent FBI a report regarding planned protests on January 6th. Under the heading "Militia Movement Groups Are Planning to Attend in Droves," the email noted Oath Keepers members planning to attend the protests "have advised each other on weapon carrying and local gun laws," and that "Oath Keepers leader Stewart Rhodes has engaged in increasingly heated rhetoric, […] claiming that his organization would station armed members on standby in Virginia awaiting Trump's order to move into the city."[170]

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[164] *Id.*
[165] *Id.*
[166] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021); Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[167] Email from Steven D'Antuono, Federal Bureau of Investigation Washington Field Office, to Matthew Alcoke, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).
[168] Email from Rear Admiral Christopher Tomney, Department of Homeland Security, to Deputy Director David Bowdich, Federal Bureau of Investigation (Jan. 3, 2021).
[169] *Id.*
[170] Email from Mary McCord, Georgetown University Law Center, Institute for Constitutional Advocacy and Protection, to Federal Bureau of Investigation Counterterrorism Division staff (Jan. 3, 2021).

a. Oath Keepers, a large national militia group with chapters across the U.S., has encouraged its members to attend rallies in Washington on Jan. 6. *(Source: https://archive.is/LY5q5)*
    i. In online chat rooms accessible to members of the organization, members from more than a dozen states have stated that they intend to travel to Washington for the protest
    ii. Members have stated that they intend to act as security detail for rally speakers and as crowd security.
    iii. When discussing the events, members of the group have advised each other on weapon carrying and local gun laws. Some members are active law enforcement, giving them a lawful permit to carry a concealed handgun.
    iv. Oath Keepers leader Stewart Rhodes has engaged in increasingly heated rhetoric, recently demanding Trump institute Martial Law to overturn the election results and claiming that his organization would station armed members on standby in Virginia awaiting Trump's order to move into the city.

Source: Email from Mary McCord, Georgetown University Law Center, Institute for Constitutional Advocacy and Protection, to FBI Counterterrorism Division staff (Jan. 3, 2021).

At 5:05pm that evening, FBI-NTOC received a tip that "there is a $350,000 dollar reward for the head on any of the senators that do not want to certify the election" and that "the reward would then double if a killing was done by January 6th, 2021." The tipster "stated that he had a friend with a 40 foot container that had thousands of assault rifles, mortars and two SAM missiles that were taken from the military."[171]

FBI told the Committee that it also obtained intelligence "[o]n or about" January 3rd indicating that individuals were planning a Quick Reaction Force (QRF) on January 6th.[172] FBI included that intelligence in an Intelligence Information Report (IIR), as described in more detail below in Section VI.

January 4, 2021

On January 4th, FBI was still assessing the threat of violence to be low. At 10:50am, an internal DOJ security email warned about crowds and road closures that week, but said "[c]urrently, there is no information indicating potential for unrest."[173] WFO sent an email that afternoon that appeared to rely only on its confidential human sources and other investigative leads, concluding, "[a]s of today, WFO has no information indicating a specific and credible

[171] Email from Federal Bureau of Investigation National Threat Operations Center staff to U.S. Secret Service staff (Jan. 3, 2021).
[172] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[173] Email from Department of Justice Security & Emergency Planning Staff to Department of Justice staff (Jan. 4, 2021).

threat. All [confidential human sources] and Guardians are not indicating anything specific and credible. Most of what WFO is seeing are random chatter with no specificity. […] WFO expects the number of participants to be fewer than the previous times – each time the numbers get smaller."[174]

That afternoon, WFO held another coordination call with its law enforcement partners, requesting briefings on intelligence available to each agency.[175] In response to written questions from GAO, FBI later described that call by stating, "[a]t that time, no threat information related to violence at the Capitol Complex was noted by any participating agency."[176] However, the Committee obtained an internal FBI email summarizing that call, in which WFO staff reported that "[s]ocial media reporting is urging individuals attending the events on January 6 to come armed."[177] FBI forwarded the information internally, stating "[t]here are a good number of reports of people coming into town. There have also been some people posting pictures with weapons and the intent to do harm."[178]

From: [redacted] (WF) (FBI) [redacted]@fbi.gov>
Sent: Monday, January 4, 2021 18:07
To: [redacted]@ic.fbi.gov>
Subject: Fwd: MPD Partner Briefing Highlights

NCRS,
There are a good number of reports of people coming into town. There have also been some people posting pictures with weapons and the intent to do harm.

Source: Email from FBI-WFO staff to FBI staff (Jan. 4, 2021).

That afternoon FBI also received a report from the Atlantic Council's Digital Forensic Research Lab (DFRLab), which monitors publicly accessible and open-source information. The DFRLab report highlighted online posts related to January 6th, noting that the "[r]hetoric is increasingly heated" and that "[t]he groups in question have been active at prior DC protests, but the volume and intensity of participants during this protest is a noticeable peak in activity."[179]

[174] Email from Federal Bureau of Investigation Critical Incident Response Group staff to Federal Bureau of Investigation Critical Incident Response Group staff (Jan. 4, 2021).
[175] Email from Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, to agency partners (Dec. 29, 2020); Email from Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, to agency partners (Jan. 4, 2021).
[176] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[177] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 4, 2021).
[178] Email from Federal Bureau of Investigation Washington Field Office staff to Federal Bureau of Investigation staff (Jan. 4, 2021).
[179] Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, *et al.* (Jan. 4, 2021).

Daily Monitoring Notes from DFRLab for January 4, 2020

Prepared by [redacted] ([redacted]@[redacted].org)

I hope everyone had a relaxing break. This week, I'm hitting the ground running. Major protests are planned in Washington, DC, for January 5 and 6. Rhetoric is increasingly heated and I'm observing loads of logistical conversation for militia movement groups traveling to Washington. The groups in question have been active at prior DC protests, but the volume and intensity of participants during this protest is a noticeable peak in activity.

Source: Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, FBI-WFO, *et al.* (Jan. 4, 2021).

The report noted "[l]ots of talk in pro-Trump online communities about attempts to overwhelm police and other law enforcement with crowd size."[180] The report included screenshots of posts from a social media platform in which one user stated that they knew of a "Company of heavily armed militia enroute [sic] to DC as we speak, and they are most likely only one group of many who will be there."[181]

Source: Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, FBI-WFO, *et al.* (Jan. 4, 2021).

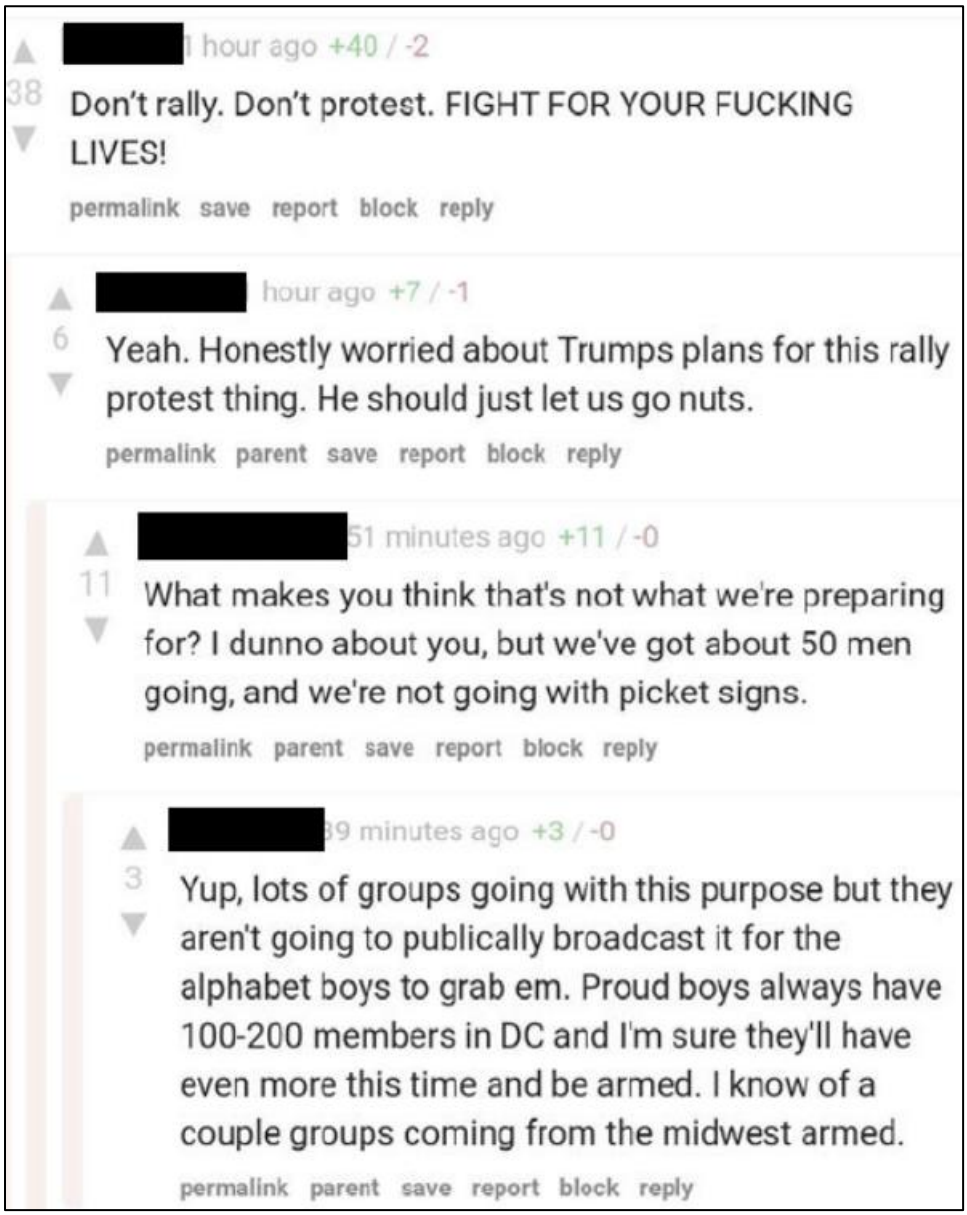
The report also flagged posts on thedonald.win, a website that was popular among supporters of former President Trump, including "Trump supporters discuss storming [the] U.S. Capitol, protesting armed," "several discussions regarding weapons and shows of force," and a map of the Capitol Complex titled "Surround the Swamp" that had "circulated on the forum repeatedly," depicting the locations of Capitol access tunnels and indicating a perimeter for individuals to form around the Capitol complex.[182] One screenshot showed posts between users, with one user posting "Don't rally. Don't protest. FIGHT FOR YOUR FUCKING LIVES!" and another user replying "we've got about 50 men going, and we're not going with picket signs."[183]

[180] *Id.*
[181] *Id.*
[182] *Id.*
[183] *Id.*

#9—Trump supporters discuss storming U.S. Capitol, protesting armed. On TheDonald.win, a forum board popular with Trump supporters, several discussions regarding weapons and shows of force have taken place regarding Washington protests on Jan. 5/6. A screenshot detailing U.S. Capitol entry points has circulated on the forum repeatedly (example included below). A couple have threads have called for supporters to form a perimeter around the Capitol at 5pm on Jan. 6.

There are countless examples of this rhetoric on the site. A couple examples are below.

Source: Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, FBI-WFO, *et al.* (Jan. 4, 2021).



Source: Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, FBI-WFO, *et al.* (Jan. 4, 2021).

At 2:02pm on January 4th, the Acting Chief of the DOJ Counterterrorism Section sent an email to then-Principal Associate Deputy Attorney General Richard Donoghue (who was then performing the duties of the Deputy Attorney General), then-Chief of Staff to the Acting Attorney General John Moran, and then-Acting U.S. Attorney for the District of Columbia Michael Sherwin, with the subject "Jan 6 reporting."[184] In the email, the Acting Chief provided a summary of the intelligence DOJ's Counterterrorism Section had regarding events on January 6th. The email noted that some individuals had "plans to travel to DC to protest Congress' receipt and approval of the Electoral College vote. So far, First Amendment protected activity, so no problem. However, they've claimed that they'll be carrying firearms, some saying for self-defense and others for affirmative use. FBI is investigating."[185] The intelligence summary demonstrates that DOJ leadership (in addition to FBI and WFO) was aware of the violent rhetoric and threats to the Capitol, including:

- "Users of an online forum threatening to attack left-wing protesters but also Democratic and Republic [sic] politicians and other government officials involved in the finalizing of the Electoral College vote count";
- "Calls to occupy federal buildings" and discussions of "invading the capitol building";
- Discussions of individuals "arm[ing] themselves and to engage in political violence at the event";
- "Online comments urging the establishment of an armed encampment on the National Mall and the murder of Democrats and politicians";
- "Online comments hoping for a civil war and a 'shot heard around the world', in reference to the beginnings of the American Revolution"; and
- A website "encouraging attendees to bring guns."[186]

[184] Email from Acting Chief of the Counterterrorism Section, Department of Justice, to Richard Donoghue, John Moran, and Michael Sherwin, Department of Justice (Jan. 4, 2021).
[185] *Id.*
[186] *Id.*

The SITE intelligence Group, which is an American NGO that tracks jihadist and white supremacist activity has produced several reports highlighting online rhetoric focused on the 6 Jan event. Some of the activity they are reporting includes:

- Wide ranging groups calling to attend a planned rally to be held in Washington DC on January 6.
- Users of an online forum threatening to attack left-wing protesters but also Democratic and Republic politicians and other government officials involved in the finalizing of the Electoral College vote count.
- Calls to occupy federal buildings.
- Users of an online forum discussing intimidating Congress and invading the capitol building.
- Users of an online forum assessed they have permission or justification to arm themselves and to engage in political violence at the event.
- Organizing of ridesharing and lodging for the event.
- Online comments urging the establishment of an armed encampment on the National Mall and the murder of Democrats and politicians.
- Online comments hoping for a civil war and a "shot heard around the world", in a reference to the beginnings of the American Revolution.

WUSA9, a local news site, is reporting:

- One of the websites used for organizing the event was encouraging attendees to bring guns.

Source: Email from Acting Chief of the Counterterrorism Section, DOJ, to Richard Donoghue, John Moran, and Michael Sherwin, DOJ (Jan. 4, 2021).

FBI also received a report from the Anti-Defamation League (ADL) later that afternoon about alarming open-source reporting. At 4:41pm, ADL sent FBI its blog post from that day about the upcoming protests on January 6th, noting "messages filled with violent rhetoric" and one call to "[s]torm the capitol" if Congress certifies President-elect Biden's victory.[187] ADL reported, "[m]any extremist and mainstream Trump supporters are framing the rallies as a last stand to prevent Biden from being sworn in as the next President, and some chatter indicates that there is a desire to engage in radical and sometimes violent tactics to ensure that the election is not stolen from President Trump."[188] ADL flagged one user who wrote "I am waiting until the 06 Jan date, then if Trump does nothing…I have a few [law enforcement officer] friends who are going to do some major action and I am joining them."[189] Facebook also sent FBI a referral that day related to potential violence on January 6th in D.C.[190]

January 5, 2021

FBI emails indicate that as January 5th began, FBI was still not expecting significant violence the next day. At 7:40am, an internal FBI email discussed the National Crisis Coordination Center (NC3) that was being activated for January 6th, stating that the "main purpose of the NC3 is to have an infrastructure already in place (including plug-in of interagency

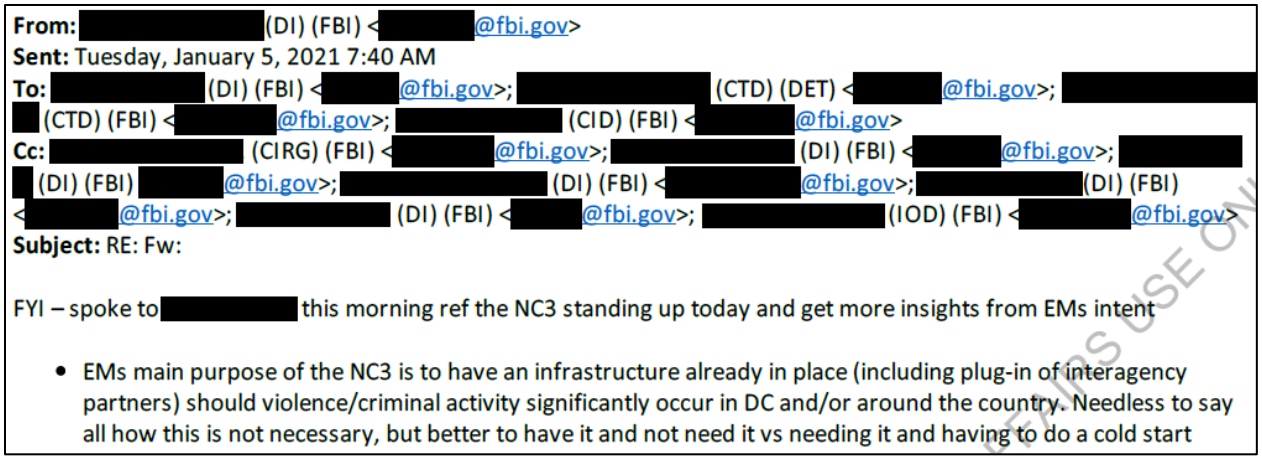
[187] Email from Anti-Defamation League to Steven D'Antuono and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 4, 2021); Anti-Defamation League, *Extremists and Mainstream Trump Supporters Plan to Protest Congressional Certification of Biden's Victory* (Jan. 4, 2021) (https://www.adl.org/resources/blog/extremists-and-mainstream-trump-supporters-plan-protest-congressional-certification).

[188] *Id.*

[189] *Id.*

[190] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023); Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).

partners) should violence/criminal activity significantly occur in DC and/or around the country. Needless to say all how [sic] this is not necessary, but better to have it and not need it vs needing it and having to do a cold start."[191]



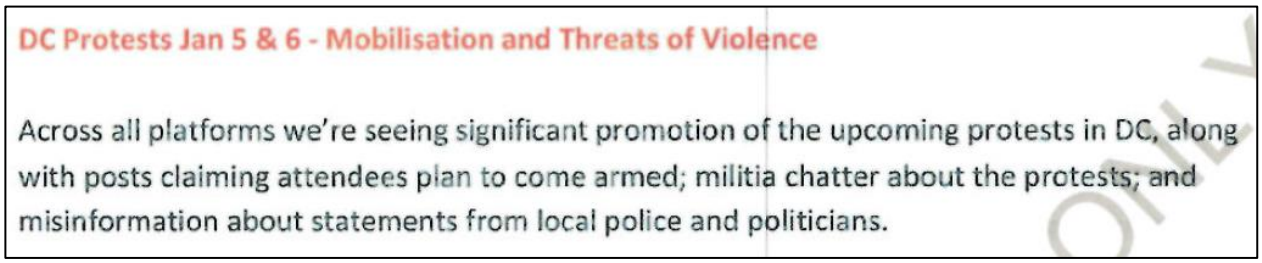
From: [redacted] (DI) (FBI) <[redacted]@fbi.gov>
Sent: Tuesday, January 5, 2021 7:40 AM
To: [redacted] (DI) (FBI) <[redacted]@fbi.gov>; [redacted] (CTD) (DET) <[redacted]@fbi.gov>; [redacted] (CTD) (FBI) <[redacted]@fbi.gov>; [redacted] (CID) (FBI) <[redacted]@fbi.gov>
Cc: [redacted] (CIRG) (FBI) <[redacted]@fbi.gov>; [redacted] (DI) (FBI) <[redacted]@fbi.gov>; [redacted] (DI) (FBI) [redacted]@fbi.gov>; [redacted] (DI) (FBI) <[redacted]@fbi.gov>; [redacted] (DI) (FBI) <[redacted]@fbi.gov>; [redacted] (DI) (FBI) <[redacted]@fbi.gov>; [redacted] (IOD) (FBI) <[redacted]@fbi.gov>
Subject: RE: Fw:

FYI – spoke to [redacted] this morning ref the NC3 standing up today and get more insights from EMs intent

- EMs main purpose of the NC3 is to have an infrastructure already in place (including plug-in of interagency partners) should violence/criminal activity significantly occur in DC and/or around the country. Needless to say all how this is not necessary, but better to have it and not need it vs needing it and having to do a cold start

Source: Email from FBI staff to FBI staff (Jan. 5, 2021).

That day, the Institute for Strategic Dialogue (ISD) sent FBI its Daily Ethnographic Monitoring Brief, which contained reports and screenshots of concerning online posts related to January 6th, and ISD's analysis.[192] ISD stated in its Brief, "[a]cross all platforms we're seeing significant promotion of the upcoming protests in DC, along with posts claiming attendees plan to come armed" and "militia chatter about the protests."[193]



DC Protests Jan 5 & 6 - Mobilisation and Threats of Violence

Across all platforms we're seeing significant promotion of the upcoming protests in DC, along with posts claiming attendees plan to come armed; militia chatter about the protests; and misinformation about statements from local police and politicians.

Source: ISD, *Daily Ethnographic Monitoring Brief – 05/01/2021* (on file with Committee).

ISD included examples of posts on thedonald.win, including one user who posted "[i]f we all bring our fucking guns there's not one fucking thing they can or will dare to do," and another who posted "[e]ither Trump wins or we water the tree of liberty with blood. This is the final line, either we die for freedom or live in fear and slavery […] Now is the time. It is literally now, or never."[194]

[191] Email from Federal Bureau of Investigation staff to Federal Bureau of Investigation staff (Jan. 5, 2021).
[192] Institute for Strategic Dialogue, *Daily Ethnographic Monitoring Brief – 05/01/2021* (on file with Committee).
[193] *Id.*
[194] *Id.*

In this thread here on TheDonald.win, a user wrote: "If we all bring our fucking guns there's not one fucking thing they can or will dare to do. THAT'S WHY YOU OWN A FUCKING GUN! TO STOP UNCONSTITUTIONAL TYRANNY." While in this thread here, three comments posted read: "Either Trump wins or we water the tree of liberty with blood. This is the final line, either we die for freedom or live in fear and slavery," "Not being armed does not make the threat go away, it only makes you dead" and "Now is the time. It is literally now, or never."

Source: ISD, *Daily Ethnographic Monitoring Brief – 05/01/2021* (on file with Committee).

In another Brief, ISD further reported, "[d]iscussion of the January 6 pro-Trump protest in Washington DC has become particularly paranoid and extreme in nature, with warnings of violence and recommendations for participants to bring items such as knives, pepper spray and zip ties to use as handcuffs."[195] ISD assessed that "[s]ome threads on 4Chan have been particularly apocalyptic, with explicit calls to violence and murder", with one user posting "war is required – all liberals must be killed."[196] Presciently predicting the violence that was to unfold the next day, ISD reported "[n]otably some are recommending the use of makeshift weapons from flagpoles, as well as wearing body armour."[197] Regarding posts on thedonald.win, ISD reported to FBI "[t]here is a real undercurrent of paranoia in relation to the upcoming rally. […] you can see in these threads the sense of fear that is accompanying the run-up to this rally. They're going to be a lot of people on edge."[198]

January 6 Protest

Discussion of the January 6 pro-Trump protest in Washington DC has become particularly paranoid and extreme in nature, with warnings of violence and recommendations for participants to bring items such as knives, pepper spray and zip ties to use as handcuffs.

Such advice has been given in threads on thedonald.win, shared on MeWe StopTheSteal groups, and the Patriot Caravans for 45 group on CloutHub.

Source: ISD, *Daily Ethnographic Monitoring Brief – 23/12/2020 - 04/01/2021* (on file with Committee).

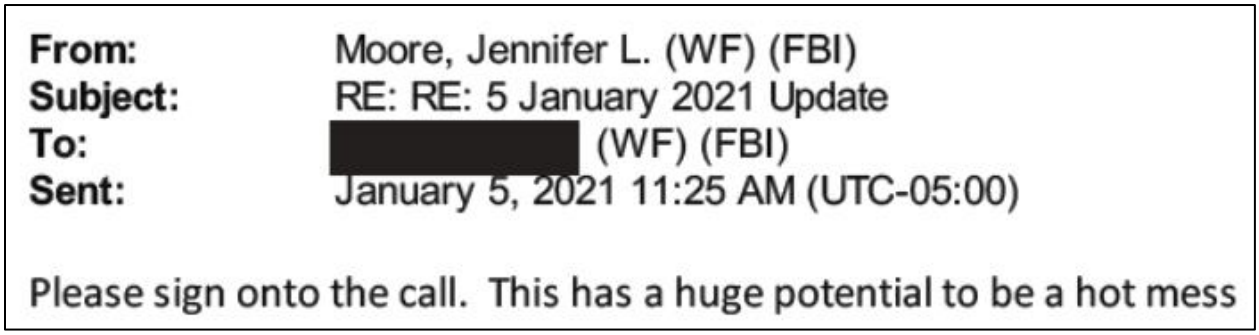
At 10:30am on January 5th, the FBI Critical Incident Response Group and Criminal Intelligence Coordinating Council met to discuss threats and efforts that week. Notes from that meeting indicate that although the FBI Deputy Director was "concerned about potential unrest"

[195] Institute for Strategic Dialogue, *Daily Ethnographic Monitoring Brief – 23/12/2020 - 04/01/2021* (on file with Committee).
[196] *Id.*
[197] *Id.*
[198] *Id.*

in D.C. and noted that domestic terrorism militia subjects were planning to enter the D.C. area for a march, FBI was still reporting "[n]o imminent threats known."[199]

Later that morning, in response to FBI's request for any information it had on the upcoming protests, the U.S. Park Police told FBI, "[t]his week's events will mirror what has happened the past two months," but ended the email by stating, "[g]reatest fear: DVE//Lone Wolf - Extremist/Apocalyptic Rhetoric, location of events, world stage, political environment.... All add up to time and location being desirable for action."[200] This email was then forwarded to additional FBI personnel, including FBI Deputy Director Bowdich.[201]

By mid-day on January 5th, WFO seemed – at least internally – to be growing alarmed about the increasing threat reporting. At 11:25am, WFO SAC Moore sent an internal email within WFO and said "[p]lease sign onto the call. This has a huge potential to be a hot mess."[202]


From: Moore, Jennifer L. (WF) (FBI)
Subject: RE: RE: 5 January 2021 Update
To: [redacted] (WF) (FBI)
Sent: January 5, 2021 11:25 AM (UTC-05:00)

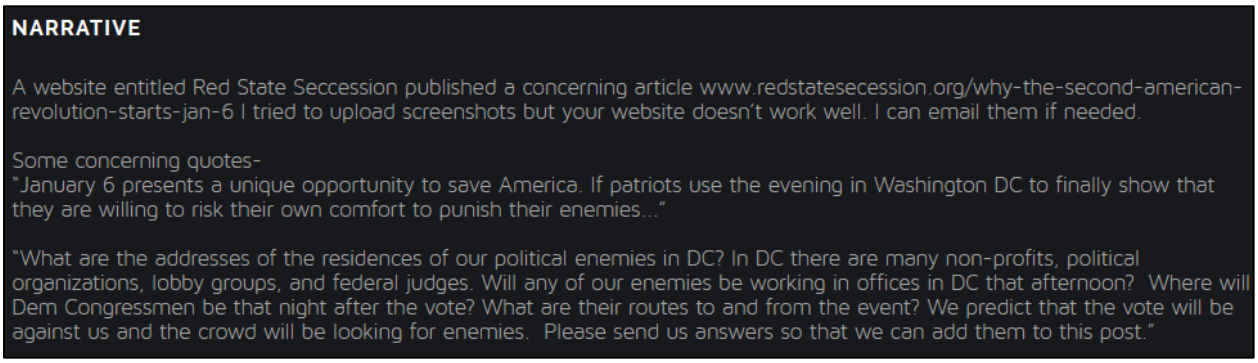
Please sign onto the call. This has a huge potential to be a hot mess

Source: Email from Jennifer Moore, FBI-WFO, to FBI-WFO staff (Jan. 5, 2021).

At 12:35pm, FBI received another daily report from the Atlantic Council DFRLab based on public, open-source information related to January 6th protests, including online posts from a chat room associated with the anti-government militia movement Three Percenters, in which "a user claims they know of 100 militia members heading to DC from Colorado."[203] At 3:45pm, the D.C. HSEMA Fusion Center sent an email to FBI, DHS, USCP, USSS, and MPD drawing their attention to a website called Red State Secession, which had a post titled "Why the Second American Revolution Starts Jan 6" that requested that "users submit addresses of residences and offices of politicians, judges, and lobbyists. They are also asking for those individuals' routes to and from the event."[204] The email further stated that a user asked visitors to post where they could find the home addresses of "political enemies" and asked "[w]ill any of our enemies be

[199] Email from Federal Bureau of Investigation Critical Incident Response Group staff to Federal Bureau of Investigation Critical Incident Response Group staff (Jan. 5, 2021).
[200] Email from U.S. Park Police staff to Federal Bureau of Investigation staff (Jan. 5, 2021).
[201] Email from Federal Bureau of Investigation staff to Deputy Director David Bowdich, *et al.*, Federal Bureau of Investigation (Jan. 5, 2021).
[202] Email from Jennifer Moore, Federal Bureau of Investigation Washington Field Office, to Federal Bureau of Investigation Washington Field Office staff (Jan. 5, 2021).
[203] Email from Mary McCord, Georgetown University Law Center, Institute for Constitutional Advocacy and Protection, to Federal Bureau of Investigation Counterterrorism Division staff (Jan. 5, 2021).
[204] Email from D.C. Homeland Security and Emergency Management Agency Fusion Center staff to Federal Bureau of Investigation, Department of Homeland Security, U.S. Capitol Police, U.S. Secret Service, and Metropolitan Police Department staff (Jan. 5, 2021).

working in offices in DC that afternoon? […] What are their routes to and from the event? We predict that the vote will be against us and the crowd will be looking for enemies."[205]


NARRATIVE

A website entitled Red State Seccession published a concerning article www.redstatesecession.org/why-the-second-american-revolution-starts-jan-6 I tried to upload screenshots but your website doesn't work well. I can email them if needed.

Some concerning quotes-
"January 6 presents a unique opportunity to save America. If patriots use the evening in Washington DC to finally show that they are willing to risk their own comfort to punish their enemies..."

"What are the addresses of the residences of our political enemies in DC? In DC there are many non-profits, political organizations, lobby groups, and federal judges. Will any of our enemies be working in offices in DC that afternoon? Where will Dem Congressmen be that night after the vote? What are their routes to and from the event? We predict that the vote will be against us and the crowd will be looking for enemies. Please send us answers so that we can add them to this post."

Source: Email from D.C. HSEMA Fusion Center staff to FBI, DHS, USCP, USSS, and MPD staff (Jan. 5, 2021).

At 8:34pm on January 5th, at the suggestion of SAC Moore, WFO personnel sent an email to the FBI Command Post flagging an online forum (thedonald.win) with advice on "getting weapons in & out of DC, directions around and through the perimeter & various possible dangers to [law enforcement officers]."[206] FBI Command Post personnel replied that they had "seen some of the tunnel reporting earlier in the week."[207]

As January 5th drew to a close, internal emails suggest that despite numerous open-source reports of planned violence, FBI was cautiously optimistic that the following day would remain peaceful, and its primary concern was potential violence between protesters and counter-protesters, rather than violence against the Capitol. A 10:11pm FBI email stated:

> Of note for tonight, Metro PD has shut down their [Command Post] so that's a good sign that, largely, the crowds have diminished and remain peaceful. Only notable event tomorrow that could trigger a flashpoint is a planned POTUS rally/speech on the ellipse at 1100EST. It's estimated that 30,000 participants will then march toward the Capital [sic] which will coincide with the 1300EST scheduled Congressional meetings to certify the electoral college vote. Obvious concerns remain if counter-protests ensue and opposing ideologies clash."[208]

[205] Email from D.C. Homeland Security and Emergency Management Agency Fusion Center staff to Federal Bureau of Investigation, Department of Homeland Security, U.S. Capitol Police, U.S. Secret Service, and Metropolitan Police Department staff (Jan. 5, 2021).
[206] Email from Federal Bureau of Investigation Washington Field Office staff to Federal Bureau of Investigation Washington Field Office staff (Jan. 5, 2021).
[207] *Id.*
[208] Email from Federal Bureau of Investigation Counterterrorism Division staff to Federal Bureau of Investigation Counterterrorism Division staff (Jan. 5, 2021).

From: [redacted] (CTD) (FBI)
Subject: update
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD) (FBI)
Sent: January 5, 2021 10:11 PM (UTC-05:00)

DD visited both here and WFO CP (quick walkthrough at SIOC). Nothing significant to report…however when formally briefed at WFO he was observed to write down the exact numbers of subjects believed to travel as well as the Guardian #s. I've been working with [redacted] on accurately capturing and 'explaining' our #s when they eventually get finalized and published. Of note for tonight, Metro PD has shut down their CP so that's a good sign that, largely, the crowds have diminished and remain peaceful.

Only notable event tomorrow that could trigger a flashpoint is a planned POTUS rally/speech on the ellipse at 1100EST. It's estimated that 30,000 participants will then march toward the Capital which will coincide with the 1300EST scheduled Congressional meetings to certify the electoral college vote. Obvious concerns remain if counter-protests ensue and opposing ideologies clash.

Source: Email from FBI Counterterrorism Division staff to FBI Counterterrorism Division staff (Jan. 5, 2021).

January 6, 2021

At 8:31am on January 6th, FBI provided senior management (including WFO) with complaints and threats received by NTOC related to the election and electoral vote certification. The threats included an individual who stated on YouTube that he was going to bring a gun to D.C. on January 6th, "Threats of Violence" related to the march in D.C., and an "Individual [who] Plans to Participate in Criminal Activity with the Proud Boys on January 6th."[209]

Less than half an hour later, DHS emailed an update on the planned demonstrations to federal agencies, including FBI Deputy Director Bowdich. The email stated, "As of 0800 ET, approximately 10,000 plus in line waiting to go through the Main Magnetometers for the POTUS Ellipse Site on Constitution Ave. Some members of the crowd are wearing ballistic helmets, body armor and carrying radio equipment and military grade backpacks. No civil disobedience at this time."[210]

On the 10am WFO Command Post briefing, intelligence was again shared about members of the crowd "wearing ballistic helmets, body armor, carrying radio equipment and military grade backpacks." However, FBI still reported "no credible threats at this time."[211] Shortly after that briefing, the Acting Chief of the DOJ Counterterrorism Section again emailed Principal Associate Deputy Attorney General Donoghue, Chief of Staff to the Acting Attorney General Moran, and Acting U.S. Attorney for the District of Columbia Sherwin, and reiterated, "[t]here are no credible threats as of the 10:00 brief."[212] Likewise, around the same time, Sherwin emailed Donoghue and other DOJ officials with a summary of arrests the night before

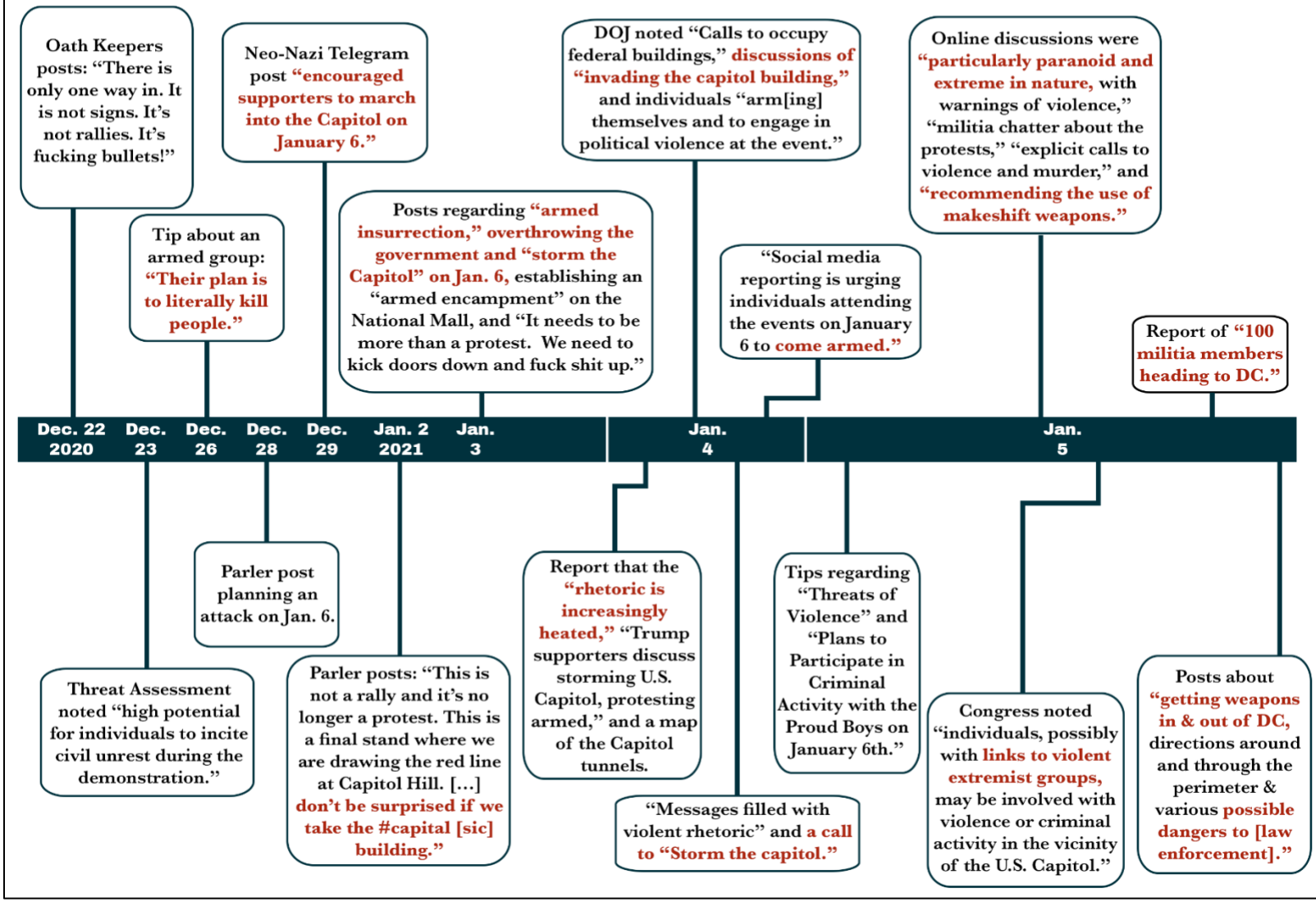
[209] Email from Federal Bureau of Investigation staff to Federal Bureau of Investigation staff (Jan. 6, 2021).
[210] Email from Department of Homeland Security National Operations Center staff to Federal Bureau of Investigation Deputy Director David Bowdich, *et al.* (Jan. 6, 2021).
[211] Federal Bureau of Investigation, *1000 CP Briefing* (Jan. 6, 2021) (on file with Committee).
[212] Email from Acting Chief of the Counterterrorism Section, Department of Justice, to Richard Donoghue, John Moran, and Michael Sherwin, Department of Justice (Jan. 6, 2021).

and stated, "[w]e anticipate a spike in activity today/tonite [sic], but all good at the moment," and then forwarded his email to then-Acting Attorney General Jeffrey Rosen, stating "Sir – FYI below – all good for now."[213] Although much of these updates focused on the security situation at the Ellipse, the Proud Boys had gathered at the Washington Monument and started to march toward the Capitol at 10:30am.[214] On the 12pm WFO Command Post briefing, FBI reported there were approximately 300 Proud Boys at the Capitol and a "Make America Great Again [MAGA] group distributing flyers urging people to join militia organization on capital [sic] hill."[215]

Less than an hour after that 12pm briefing began, rioters breached the USCP officers' line.[216] At 1:10pm, after telling the crowd to "walk down Pennsylvania Avenue […] we're going to the Capitol," President Trump ended his speech at the Ellipse.[217] A large crowd then marched from the Ellipse down Pennsylvania Avenue to the Capitol, where they joined the Proud Boys and other rioters who were already breaching USCP lines.[218] At 1:49pm MPD declared a riot at the Capitol, and at 2:00pm USCP ordered a lockdown of the Capitol Building.[219]

[213] Email from Michael Sherwin, Department of Justice, to Richard Donoghue, *et al.*, Department of Justice (Jan. 6, 2021); Email from Michael Sherwin, Department of Justice, to Jeffrey Rosen, Department of Justice (Jan. 6, 2021).
[214] House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* (Dec. 2022) (H. Rept. 17-000).
[215] Federal Bureau of Investigation, *1200 CP Briefing* (Jan. 6, 2021) (on file with Committee).
[216] U.S. Capitol Police, *Timeline of Events for January 6, 2021 Attack* (on file with Committee).
[217] *Id.*; Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[218] U.S. Capitol Police, *Timeline of Events for January 6, 2021 Attack* (on file with Committee); House Select Committee to Investigate the January 6th Attack on the United States Capitol, *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol* (Dec. 2022) (H. Rept. 17-000); Department of Defense, *Planning and Execution Timeline for the National Guard's Involvement in the January 6, 2021 Violent Attack at the U.S. Capitol* (Jan. 8, 2021) (https://www.defense.gov/News/Releases/Release/Article/2467051/planning-and-execution-timeline-for-the-national-guards-involvement-in-the-janu/).
[219] Letter from Mayor Muriel Bowser, District of Columbia, to Senator Gary Peters, Senator Rob Portman, *et al.* (Feb. 22, 2021); U.S. Capitol Police, *Timeline of Events for January 6, 2021 Attack* (on file with Committee).

Selection of FBI Intelligence Indicating the Potential for Violence on Jan. 6th



B. DHS and I&A

DHS and I&A also played key roles in monitoring open-source intelligence in the lead-up to January 6th. Evidence and documents obtained by the Committee indicate that much like FBI, DHS and I&A were also increasingly aware of calls for violence in the days and weeks before January 6th, but their actions and internal communications did not sufficiently convey the nature of the threat.

December 21, 2020

In December 2020, an I&A Intelligence Operations Specialist found online posts indicating "there was going to be [a] mass gathering which could be violent" on January 6th and "discussing the commission of acts of terroristic violence and the violent overthrowal of the United States Government."[220] The analyst believed the posts to be a "credible threat to national security."[221] The posts included discussions "to bring illegal weapons into the District of Columbia, how to smuggle said weapons in order to avoid United States Government detection, discussions/references of overthrowing the US Government by force/sparking a second civil war, and creditable vailed [sic] threats of violence towards other US persons who were perceived enemies specifically Members of Congress and other federal employees."[222] On Dec. 21st, the analyst provided an I&A senior analyst a briefing on the intelligence, and thereafter worked with open-source collection staff to identify the threats, which included "vague operational plans for a violent attack which would occur on or about January 6th."[223]

On Dec. 21st, the D.C. HSEMA Fusion Center also sent I&A open-source information "regarding threats to Congress and elected officials, groups strategizing to avoid arrest in D.C., and discussions of bringing guns into D.C. on January 6."[224] That day I&A also received a tip "about an individual who threatened to shoot and kill protesters at the upcoming rallies related to the presidential election."[225]

December 28, 2020

I&A received the Dec. 28th D.C. HSEMA Fusion Center report that also went to FBI and included a Parler post from a user planning an attack on January 6th in Washington, D.C.[226]

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[220] Letter from Intelligence Operations Specialist, Department of Homeland Security Office of Intelligence and Analysis (Aug. 20, 2021) (on file with Committee).
[221] *Id.*
[222] *Id.*
[223] *Id.*
[224] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[225] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[226] Email from D.C. Homeland Security and Emergency Management Agency staff to Federal Bureau of Investigation, U.S. Capitol Police, Department of Homeland Security, *et al.* (Dec. 28, 2020).

December 29, 2020

As early as Dec. 29th, I&A instructed its intelligence collectors to search for threat information regarding the January 6th event.[227] Over the next five days, I&A analysts "identified comments referencing using weapons and targeting law enforcement and the U.S. Capitol building. They also noted some individuals claimed they would sacrifice themselves in the ensuing violence."[228]

December 30, 2020

I&A collectors noted a social media user who "advocates for marching on DC with guns if [President Trump] is not declared the winner on Jan 6th," and online "[d]iscussions of organizing in Virginia and then driving to DC armed together as the police/military won't be able to stop thousands of armed patriots."[229] Another I&A collector became aware of an online forum in which a "user mentioned a group of women planning on bringing guns to D.C."[230]

January 2, 2021

As January 6th approached, intelligence collectors at I&A grew more concerned as they saw posts threatening violence. On Jan. 2, 2021, after I&A collectors became aware that individuals online were sharing a map of the U.S. Capitol Building, the collectors messaged each other, "feel like people are actually going to try and hurt politicians. Jan 6th is gonna be crazy."[231] I&A collectors also noted "[l]ots of discussions of coming armed to DC."[232]

That night, DHS distributed an invitation to a DHS SITROOM "in preparation for the potential violence," noting "[t]here exists potential for violence between apposing [sic] protest groups this coming week (specifically on 5 and 6 Jan), mainly in DC, but possible at other locations in the U.S."[233]

January 3, 2021

On January 3rd, I&A "observed an increase in general threats posted in online forums related to January 6,"[234] and I&A collectors messaged each other, "people are talking about storming Congress, bringing guns, willing to die for the cause, hanging politicians with ropes."[235]

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[227] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[228] *Id.*
[229] *Id.*
[230] *Id.*
[231] *Id.*
[232] *Id.*
[233] Email from Department of Homeland Security National Operations Center staff (Jan. 2, 2021).
[234] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[235] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).

January 4, 2021

DHS-OIG reported that on January 4th, an I&A collector learned of social media posts from "a group of individuals" in D.C. that sounded "like they are going to battle." The I&A collector stated they were "nervous" about the upcoming January 6th events.[236] GAO similarly reported that I&A also "shared open source data with MPD regarding concerns that traditionally violent groups may try to blend into peaceful planned activities on or around January 6."[237]

That day, at the direction of I&A leadership, I&A collectors "identified seven observed or partially observed indicators of potential violence associated specifically with the protests planned for January 6," such as calls for protesters to come armed.[238]

I&A also attended the January 4th call with representatives from fusion centers around the country to discuss intelligence.[239] Donell Harvin, who served as D.C. Chief of Homeland Security and Intelligence and Executive Director of the HSEMA Fusion Center on January 6th, stated that he was so concerned about the intelligence he was seeing that he reached out to the president of the National Fusion Center Association Mike Sena, who then convened a conference call on January 4th for fusion centers around the country to discuss the intelligence they were seeing ahead of the events in D.C. and identify threats.[240] Sena invited 80 fusion centers to the call and approximately 300 participants joined the call, which Harvin stated he was "floored" by, noting that "there was a lot of interest" after he initially expected only "five or six or seven [s]tates" to join the call.[241]

January 5, 2021

The day before the attack, I&A developed information about "an individual, potentially a member of the Proud Boys, [who] staked out parking lots of federal buildings that required searches for entry to determine how to bring firearms to Jan. 6 events in D.C. In addition, the individual noted that he or she was driving through North Dakota armed with enough ammo to 'win a small war.'"[242] That day DHS also received the email from the D.C. HSEMA Fusion Center that also went to FBI regarding a website called Red State Secession, which had a post

[236] *Id.*
[237] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[238] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[239] Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021); Mike Sena, transcribed interview with House Select Committee (Feb. 24, 2022) (pg. 24); Rachael Levy, Dan Frosch and Sadie Gurman, *Capitol Riot Warnings Weren't Acted On as System Failed*, Wall Street Journal (Feb. 8, 2021).
[240] Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pgs. 23-24, 46-48); Mike Sena, transcribed interview with House Select Committee (Feb. 24, 2022) (pgs. 18-22).
[241] Mike Sena, transcribed interview with House Select Committee (Feb. 24, 2022) (pg. 30); Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pg. 48).
[242] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).

titled "Why the Second American Revolution Starts Jan 6."[243]

January 6, 2021

As January 6th began at DHS, the Department continued to downplay the threat of violence. At 6:46am, DHS distributed a "National Civil Unrest Summary" for the day.[244] After noting a half dozen arrests made by MPD the night before related to protests, DHS gave an overview of the permitted demonstrations planned for January 6th. The Summary noted that the U.S. Park Police's "application estimates indicate there could be approximately 30,000 people in attendance. At least 55 additional demonstrations have been mentioned on social media for 6 January." Despite the numerous tips and open-source information I&A received about violent threats, the Summary gave no indication of the potential for violence.[245]

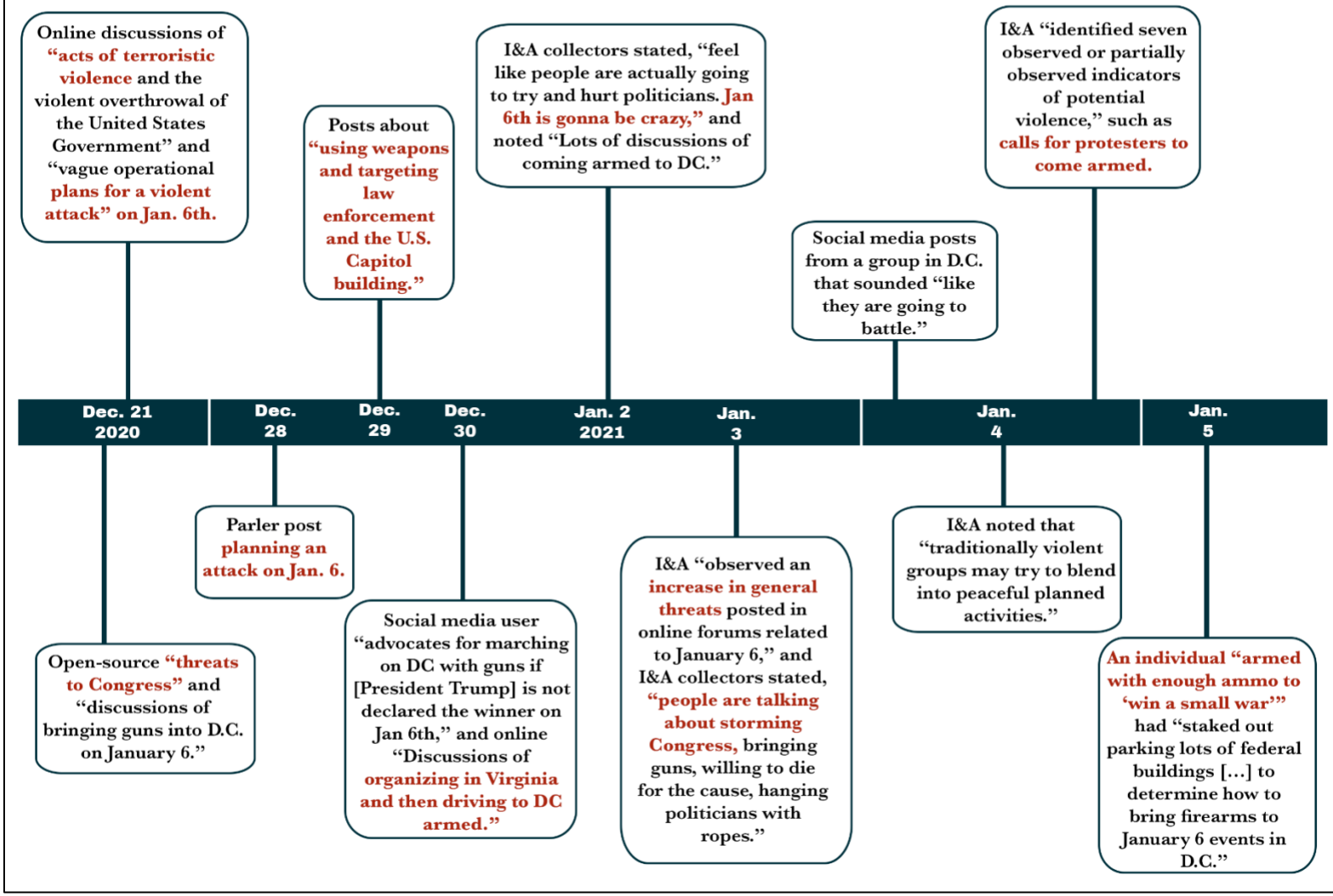
Two hours later, a Senior Watch Officer at the DHS National Operations Center sent an email to federal agencies (including FBI Deputy Director Bowdich) providing an update on the protests planned for the day. The email included the intelligence about "members of the crowd are wearing ballistic helmets, body armor and carrying radio equipment and military grade backpacks."[246] The email noted 85 different planned protests, including by the Proud Boys (which had a recent history of violence at protests), Stop the Steal, and Operation Occupy the Capitol, but DHS repeatedly stated, "[t]here is no indication of civil disobedience" for the protests.[247]

> As of 0800 ET, approximately 10,000 plus in line waiting to go through the Main Magnetometers for the POTUS Ellipse Site on Constitution Ave. Some members of the crowd are wearing ballistic helmets, body armor and carrying radio equipment and military grade backpacks. No civil disobedience at this time.

Source: Email from DHS National Operations Center staff to FBI Deputy Director David Bowdich, *et al.* (Jan. 6, 2021).

[243] Email from D.C. Homeland Security and Emergency Management Agency Fusion Center staff to Federal Bureau of Investigation, Department of Homeland Security, U.S. Capitol Police, U.S. Secret Service, and Metropolitan Police Department staff (Jan. 5, 2021).
[244] Email from Department of Homeland Security (Jan. 6, 2021).
[245] *Id.*
[246] Email from Department of Homeland Security National Operations Center staff to Federal Bureau of Investigation Deputy Director David Bowdich, *et al.* (Jan. 6, 2021).
[247] *Id.*

Selection of DHS-I&A Intelligence Indicating the Potential for Violence on Jan. 6th



VI. FBI AND I&A FAILED TO ISSUE SUFFICIENT WARNINGS ABOUT THE POTENTIAL FOR VIOLENCE ON JANUARY 6TH

As the Committee's June 2021 report found, FBI and I&A did not issue threat assessments or a joint intelligence bulletin warning of potential violence at the Capitol on January 6th.[248] This investigation uncovered further evidence about how, despite all of the intelligence that the agencies had access to (as described in Section V above), the agencies failed to fully assess the potential for violence and communicate what they were seeing to partner agencies.

A. FBI

FBI contributed to two intelligence products with DHS in December 2020, but neither product was specific to January 6th.[249] In the year before January 6th, FBI issued multiple intelligence products that provided only high-level information about general threats across the country. As former Assistant Director for the Counterterrorism Division at FBI Jill Sanborn testified before the Committee:

> Throughout 2020, the FBI authored approximately 12 intelligence products for our federal, State, local, Tribal, and territorial law enforcement partners disseminating trends we saw in threat reporting and criminal activity involving domestic violent extremism. Over the last year, we observed activity that led us to assess there was potential for increased violent extremist activity at lawful protests taking place in communities across the United States.[250]

FBI issued only two documents related to January 6th: the January 5th SIR from its Norfolk Field Office and the January 5th IIR from its New Orleans Field Office. However, both of these documents were issued the night before January 6th; described limited, raw intelligence; were from field offices (with no further resulting products issued by WFO or HQ); and were limited in distribution – all of which limited the usefulness of these two products for FBI and its law enforcement partners responsible for preparing in advance of January 6th.

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[248] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).

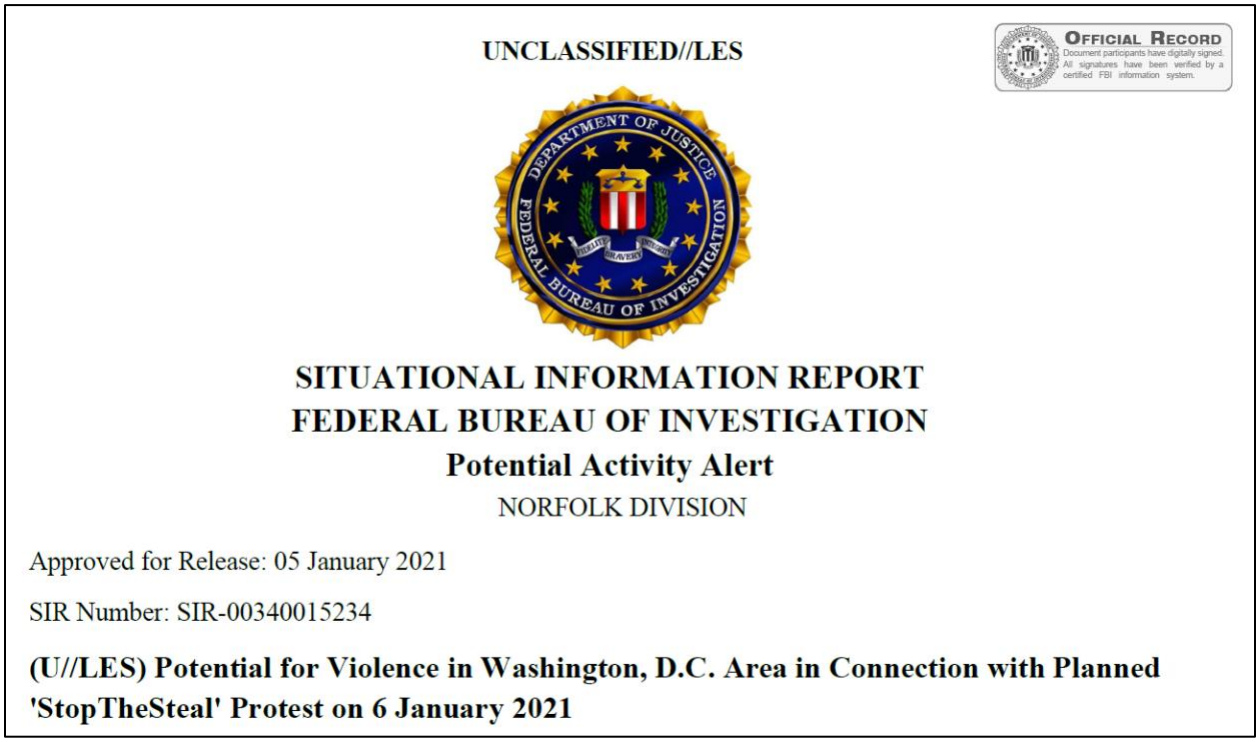
[249] Department of Homeland Security, Federal Bureau of Investigation, National Counterterrorism Center, *Racially or Ethnically Motivated Violent Extremists Charged with Illegally Manufacturing Firearms* (IA-48006-21) (Dec. 3, 2020); Office of Intelligence and Analysis, *Diverse Domestic Violent Extremist Landscape Probably Will Persist Due to Enduring Grievances* (IA-47801-21) (Dec. 30, 2020) (on file with Committee).

[250] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Testimony Submitted for the Record of Jill Sanborn, Federal Bureau of Investigation, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).

1. FBI issued two limited intelligence documents.

Norfolk SIR

As the Committee's June 2021 staff report found, at 7:37pm on January 5th, FBI issued a Situational Information Report (SIR) from its Norfolk Field Office titled "Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021."[251] The SIR conveyed raw intelligence the Norfolk Field Office had obtained from online posts regarding "specific calls for violence to include stating 'Be ready to fight. Congress needs to hear glass breaking, doors being kicked in, and blood from their BLM and Pantifa slave soldiers being spilled. Get violent… stop calling this a march, or rally, or a protest. Go there ready for war.'"[252] The SIR also noted a caravan map that had been posted online indicating travel to D.C. on January 6th, as well as a map of the U.S. Capitol complex indicating a perimeter to create around the Capitol and the location of Capitol access tunnels.[253]



UNCLASSIFIED//LES

OFFICIAL RECORD
Document participants have digitally signed. All signatures have been verified by a certified FBI information system.

SITUATIONAL INFORMATION REPORT
FEDERAL BUREAU OF INVESTIGATION
Potential Activity Alert
NORFOLK DIVISION

Approved for Release: 05 January 2021

SIR Number: SIR-00340015234

(U//LES) Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021

Source: FBI Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).

[251] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021); Federal Bureau of Investigation Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).
[252] Federal Bureau of Investigation Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).
[253] *Id.*

'unlawful lockdowns' to begin on 6 January 2021 in Washington, D.C. An online thread discussed specific calls for violence to include stating 'Be ready to fight. Congress needs to hear glass breaking, doors being kicked in, and blood from their BLM and Pantifa slave soldiers being spilled. Get violent...stop calling this a march, or rally, or a protest. Go there ready for war. We get our President or we die. NOTHING else will achieve this goal."

(U//LES) One posted commented, 'if Antifa or BLM get violent, leave them dead in the street'.

(U//LES) Another individual commented that they needed people on standby to provide supplies, including water and medical, to the front lines. The individual also discussed the need to evacuate noncombatants and wounded to medical care (NFI).

(U//LES) Additionally, perimeter maps and caravan pictures were posted. Rally points were identified in Figure 1. A perimeter was designated around various capitol buildings identified in Figure 2. (FBI Comment. The caravans in Figure 1 had the same colors as the sections of the perimeter in Figure 2.)

Source: FBI Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).

However, Majority Committee staff found that the SIR did not note the multitude of other warnings and intelligence that WFO had received up to that point, as described above in Section V. Most notably, the Norfolk SIR did not note that individuals were calling for protesters to storm the Capitol, despite evidence the Committee obtained that demonstrates that FBI was aware of intelligence and warnings regarding calls to storm the Capitol. Nor did the Norfolk SIR warn that individuals or groups may be armed, despite evidence the Committee obtained that demonstrates that FBI had information that individuals and groups were planning to bring weapons to the Capital Region.

Because of the nature of an SIR, the Norfolk SIR conveyed what FBI has described as "very raw" intelligence that was "unattributed and unvetted" with "minimal interpretation or analysis," and did not provide a threat assessment.[254] In fact, the first page of the Norfolk SIR stated: "Warning: This is an information report, not finally evaluated intelligence. It is being shared for informational purposes but has not been fully evaluated, integrated with other information, interpreted or analyzed. Receiving agencies are requested not to take action based on this raw reporting without prior coordination with the FBI."[255] That is in contrast to a Joint Intelligence Bulletin, which FBI describes as "finished intelligence products" that are "intended to inform operational components about intelligence topics (such as threats) [and] provide decisions [sic] makers with assessments and/or warnings about intelligence topics," and which are "quite different" from SIRs.[256]

[254] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX); Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).

[255] Federal Bureau of Investigation Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).

[256] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023); Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).

The Norfolk SIR states that it was distributed to "Local Law Enforcement entities in the Washington Field Office area of operations" and the "Virginia State Fusion Center."[257] In a letter to the Committee, FBI clarified that it distributed the Norfolk SIR via email to state, local, and federal partners on the National Capital Region Joint Terrorism Task Force (JTTF); through a verbal briefing at the WFO interagency Command Post; and to state and local partners in Virginia as well as "certain federal law enforcement partners" at the Virginia Fusion Center the night of January 5th.[258] USCP was among the federal partners that received the Norfolk SIR on January 5th.[259] This limited distribution of an SIR is in contrast to that of a Joint Intelligence Bulletin, which FBI has stated it "writes jointly with DHS and/or [the National Counterterrorism Center] and are typically designed for dissemination to a wide array of U.S. intelligence and law enforcement partners."[260] In response to questions from the Committee, FBI also confirmed that this SIR was written and approved out of the Norfolk Field Office, rather than WFO or FBI Headquarters.[261]

In addition to presenting only limited raw intelligence with no threat assessment, the Norfolk SIR also was not shared with FBI's partners until the night before the attack on the Capitol. Because the SIR requested FBI's law enforcement partners "not to take action based on this raw reporting without prior coordination with the FBI," the timing of its distribution limited its usefulness in preparations for planned protests the next morning. The Committee asked FBI whether the timing of the Norfolk SIR was customary and whether it gave FBI's law enforcement partners sufficient time to receive, assess, and act upon the information it contained. In its written response to the Committee, FBI stated:

> The FBI acted expeditiously to share the information obtained by its Norfolk Field Office with appropriate law enforcement partners. [...] The FBI took rapid and proactive steps to share the SIR broadly with federal, state, and local officials responsible for investigating potential criminal acts and maintaining public safety. The FBI's steps were a responsible effort to make the best use of the limited time available. FBI defers to other entities to assess the sufficiency of time required by those entities to receive, assess, and act upon the information contained in the Norfolk SIR.[262]

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[257] Federal Bureau of Investigation Norfolk Field Office, *Situational Information Report: Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with Committee).

[258] Letter from Jill C. Tyson, Assistant Director, Federal Bureau of Investigation, to Senator Gary Peters (Nov. 10, 2021); Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).

[259] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617); Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 138); Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).

[260] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).

[261] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).

[262] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).

One such entity did provide an assessment of the sufficiency of the Norfolk SIR's timing. MPD Chief Contee testified before the Committee, "[w]hen there is specific information that warrants us to perhaps posture differently, our notification system needs to be different. The JTTF distribution list that we have is not something that is a monitored list 24 hours a day 7 days a week that would generate an immediate response to that."[263] This investigation found that, considering the volume of threats and other concerning intelligence FBI had obtained at that point, FBI did not satisfy its duty to warn by merely sending a limited SIR "for informational purposes" to partner agencies on its distribution list the night before the attack. Rather, FBI should have assessed the threat and clearly and urgently communicated the risk of violence days earlier, to allow its law enforcement partners to better prepare.

The Norfolk SIR also did not reach the leaders of key agencies involved in preparing for January 6th. Former USCP Chief Sund testified that although a USCP officer on FBI's JTTF received the SIR, it did not make its way up the USCP chain of command to Sund before January 6th.[264] Sanborn and FBI Director Christopher Wray testified that they were not briefed on the SIR until days after the January 6th attack.[265] Then-Acting Attorney General Jeffrey Rosen, then-Principal Associate Deputy Attorney General Richard Donoghue, and then-Acting U.S. Attorney for the District of Columbia Michael Sherwin also each reported that they did not see the SIR before January 6th.[266] Emails obtained by the Committee indicate that on Jan. 12, 2021, Moore sent the Norfolk SIR to Donoghue who then sent it to Rosen.[267]

When the Committee asked why the intelligence FBI had obtained was insufficient to justify a broader warning in addition to the Norfolk SIR, FBI again pointed to the 12 intelligence products it issued throughout 2020, but those provided only high-level information on general threats across the country.[268] In response to the Committee's question as to how FBI's intelligence processes have changed since January 6th, FBI reported that it had implemented the JusticeConnect platform for sharing "raw and appropriate analytic intelligence products" with law enforcement partners and their leadership, and FBI now requires Field Offices to post all SIRs to JusticeConnect.[269]

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[263] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617).
[264] *Id.*
[265] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX); Senate Committee on the Judiciary, *Hearing on Oversight of the Federal Bureau of Investigation: The January 6th Insurrection, Domestic Terrorism, and Other Threats*, 117th Cong. (Mar. 2, 2021) (S. Hrg. 117-XX).
[266] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 197); Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 155); Michael Sherwin, transcribed interview with House Select Committee (Apr. 19, 2022) (pg. 42).
[267] Email from Jennifer Moore, Federal Bureau of Investigation Washington Field Office, to Richard Donoghue, Department of Justice (Jan. 12, 2021); Email from Richard Donoghue, Department of Justice, to Jeffrey Rosen, Department of Justice (Jan. 12, 2021).
[268] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[269] *Id.*

New Orleans IIR

At 6:57pm on January 5th, FBI's New Orleans Field Office issued an Intelligence Information Report (IIR) titled "Communication and Establishment of a Quick Reaction Force by USPERs Related to an Identified Protest in Washington, District of Columbia, on 6 January 2021."[270] The IIR noted that "participants of the 'Stop the Steal' protest" on January 6th had established a Quick Reaction Force (QRF) in Northern Virginia related to a protest against the Electoral College certification in Washington, D.C., and that "[a]n identified [U.S. person], who led the identified Virginia militia group, communicated that people should bring mace, flash lights, body armor, and head protection. [...] Participants were aware of the prohibition on firearms in Washington, District of Columbia, so they planned to establish an armed presence outside the city to respond to 'calls for help'."[271] Like the Norfolk SIR, the New Orleans IIR provided limited information about a specific piece of intelligence and did not speak to the multitude of warnings and other intelligence that WFO had obtained about the potential for violence at the Capitol. In addition, as noted above in Section V, FBI told the Committee that it obtained the intelligence about the planned Quick Reaction Force "[o]n or about" January 3, 2021, two days before FBI issued the IIR notifying its partners about that intelligence.[272]

> 3. (U//LES) As of January 2021, the participants of the 'Stop the Steal' protest on 6 January 2021 in Washington, District of Columbia, established the QRF in the Rosslyn, Virginia, area. An identified USPER, who led the identified Virginia militia group, communicated that people should bring mace, flash lights, body armor, and head protection. Members of the protest believed Rosslyn to be a safe area for them. (FBI comment. The 'Stop the Steal' protest was likely the protest against the Electoral College certification.) Participants were aware of the prohibition on firearms in Washington, District of Columbia, so they planned to establish an armed presence outside the city to respond to 'calls for help'.

Source: FBI New Orleans Field Office, *Intelligence Information Report: Communication and Establishment of a Quick Reaction Force by USPERs Related to an Identified Protest in Washington, District of Columbia, on 6 January 2021* (Jan. 5, 2021) (House Select Committee, GPO-J6-DOC-CTRL0000930224, pg. 24).

Like an SIR, an IIR communicates raw intelligence, and the New Orleans IIR was marked "Not Finally Evaluated Intelligence."[273] The New Orleans IIR was addressed to all FBI

[270] Federal Bureau of Investigation New Orleans Field Office, *Intelligence Information Report: Communication and Establishment of a Quick Reaction Force by USPERs Related to an Identified Protest in Washington, District of Columbia, on 6 January 2021* (Jan. 5, 2021) (House Select Committee, GPO-J6-DOC-CTRL0000930224, pg. 23).
[271] *Id.*, pg. 24.
[272] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[273] Federal Bureau of Investigation New Orleans Field Office, *Intelligence Information Report: Communication and Establishment of a Quick Reaction Force by USPERs Related to an Identified Protest in Washington, District of Columbia, on 6 January 2021* (Jan. 5, 2021) (House Select Committee, GPO-J6-DOC-CTRL0000930224, pg. 23).

Field Offices; the Bureau of Alcohol, Tobacco, Firearms and Explosives; DHS; DOJ; the National Security Agency; and the Department of State.[274] FBI told the Committee that DHS further disseminated the IIR to D.C. HSEMA, which then forwarded it to MPD on January 5th.[275] FBI reported to GAO that it disseminated the IIR to JTTF Officers including the USCP JTTF Officer, but the USCP JTTF Officer told GAO they did not receive it.[276]

2. In lieu of written threat products, FBI-WFO communicated intelligence via informal communications that often downplayed the threat.

WFO has explained that in lieu of more formal intelligence documents like an SIR, it communicated intelligence to its partners via other means. When asked by House Select Committee investigators why WFO did not issue a written product summarizing the threat landscape, Moore stated that in hindsight "it could not have hurt" to have a written product, but WFO was disseminating threat information verbally, "multiple times a week in briefs with all of our partners" such as USCP, MPD, DHS, and other agencies. Moore continued, "at that moment, we're trying to push information out as absolutely fast and as quick as I can and as accurately as possible and with the widest dissemination possible."[277] Moore stated that FBI did share with their partners that there was a potential for violence in D.C., but it was not worth putting that in a written product summarizing the volume of non-actionable threats: "I can write a product, but that's a useless product. [...] From where I sat on that day, a joint intelligence bulletin with the intelligence that I had and that the partners had shared with me would not have made a difference."[278] Acting Attorney General Rosen made a similar argument, noting that USCP had intelligence on the potential for violence, and that he did not believe an FBI threat assessment would have been "any kind of game changer."[279]

Moore also explained, "[a]n SIR doesn't publish overnight," meaning that it takes time to compile an SIR and shepherd it through FBI's review and approval processes, and for that reason, Moore explained that she chose to informally communicate FBI's threat intelligence to her agency partners on phone calls rather than issuing an SIR from WFO.[280] For example, Moore stated that WFO discussed the intelligence regarding online discussions of the Capitol tunnels with their partners on phone calls "multiple meetings a week" and that WFO confirmed that their partners – including USCP – were seeing the same information about the tunnels.[281]

However, this investigation found that these actions were insufficient based on the intelligence FBI had received indicating the potential for violence. For example, phone briefings on uncorroborated intelligence such as what FBI had about the tunnels carry the same limitations

[274] *Id.*
[275] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[276] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023); Email from Government Accountability Office staff to Committee staff (Feb. 8, 2023).
[277] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 71 and 69).
[278] *Id.* (pgs. 146-147).
[279] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 164).
[280] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 63).
[281] *Id.* (pgs. 55-56, 59-62).

as IIRs, which Moore noted are for "raw, uncorroborated intelligence that might serve to inform."[282] FBI routinely communicates raw intelligence in IIRs and SIRs, as the New Orleans and Norfolk Field Offices did on January 5th based on limited intelligence – but WFO chose not to issue such a product based on the multitude of intelligence it had obtained in advance of January 6th, as described in Section V. In addition, the Committee received testimony that indicated that FBI did not issue stark warnings about threats to the Capitol on those partner phone calls. Former USCP Chief Sund testified before the Committee that he hosted a virtual planning meeting on Jan. 5, 2021, with federal partners including FBI, and "[d]uring the meeting, no entity, including the FBI, provided any intelligence indicating that there would be a coordinated violent attack on the United States Capitol by thousands of well-equipped armed insurrectionists," and that "none of the intelligence we received predicted what actually occurred."[283] Likewise, MPD Chief Contee testified before the Committee that in the multiple phone calls between partner agencies leading up to January 6th, the intelligence that was discussed contained "no specific information that talked about the events that we saw and experienced on January the 6th."[284] This is despite the fact that FBI had received intelligence (as described in Section V) about threats that eventually transpired on January 6th, such as threats to storm the Capitol, overwhelm law enforcement, and engage in violence.

Dr. Christopher Rodriguez, the Director of the District of Columbia's Homeland Security and Emergency Management Agency (HSEMA), also disputed the idea that oral briefings were just as useful as written products. When asked whether it would have been helpful to have received written intelligence assessments from FBI or DHS, Dr. Rodriguez stated:

> Yes, absolutely…. It's always useful to see things written down, which often, I think, can help a reader like myself, a customer. If the threat changes, you can actually see how it changes and why it does, like what intelligence is coming in that would cause you to be more concerned or less concerned about the threat environment. And so I think written products are always something that formalizes the assessments. I know the value of oral briefings and phone calls and coordination calls, but having those products, I think, allows us [to] see sort of why these assessments are being made and what's the data and the information that's going into them? That's always very helpful.[285]

[282] *Id.* (pg. 58).
[283] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Testimony Submitted for the Record of former Chief of Police Steven A. Sund, U.S. Capitol Police, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617); Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617).
[284] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617).
[285] Christopher Rodriguez, transcribed interview with House Select Committee (Jan. 25, 2022) (pg. 60).

Harvin from the D.C. HSEMA Fusion Center offered a similar perspective: "with all the information in intelligence that we had about a lot of people talking about coming to the [D]istrict to commit violence, if they didn't write some type of internal document that had the look and feel […] of a threat assessment, then there's something wrong with that agency, full stop."[286]

> *"With all the information in intelligence that we had about a lot of people talking about coming to the [D]istrict to commit violence, if they didn't write some type of internal document that had the look and feel […] of a threat assessment, then there's something wrong with that agency, full stop."*
>
> *– Donell Harvin, former D.C. Chief of Homeland Security and Intelligence and Executive Director of the HSEMA Fusion Center*

Majority Committee staff also found that FBI downplayed the threat in its informal communications. In response to written questions from the Committee, former Assistant Director for the Counterterrorism Division at FBI Jill Sanborn stated, "[a]head of the Electoral Certification on January 6, 2021, it was a national priority for all Field Offices to collect and report intelligence related to the event. The intelligence that FBI collected included human source reporting, operational information, and raw intelligence. FBI then shared various intelligence products with its federal, state, and local partners."[287] As an example of those efforts, FBI stated in response to written questions from GAO that "WFO queried state and local partners, social media, and FBI cases for any threat intelligence related to January 6th. WFO compiled and internally disseminated this information on December 30."[288] However, internal FBI emails obtained by the Committee show that WFO's assessment on Dec. 30th downplayed the threat:

> Regarding social media, there has been chatter on 4chan about the event(s), particularly how militias should attend; however, with each person who wants to attend, one person states it's a bad idea and/or a trap (basically a lot of talk about wanting to go but not a lot of talk about actually going); there has been slightly less internet traffic regarding protests chatter and very little visibility on counter-protest chatter. There has been nothing seen on social media to corroborate any massed armed protests discussion.[289]

[286] Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pg. 65).
[287] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Questions for the Record Submitted by Jill Sanborn, Federal Bureau of Investigation, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).
[288] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[289] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Matthew Alcoke, *et al.*, Federal Bureau of Investigation Washington Field Office (Dec. 30, 2020).

> SOCIAL MEDIA HIGHLIGHTS:
> Regarding social media, there has been chatter on 4chan about the event(s), particularly how militias should attend; however, with each person who wants to attend, one person states it's a bad idea and/or a trap (basically a lot of talk about wanting to go but not a lot of talk about actually going); there has been slightly less internet traffic regarding protests chatter and very little visibility on counter-protest chatter.

> There has been nothing seen on social media to corroborate any massed armed protests discussion (NFI).

Source: Email from FBI-WFO staff to Jennifer Moore, Matthew Alcoke, *et al.*, FBI-WFO (Dec. 30, 2020).

FBI further reported that WFO "again queried and compiled January 6th threat intelligence" on January 3rd and shared that information internally within FBI,[290] but again, internal FBI emails show that assessment downplayed the threat: "FBI WFO does not have any information to suggest these events will involve anything other than [First Amendment] protected activity" and stated "no credible threats have been identified" by its federal partners.[291] That assessment was despite the fact that expected protesters included groups such as the Proud Boys that had recently engaged in violence at protests in D.C., and despite intelligence cited in that same email, including:

- plans by Proud Boys members to bring firearms and "set up 'armed encampment' on the [National] Mall";[292]
- a tip about the Proud Boys that stated "[t]hese men are coming for violence";[293]
- "unsubstantiated" threats of "armed insurrection";[294]
- a TikTok video of someone holding a gun saying "storm the Capitol on January 6th";[295]
- an online post stating "[i]t needs to be more than a protest. We need to kick doors down and fuck shit up" and "will kill if necessary";[296]
- another online post stating "[b]ring food and guns. If they don't listen to our words, they can feel our lead. Come armed";[297]
- a social media post stating "January 6th we burn the place to the ground, leave nothing behind";[298] and
- a tipster who said a Proud Boy told her they were planning an attack on January 6th to shut down the government,[299] among other intelligence.

[290] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[291] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Matthew Alcoke, Steven D'Antuono, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).
[292] *Id.*
[293] *Id.*
[294] *Id.*
[295] *Id.*
[296] *Id.*
[297] *Id.*
[298] *Id.*
[299] *Id.*

That intelligence summary was marked "for FBI Internal use only" and the FBI Special Agent in Charge for Counterterrorism at WFO noted that much of the intelligence came from partners who "are very sensitive to us sharing some of it outside FBI."[300]

> It s marked as "internal only" since much of the info comes from partners, who are fully in sync with each other and with us but are very sensitive to us sharing some of it outside the FBI. I m not sure exactly which pieces of this rollup Steve will decide to share with the DD. I asked Steve to cc [redacted] and [redacted] with whatever he sends (unless he covers it via telcal).

Source: Email from Matthew Alcoke, FBI-WFO, to FBI-WFO staff (Jan. 3, 2021).

Documents obtained by the Committee also indicate that as late as January 3rd, FBI had not communicated a threat assessment regarding January 6th to I&A. In an internal I&A email obtained by the Committee, an I&A employee who was embedded at FBI stated on January 3rd, "[b]ased on the limited discussion of the topic at this morning's Deputy Director meeting, it does not feel like the FBI has determined the (anticipated) threat level this week."[301]

> Based on the limited discussion of the topic at this morning's Deputy Director meeting, it does not feel like the FBI has determined the (anticipated) threat level this week. Security Division provided a list of road closures this morning, but has not provided further guidance to the workforce.
>
> *Discussion was less about a single group, but that elements from both sides would be present, in close proximity to each other, instigating possible violence.
>
> v/r [redacted]
> DHS | I&A @ FBI
> [redacted]- FBI desk

Source: Email from I&A staff to I&A staff (Jan. 3, 2021).

3. <u>FBI dismissed individual threats as not credible, and failed to fully assess the totality of the threat landscape.</u>

As the Committee's June 2021 staff report found, FBI deemed online posts calling for violence at the Capitol to be not credible.[302] As FBI obtained increasing amounts of intelligence and warnings about the threat of violence on January 6th (as described above in Section V), it continued to assess these individual threats as not credible, considering – and then dismissing – each one in isolation.[303] However, Majority Committee staff found that FBI failed to seriously

[300] Email from Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, to Federal Bureau of Investigation Washington Field Office staff (Jan. 3, 2021).
[301] Email from Office of Intelligence and Analysis staff to Office of Intelligence and Analysis staff (Jan. 3, 2021).
[302] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[303] GAO reported that FBI did deem credible the tips it received about plans to block access to the Capitol via the tunnel system. Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023); Email from Government Accountability Office staff to Committee staff (Feb. 21, 2023).

consider the possibility that the threats it was seeing could actually transpire. Documents obtained by the Committee indicate that many of the threatened actions that FBI had deemed not credible were actually carried out on January 6th. For example, among the threats directed toward the events on January 6th that FBI deemed not credible were threats to engage in violence, use makeshift weapons, use crowd numbers to overwhelm the police, and storm the Capitol (see Section V).

In addition to its failure to assess credible individual threats, FBI also failed to fully consider the totality of voluminous threats indicating the growing potential for violence on January 6th and then communicate that assessment in written products. Documents obtained by the Committee demonstrate that FBI's approach to assessing the potential for violence focused narrowly on individual threats, but did not fully assess the larger threat picture. For example, on Dec. 29, 2020, the same day FBI received intelligence about a neo-Nazi-affiliated Telegram channel that "encouraged supporters to march into the Capitol on January 6,"[304] WFO stated in an internal email, "[a]t this time, we have not identified any specific threats for [January 6th]."[305]

From: [redacted] (WF) (FBI) [redacted]@fbi.gov>
Sent: Tuesday, December 29, 2020 1:49 PM
To [redacted] (CIRG) (FBI) [redacted]@fbi.gov>; [redacted]. (CIRG) (FBI [redacted]@fbi.gov>
Cc: [redacted] (WF) (FBI) [redacted]@fbi.gov>
Subject: Jan 6th Threats

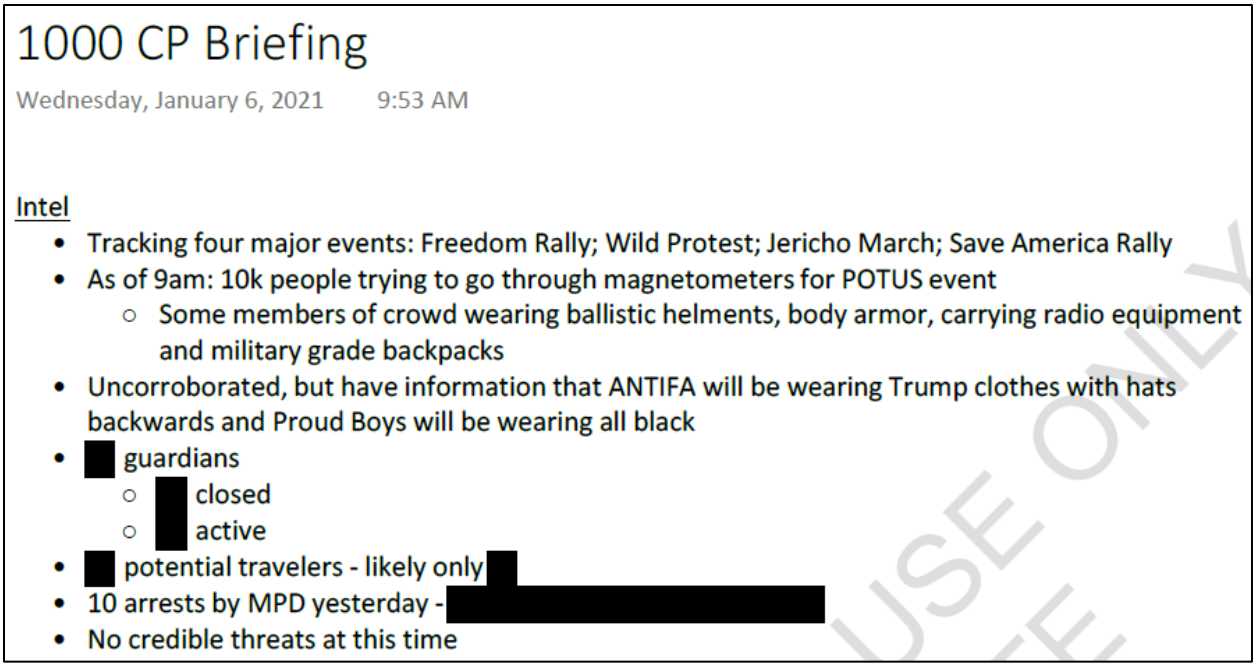
Good afternoon,

[redacted] told me that you asked if there were any threats pertaining to the events on 6 January. At this time, we have not identified any specific threats for that day.

Source: Email from FBI-WFO staff to FBI Critical Incident Response Group and WFO staff (Dec. 29, 2020).

On Jan. 3, 2021, WFO assessed various open-source threat reports about January 6th but FBI concluded that it had "identified no credible or verified threat to the activities associated with 6 January 2021."[306] Again on January 4th WFO wrote, "[a]s of today, WFO has no information indicating a specific and credible threat."[307] As late as 10am on January 6th itself, when FBI noted members of the crowd "wearing ballistic helmets, body armor, carrying radio equipment and military grade backpacks," FBI still reported "no credible threats at this time."[308]

[304] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[305] Email from Federal Bureau of Investigation Washington Field Office staff to Federal Bureau of Investigation Critical Incident Response Group and Washington Field Office staff (Dec. 29, 2020).
[306] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Matthew Alcoke and Steven D'Antuono, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).
[307] Email from Federal Bureau of Investigation Critical Incident Response Group staff to Federal Bureau of Investigation Critical Incident Response Group staff (Jan. 4, 2021).
[308] Federal Bureau of Investigation, *1000 CP Briefing* (Jan. 6, 2021) (on file with Committee).



1000 CP Briefing

Wednesday, January 6, 2021 9:53 AM

Intel

- Tracking four major events: Freedom Rally; Wild Protest; Jericho March; Save America Rally
- As of 9am: 10k people trying to go through magnetometers for POTUS event
  - Some members of crowd wearing ballistic helments, body armor, carrying radio equipment and military grade backpacks
- Uncorroborated, but have information that ANTIFA will be wearing Trump clothes with hats backwards and Proud Boys will be wearing all black
- [redacted] guardians
  - [redacted] closed
  - [redacted] active
- [redacted] potential travelers - likely only [redacted]
- 10 arrests by MPD yesterday - [redacted]
- No credible threats at this time

Source: FBI, *1000 CP Briefing* (Jan. 6, 2021) (on file with Committee).

FBI also had the technical ability to assess all of its observed threats in totality. In its written response to questions from the Committee, FBI reported that on December 27, 2020, it created a tag in its Guardian system called "CERTUNREST" to log all threats related to January 6th, and that "[t]he CERTUNREST tag allowed us to quickly see all Guardians with that tag, across the Bureau, even if the Guardian was assigned to a different Field Office."[309] Moore explained that even if an individual tip cannot be verified, lacks specificity, or is First Amendment-protected speech, it still gets logged into the Guardian system and can be used to develop a threat picture to be disseminated to FBI's partners.[310] Moore claimed that WFO used the CERTUNREST tag to develop a threat picture for January 6th: "So we constantly are looking for that landscape all along, and we're always briefing what that threat picture is and looking at the totality of it. […] I can assure you we were looking at the hashtags and we were putting it all together."[311]

However, none of the limited threat documents FBI issued before January 6th provided such a comprehensive threat assessment. As noted above, FBI did not issue any products specific to January 6th besides the Norfolk SIR and New Orleans IIR the night of January 5th, and none that provided a broader picture of the overall threat landscape for January 6th – and when asked why, FBI officials repeatedly pointed to the lack of specific credible threats. For example, on Jan. 8, 2021, Steven D'Antuono, Assistant Director in Charge of WFO, told reporters that in the lead-up to January 6th, FBI had assessed that "there was no indication that there was anything other than First Amendment protected activity."[312] Likewise, in response to written questions

[309] Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).
[310] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 28-33, 81).
[311] *Id.* (pgs. 49-50).
[312] Julia Ainsley, Dan De Luce, and Mosheh Gains, *Pentagon, D.C. officials point fingers at each other over Capitol riot response*, NBC News (Jan. 8, 2021).

from the Committee specifically asking whether FBI considered the aggregate of all threats when considering the threat of violence on January 6th, FBI did not directly address the question but stated "there were posts that mentioned possible violence; however, these posts were of limited specificity and unknown credibility."[313]

Moore also stated that WFO did not "have specific credible information that the Capitol was going to be stormed that day" and that "there was no unaddressed credible threat."[314] Moore further explained, "[t]here was some rhetoric out there that we should, you know, storm the Capitol, but it wasn't like, let's go storm the Capitol, we are going to storm the Capitol."[315] In response to GAO's February 2023 report faulting FBI for not disseminating the intelligence it had on the potential for violence, FBI wrote, "[w]hile the FBI and our law enforcement partners were aware of and certainly planned for a response to potential violence in the [National Capital Region] on January 6, the FBI was not aware of actionable intelligence indicating that a large mob would storm the Capitol building."[316] However, the events of January 6th plainly revealed the seriousness of the threats to storm the Capitol.

Even if FBI did not deem specific threats to the Joint Session of Congress to be credible[317] – which, as described above, was a failure in itself – Majority Committee staff found that FBI at the very least should have used its authorities to issue a more urgent warning communicating to its partner agencies about the alarming volume of violent rhetoric it had observed regarding January 6th. Moore acknowledged that FBI was not prohibited from issuing a product such as a Joint Intelligence Bulletin based on the open-source intelligence it was seeing regarding potential violence on January 6th, even if the statements had been First Amendment-protected speech.[318] However, FBI issued no such product about January 6th. Moore has since stated that one of the lessons learned from January 6th is that FBI needs to change how it uses the terms "credible threat" and "actionable threat" to communicate more clearly when it is not anticipating violence at a specific time and place[319] – but regardless of the terminology used, FBI failed to communicate the breadth and gravity of the threats it was seeing.

Other intelligence officials who were involved in preparations for January 6th have also taken issue with FBI's assertion that the lack of credible threats precluded more proactive action. As Executive Director of the HSEMA Fusion Center Donell Harvin explained, a specific or credible threat enables law enforcement to take certain actions against an individual, but the federal agencies still should have considered the significance of the large volume of threats as they prepared for January 6th, even if threats were not credible in isolation:

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[313] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[314] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 132-133).
[315] *Id.* (pg. 65).
[316] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[317] As noted above, GAO reported that FBI did deem credible the tips it received about plans to block access to the Capitol via the tunnel system. *Id.*; Email from Government Accountability Office staff to Committee staff (Feb. 21, 2023).
[318] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 25).
[319] *Id.* (pg. 130).

> [T]here wasn't a lot of credible, specific threats, but there was a vast amount of not credible, unspecific threat, that it should have prompted something, right? And it's not a binary decision in my assessment of knock on someone's door, not knock on someone's door, get a warrant, or not get a warrant, right? Those are law enforcement interdiction actions that are happening every day, thousands of times in this country […] what that vast amount of noncredible, nonspecific threat should have done is prompted a more preparedness posture, I believe, at the Capitol to defend against the worst-case scenario.[320]

Dr. Rodriguez, the Director of HSEMA, offered a similar perspective:

> The term 'specific credible threat' in my view is overused. Rarely in the intelligence profession do we have specific and credible threats that signal that something is going to happen this day at this time. It happens, but it is extremely rare in my career as an intelligence officer. So how I would reply to that is that it is the conglomeration of intelligence and data gathered over months and months that created a threat picture for the events of January 6th that was different than what we were seeing before. And that the intelligence was escalating, that the threat picture from all these [disparate] pieces of intelligence that were out there and put together to create a comprehensive assessment showed, at least from the city's standpoint, that we needed to posture differently and in an enhanced way than we did for previous demonstrations.[321]

4. <u>FBI wrongly focused on the potential for violence between protesters on January 6th rather than the threat to the Capitol.</u>

Majority Committee staff found that in its assessments of the potential for violence on January 6th, FBI was focused on potential clashes between protesters (e.g., the Proud Boys) and counter-protesters (e,g., Antifa), at the expense of focusing more attention and reporting on the growing threat to the Capitol itself. For example, on Dec. 22, 2020, internal FBI communications indicated that the Bureau was not approaching its preparation for January 6th any differently than it had for two previous "Make America Great Again" (MAGA) demonstrations in recent weeks in support of President Trump and the false claim that the 2020 election had been fraudulent. After FBI hosted a coordination call with its federal law enforcement partners on Dec. 22nd, an internal email from the FBI Washington Field Office (WFO) stated, "[w]e will likely have the same posture for 1/6 as the past two [MAGA] events. Right now the Proud Boyz [sic] attendance is expected to be significantly lower than the past events. The daily events beginning on 12/28 are expected to be no more than 50 attendees and will no [sic] need additional resources outside of our partners [sic] resources."[322]

In an internal I&A email obtained by the Committee, an I&A employee who was embedded at FBI stated that discussion at the January 3rd FBI Deputy Director's meeting "was less about a single group, but that elements from both sides would be present, in close proximity

[320] Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pgs. 18-19).
[321] Christopher Rodriguez, transcribed interview with House Select Committee (Jan. 25, 2022) (pg. 50).
[322] Email from Federal Bureau of Investigation Washington Field Office staff to Matthew Alcoke, *et al.*, Federal Bureau of Investigation Washington Field Office (Dec. 22, 2020).

to each other, instigating possible violence."[323] Former Principal Associate Deputy Attorney General Richard Donoghue also told the Committee that then-FBI Deputy Director Bowdich gave a briefing the morning of January 4th to Acting Attorney General Rosen and Donoghue regarding January 6th, and that while they recognized the potential for violence, they felt "relief" that counter-protesters were not expected to attend in large numbers, as there would likely not be "a situation that concerned us so much, where you would have two different political factions fighting in the streets."[324]

At 10:11pm on January 5th, an FBI email provided an overview of the situation the next day and stated, "[o]nly notable event tomorrow that could trigger a flashpoint is a planned POTUS rally/speech on the ellipse at 1100EST. It's estimated that 30,000 participants will then march toward the Capital [sic] which will coincide with the 1300EST scheduled Congressional meetings to certify the electoral college vote. Obvious concerns remain if counter-protests ensue and opposing ideologies clash."[325] At 7:55am on January 6th, WFO emailed an "0800 SITREP" that noted users had become active on Parler and thedonald.win forums that "enable online actors to post violent and threatening language toward local law enforcement and counter-protestors in Washington, DC on 6 January 2021."[326]

Similarly, DOJ was also wrongly focusing on the threat of violence between protesters and counter-protesters. As described in the previous section, DOJ leadership had received warnings such as the January 4th intelligence summary from DOJ's Counterterrorism Section, which noted online "[c]alls to occupy federal buildings" and discussions of "invading the capitol building."[327] Despite receiving that intelligence indicating the risk to the Capitol, Donoghue explained to the Committee that DOJ had been preparing for January 6th based on the experiences at the November and December 2020 pro-Trump MAGA demonstrations, and that "having just lived through the November and December events, we were concerned that opposing political factions would meet in D.C. and that we would have a potential for violence on a larger scale than we had seen in earlier events."[328] Because of that expectation, Donoghue stated that DOJ anticipated less chance of violence at the January 6th rally if the crowd was primarily pro-Trump protesters.[329] Donoghue also told the Committee regarding a January 4th call, "even this late, we were still concerned that small numbers of opposing groups may show up and you'd have violence there."[330] Sherwin provided a similar depiction of how the U.S. Attorney's Office for the District of Columbia was preparing for January 6th:

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[323] Email from Office of Intelligence and Analysis staff to Office of Intelligence and Analysis staff (Jan. 3, 2021).
[324] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 69).
[325] Email from Federal Bureau of Investigation Counterterrorism Division staff to Federal Bureau of Investigation Counterterrorism Division staff (Jan. 5, 2021).
[326] Email from Federal Bureau of Investigation Washington Field Office staff (Jan. 6, 2021) (House Select Committee, GPO-J6-DOC-CTRL0000930224, pg. 18).
[327] Email from Acting Chief of the Counterterrorism Section, Department of Justice, to Richard Donoghue, John Moran, and Michael Sherwin, Department of Justice (Jan. 4, 2021).
[328] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 21).
[329] *Id.* (pg. 33).
[330] *Id.* (pg. 97).

> We were shocked that there was this void of counterprotesters there because that's where we expected […] the action to happen. And when it didn't happen there, we were kind of almost surprised, and maybe in some ways that's maybe why the whole flow went towards the Capitol. But we were definitely keyed in on protest-counterprotester violence especially from what we learned in December with some of the groups you already referenced. That was a critical emphasis. […] the protest on institutions was not discounted, but maybe it had a secondary role.[331]

After the attack, Moore further explained how FBI was concerned about the potential for violence between protesters heading into January 6th. When asked about D'Antuono's statement to the press that FBI did not have intelligence suggesting that the pro-Trump rally would be anything more than a lawful demonstration, Moore stated, "we were on ready standby in the event that this became violent. How it might become violent, we did not see the storming of the Capitol. We were, again, going off of what we had seen in the past, which was the protester-on-protester violence, damage to property, that type of stuff."[332] When asked why FBI's top-line threat assessment was not the same as USCP's, which assessed that "Congress itself is the target," Moore stated, "We were looking at the rhetoric and what we were seeing, and it was still largely group against group. So it was, you know, different groups pontificating hate rhetoric to other groups."[333]

But that assessment is contradicted by the fact that FBI and DOJ were tracking threats against the Capitol itself, such as:

- the tip from the D.C. HSEMA Fusion Center about a neo-Nazi-affiliated Telegram channel that "encouraged supporters to march into the Capitol on January 6";[334]
- the tip about "a TikTok video with someone holding a gun saying 'storm the Capitol on January 6th";[335]
- the tip about posts on thedonald.win where "Trump supporters discuss[ed] storming [the] U.S. Capitol" and included a map of the Capitol complex and tunnels;[336]
- the DOJ intelligence summary noting online "[c]alls to occupy federal buildings" and discussions of "invading the capitol building";[337]
- the ADL report about "messages filled with violent rhetoric" and one call to "Storm the capitol" if Congress certifies President-elect Biden's victory;[338] and

[331] Michael Sherwin, transcribed interview with House Select Committee (Apr. 19, 2022) (pgs. 46-48).
[332] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 138).
[333] U.S. Capitol Police, *Special Event Assessment* (Jan. 3, 2021) (on file with Committee); Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 73 and 76).
[334] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[335] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Matthew Alcoke, and Steven D'Antuono, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).
[336] Email from the U.S. Attorney's Office for the District of Columbia staff to Steven D'Antuono and Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, *et al.* (Jan. 4, 2021).
[337] Email from Acting Chief of the Counterterrorism Section, Department of Justice, to Richard Donoghue, John Moran, and Michael Sherwin, Department of Justice (Jan. 4, 2021).
[338] Email from Anti-Defamation League to Steven D'Antuono and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 4, 2021); Anti-Defamation League, *Extremists and Mainstream Trump Supporters*

- the tip to FBI's National Threat Operations Center about a significant increase in traffic to a website with information about the Capitol's tunnel system and related plans to use the tunnels to block and confront Members of Congress, which GAO reported that FBI deemed credible.[339]

In an interview with House Select Committee staff, Moore also admitted that FBI's assessment of the primary threat being violence between protesters turned out to be incorrect, and that USCP's threat assessment regarding the Capitol itself turned out to be correct.[340] This further underscores the seriousness of the threats to the Capitol that FBI had deemed not credible at the time, and FBI's failure to assess those threats and disseminate a sufficient warning.

5. <u>After the January 6th attack, FBI and DOJ officials described a clearer picture of the threat, despite their lack of urgent warnings in advance.</u>

As described above, documents and internal emails obtained by the Committee demonstrate how FBI downplayed the threat of violence in the lead-up to January 6th. However, since the attack, officials recalled having more prescient assessments of the threat at the time, raising additional questions about why they did not take further action.

For example, in statements since January 6th, Moore noted that the various protests that had been scheduled for early January were then rescheduled all for the same day on January 6th, and stated "the situation was making everyone uncomfortable […] It was like a perfect storm."[341] Moore further noted that FBI was tracking fully booked flights and hotels in D.C., and stated "all of those pieces are coming together now to go, okay, this is a really, really large event."[342]

DOJ officials made similar claims after January 6th about their awareness of the threat. Former Acting Attorney General Jeffrey Rosen stated:

> [T]he risk of violence is almost common sense. There's [sic] reports that a lot of people are coming to a rally who are unhappy about the election. And it may not be totally clear if they're going to get violent or not at the Ellipse, at the Capitol, or somewhere else, but the need for the police agencies and others, but especially the frontline crowd control, to prepare doesn't really turn on how detailed the crime warnings are, that this

Plan to Protest Congressional Certification of Biden's Victory (Jan. 4, 2021) (https://www.adl.org/resources/blog/extremists-and-mainstream-trump-supporters-plan-protest-congressional-certification).

[339] Email from U.S. Capitol Police staff to Senate Sergeant at Arms staff (Jan. 5, 2021); Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023); Email from Government Accountability Office staff to Committee staff (Feb. 21, 2023).

[340] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 77). The Committee also asked FBI whether its experience with the 2020 racial justice demonstrations informed or affected FBI's intelligence processes in advance of January 6th. However, FBI did not address the question and instead noted the high-level intelligence products it had issued throughout 2020 on general trends in domestic violent extremism, but which were not specific to January 6th (FBI, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023)).

[341] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 125).

[342] *Id.* (pg. 126).

> is kind of obvious […] there were specific warnings of threats that were available to the Capitol Police.[343]

When asked whether it would have made a difference had FBI issued a Joint Intelligence Bulletin, Rosen reiterated "the risks of violence and the need to prepare were apparent."[344] However, Rosen also admitted that "in hindsight" no one contemplated "how bad that afternoon turned out to be."[345] However, this is contradicted by the threats and intelligence FBI and DOJ had received, including from outside researchers who warned about the increasing danger, as described in Section V.

Former Principal Associate Deputy Attorney General Richard Donoghue also told the Committee, "[w]e all knew that there was a potential for violence. We all knew that we were going to have tens of thousands of protesters in the city. We all knew that the Capitol was one of the focal points."[346] Donoghue further told the Committee it was widely known that the Capitol was the target, "[b]ut that was not hidden in some intelligence report somewhere. That was out in the open, and everybody knew it and understood it. That's why I was particularly surprised to see people be able to breach the building that afternoon."[347] Donoghue claimed that "there were a lot of specific warnings about January 6th," but that "you didn't need an intelligence report to know that thousands of angry people were going to be showing up at the Capitol that day who were upset about the election and who wanted to disrupt the congressional proceedings that day. […] And it wasn't a surprise to anyone that thousands of angry people showed up at the Capitol that afternoon. It certainly wasn't a surprise to the Capitol Police."[348]

Despite those claims, neither DOJ nor FBI officials who testified before this Committee or in other Congressional investigations provided sufficient explanations as to why they did not issue a more urgent and stark warning, despite acknowledging that it was widely known that the Capitol was a target for potential violence on January 6th.

B. I&A

Similar to FBI, I&A issued high-level intelligence products throughout 2020, but did not disseminate any products specific to January 6th. Specifically, in the year leading up to January 6th, I&A published 15 reports about the general "heightened threat environment" around the country.[349] However, as the Committee's June 2021 staff report found, I&A did not issue warnings specific to January 6th. This investigation further found that although I&A had additional intelligence indicating the potential for violence, I&A downplayed the threat, and internal procedural breakdowns prevented I&A from effectively fulfilling its mission.

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[343] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 164).
[344] *Id.* (pg. 198).
[345] *Id.* (pg. 160).
[346] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 56).
[347] *Id.* (pg. 58).
[348] Richard Donoghue, transcribed interview with House Select Committee (Oct. 1, 2021) (pgs. 204-205).
[349] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).

1. I&A issued products about the broader DVE threat nationwide, but did not disseminate reports specific to January 6th.

I&A's threat products in November and December 2020 were not specific to January 6th, and its multiple threat products in the preceding year provided only high-level information about general threats and trends nationwide.[350] For example, in August 2020, I&A issued a report titled "Physical Threats to the 2020 Election Season" that provided an overview of threats and noted that while I&A "currently lack[s] credible threat reporting of attack plotting," violent extremists could engage in violence against election-related targets "in response to perceived partisan and policy-based grievances."[351] In October 2020, I&A issued "Key Threats to the Homeland Through 2021" that described an "elevated threat environment" nationally and again reported the potential for domestic extremist violence surrounding election activities.[352] On Dec. 30, 2020, I&A issued a similar report titled "Diverse Domestic Violent Extremist Landscape Probably Will Persist Due to Enduring Grievances." This report again provided an overview of the DVE threat, and noted that perceived grievances related to the 2020 election could "lead some DVEs to mobilize to violence in the coming months."[353] None of these products directly addressed threats related to January 6th or the U.S. Capitol.

According to GAO and confirmed by I&A officials in a briefing with Committee staff, I&A did develop one raw intelligence product internally on Jan. 5, 2021, that described the information it had obtained (as described in Section V) about a potential member of the Proud Boys who had "staked out parking lots of federal buildings" and had stated they were "armed with enough ammo to 'win a small war.'"[354] However, this report did not note that groups might attack the Capitol[355] – and more importantly – I&A did not share this report with its agency partners until January 8th, and even then it did not share it with USCP.[356] I&A reported that it did not share this report with USCP because USCP is not a member of the intelligence community and because I&A assumed USCP was receiving the information from other agencies.[357] This is despite the fact that I&A was created in part to improve inter-agency intelligence sharing and to address failures such as this so that law enforcement partners are informed of threats.

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[350] *See*, e.g., Office of Intelligence and Analysis, *Physical Threats to the 2020 Election Season* (IA-4584220) (Aug. 17, 2020); Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 66).
[351] Office of Intelligence and Analysis, *Physical Threats to the 2020 Election Season* (IA-4584220) (Aug. 17, 2020) (on file with Committee).
[352] Office of Intelligence and Analysis, *Key Threats to the Homeland Through 2021* (IA-44764-20) (Oct. 1, 2020) (on file with Committee).
[353] Office of Intelligence and Analysis, *Diverse Domestic Violent Extremist Landscape Probably Will Persist Due to Enduring Grievances* (IA-47801-21) (Dec. 30, 2020) (on file with Committee).
[354] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022); Office of Intelligence and Analysis, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 2, 2022).
[355] Government Accountability Office, *Capitol Attack: Federal Agencies' Use of Open Source Data and Related Threat Products Prior to January 6, 2021* (GAO-22-105963) (May 2022).
[356] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[357] *Id.*

Although I&A did not issue any threat products related to January 6th, Director of the DHS Office of Operations Coordination Rear Admiral Christopher Tomney, who spoke with House Select Committee staff, stated that "there was broad discussion/acknowledgment that folks were calling for bringing weapons into the city on that day, so there was no surprise." Rear Admiral Tomney continued, "no one disagreed that there was going to be the high likelihood that there could be some violence on January 6."[358]

In addition, I&A had previously obtained intelligence indicating the potential for violence, as noted above in Section V. For example, an I&A Intelligence Operations Specialist on Dec. 21, 2020, identified online posts indicating "there was going to be [a] mass gathering which could be violent" on January 6th and "discussing the commission of acts of terroristic violence and the violent overthrowal of the United States Government."[359] However, the analyst alleged that I&A failed to formally document the threats in an Open Source Intelligence Report or to develop a Joint Intelligence Bulletin (JIB) with FBI and potentially the National Counterterrorism Center in time for January 6th, which the analyst stated was needed "to produce an accurate and unbiased report of the threat environment that would be used to fulfill our duty to warn and hopefully prevent any potential attack."[360] I&A has since stated that it increased its training for open-source intelligence collection, and implemented a process to expedite the review and publication of Open Source Intelligence Reports.[361]

On January 4th, I&A "identified seven observed or partially observed indicators of potential violence associated specifically with the protests planned for January 6," such as calls for protesters to come armed.[362] However, this information was only relayed to I&A leadership in a briefing the morning of January 6th, and it was not shared outside DHS.[363] Acting DHS Deputy Under Secretary for Intelligence Enterprise Operations Stephanie Dobitsch acknowledged that DHS did not issue a written product about that information before January 6th, arguing that the Department did not have enough time to draft, approve, and release such a product in advance of the 6th.[364]

In its March 2022 review, the DHS Office of Inspector General found that the tip I&A received on Dec. 21, 2020, regarding "an individual who threatened to shoot and kill protesters" was not included in a report because of security concerns with the unclassified system at I&A.[365] I&A did share some limited intelligence with its partners via email before January 6th, but as DHS-OIG noted, "sharing information via email does not disseminate information as widely as publishing intelligence products, which are posted on [the Homeland Security Information Network] and available to a broad range of state and local partners."[366]

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[358] Christopher Tomney, transcribed interview with House Select Committee (Apr. 14, 2022) (pg. 40).
[359] Letter from Intelligence Operations Specialist, Department of Homeland Security Office of Intelligence and Analysis (Aug. 20, 2021) (on file with Committee).
[360] *Id.*
[361] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[362] *Id.*
[363] *Id.*
[364] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 77).
[365] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[366] *Id.*

As the Committee's June 2021 staff report noted, in lieu of issuing threat products specific to the intelligence it was seeing related to January 6th, I&A officials at the time felt they had provided sufficient warnings in the preceding months.[367] In March 2021, then-Acting Under Secretary for I&A Melissa Smislova testified before this Committee that "[i]n retrospect, we may have been better off if we had considered sending out some kind of a terrorism bulletin, but we did not do that before January 6."[368] Referring to the 15 high-level threat reports I&A issued in the year before January 6th, Smislova testified, "[w]e thought that it was sufficient, and clearly it was not."[369] Likewise, Dobitsch – who "reviewed and approved every open source intelligence report that was disseminated by I&A prior to its dissemination" between summer 2020 and January 6th – stated that in hindsight, I&A should have issued a report about the open source intelligence it was seeing about the Capitol, noting that even without specific information about a credible threat, the heightened threat environment called for further dissemination of that information.[370] Similarly, Dobitsch acknowledged that a Joint Intelligence Bulletin "would have been valuable and would have contributed to a sense of urgency."[371]

I&A officials have also explained that another reason they did not issue more specific threat products ahead of January 6th was because of incorrect assumptions about what intelligence their partner agencies had and the nature of the threat itself. Dobitsch stated that she did not believe an intelligence product would have been helpful to I&A's law enforcement partners on January 6th because "the information we had at the time was something that I understood that Capitol Police and others also had access to to inform their mitigation efforts."[372] However, Dobitsch acknowledged "for us the miscalculation was that we believed that there was a common understanding across the U.S. Government, across our State and local partners" about the threat of violence.[373]

While declining to opine on whether January 6th was an intelligence failure, Smislova told Chairman Peters in her testimony at the Committee's March 3, 2021, hearing on the attack, that "it was not a success and we will do everything we can to make sure that what we know is better distributed and understood by our partners."[374] In a briefing with the Committee, I&A officials also told Committee staff that they assumed violence was likely to occur on January 6th, but they did not anticipate a small group of actors would exploit the larger protest to breach the

[367] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[368] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).
[369] *Id.*
[370] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pgs. 13, 58).
[371] *Id.* (pg. 69).
[372] *Id.* (pg. 68).
[373] *Id.* (pg. 69).
[374] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).

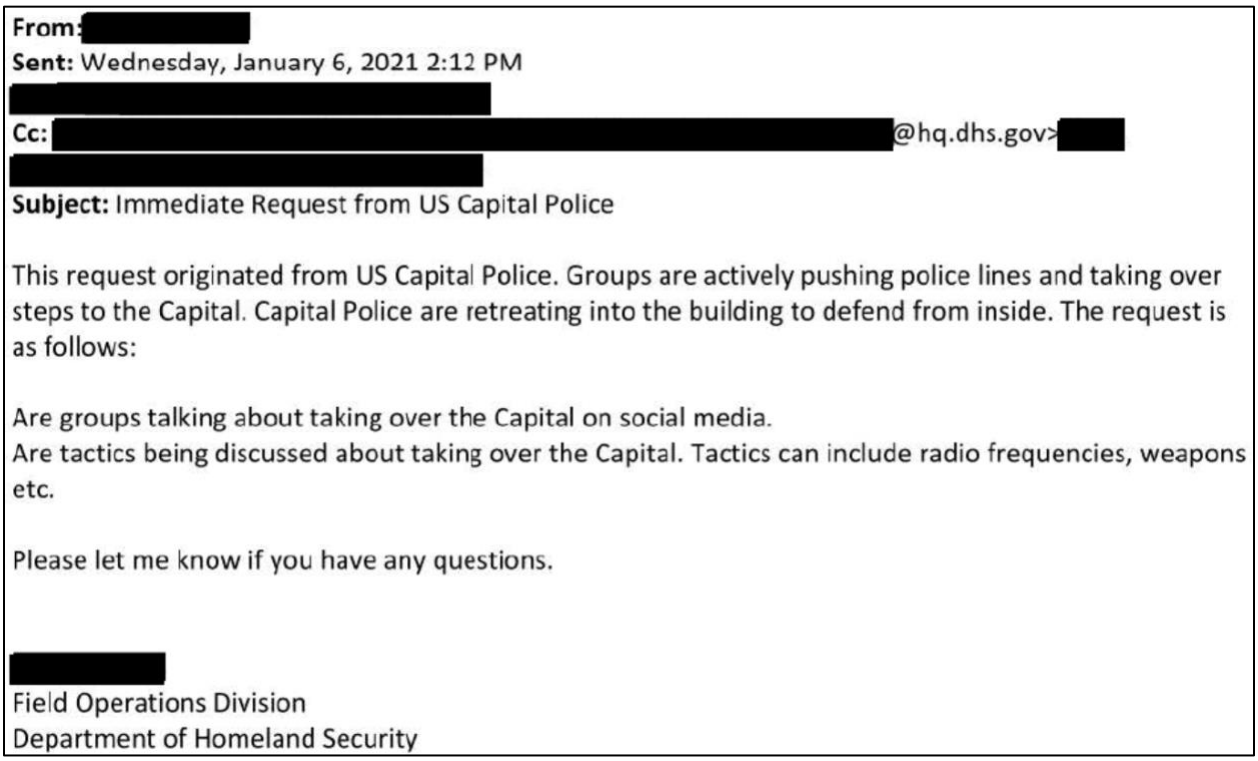
Capitol.[375] I&A open-source collectors similarly told DHS-OIG "that they did not think storming the U.S. Capitol was possible, and, therefore, they dismissed this specific type of threat as hyperbole."[376] However, these assumptions contradicted the assessment DHS distributed on January 3rd and 4th that stated, "I&A further judges that violent extremists or other actors could quickly mobilize to violence or generate violent disruptions of otherwise lawful protests in response to a range of issues, including possible disputes over the results of the US presidential election."[377]

2. Even during the attack on January 6th itself, I&A lacked urgency and failed to effectively share intelligence.

In addition to I&A's failure to issue any warnings in the lead-up to January 6th, this investigation also found that I&A failed to quickly and effectively share information with its federal partners even on January 6th itself, as it struggled to assess the credibility of the intelligence it had collected. DHS told the Committee that "I&A assigned two personnel the morning of January 6, 2021 to focus exclusively on potential threats of violence," with several other personnel assigned to "support and monitor threats" remotely.[378] DHS also told the Committee that "[s]hortly after the attacks on the U.S. Capitol began, I&A established a surge team of approximately 20 personnel to enhance information sharing, analytic production, and raw intelligence collection."[379] However, documents obtained by the Committee call into question the effectiveness of those efforts.

At 2:12pm on January 6th, after MPD had declared a riot and USCP had ordered a lockdown at the Capitol,[380] an I&A email noted that "[g]roups are actively pushing police lines and taking over steps to the Capital [sic]", and discussed an "immediate request" from USCP asking whether groups are "talking about taking over the Capital [sic] on social media" or discussing tactics.[381]

[375] Office of Intelligence and Analysis, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 2, 2022).
[376] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[377] Department of Homeland Security, *Preparations for Civil Disturbances - Week of 3 January 2021* (Jan. 3, 2021) (on file with Committee); Department of Homeland Security, *Preparations for Civil Disturbances - Week of 4 January 2021* (Jan. 4, 2021) (on file with Committee).
[378] Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021).
[379] *Id.*
[380] Letter from Mayor Muriel Bowser, District of Columbia, to Senator Gary Peters, Senator Rob Portman, *et al.* (Feb. 22, 2021); U.S. Capitol Police, *Timeline of Events for January 6, 2021 Attack* (on file with Committee).
[381] Email from Office of Intelligence and Analysis staff to Office of Intelligence and Analysis staff (Jan. 6, 2021).



From: [redacted]
Sent: Wednesday, January 6, 2021 2:12 PM
[redacted]
Cc: [redacted]@hq.dhs.gov> [redacted]
[redacted]
Subject: Immediate Request from US Capital Police

This request originated from US Capital Police. Groups are actively pushing police lines and taking over steps to the Capital. Capital Police are retreating into the building to defend from inside. The request is as follows:

Are groups talking about taking over the Capital on social media.
Are tactics being discussed about taking over the Capital. Tactics can include radio frequencies, weapons etc.

Please let me know if you have any questions.

[redacted]
Field Operations Division
Department of Homeland Security

Source: Email from I&A staff to I&A Staff (Jan. 6, 2021).

At 2:58pm, an I&A email stated, "[i]n the past 48 hours there has been significant chatter on the forum thedonald[.]win that was at the time considered to be hyperbole and as such protected speech. […] Other threads over the past 48 hours have called for more violent actions but at this time no credible information to pass on has been established."[382]

Five minutes later, the Director of the Current & Emerging Threats Center within I&A replied, "[p]lease ensure we are labeling these as DHS I&A Internal Only and that we are only passing information that meets reporting thresholds outside of I&A channels[.] Keep the info flowing within I&A, but ensure we are taking a step back before we share that information outside of I&A and keeping our authorities and thresholds in mind."[383]

[382] *Id.*
[383] *Id.*

Subject: RE: (U//FOUO) RE: Immediate Request from US Capital Police --- UNCLASSIFIED//FOR OFFICIAL USE ONLY//U.S. PERSON INFORMATION
Date: 2021/01/06 15:03:13
Priority: Normal
Type: Note

Thanks OSCO!

Please ensure we are labeling these as DHS I&A Internal Only and that we are only passing information that meets reporting thresholds outside of I&A channels

Keep the info flowing within I&A, but ensure we are taking a step back before we share that information outside of I&A and keeping our authorities and thresholds in mind.

V/R
[redacted]

[redacted]
Director
Current &Emerging Threats Center (CETC)
DHS Office of Intelligence and Analysis

Source: Email from I&A staff to I&A staff (Jan. 6, 2021).

I&A staff then asked for clarification about what intelligence could be sent to USCP in response to their immediate request, and I&A leadership replied, "info has to meet the I&A thresholds for reporting (same threshold needed for an IIR)."[384]

[384] *Id.*

Subject:	RE: (U//FOUO) RE: Immediate Request from US Capital Police --- UNCLASSIFIED//FOR OFFICIAL USE ONLY//U.S. PERSON INFORMATION
Date:	2021/01/06 15:10:46
Priority:	Normal
Type:	Note

[redacted] – info has to meet the I&A thresholds for reporting (same threshold needed for an IIR)

V/R
[redacted]

[redacted]
Director
Current &Emerging Threats Center (CETC)
DHS Office of Intelligence and Analysis
Desk: [redacted]
Cell: [redacted]
NSTS: [redacted]

From: [redacted]@hq.dhs.gov>
Sent: Wednesday, January 6, 2021 3:07 PM
To: [redacted]@hq.dhs.gov>; [redacted]@hq.dhs.gov>;
DHS [redacted]@hq.dhs.gov>; [redacted]
[redacted]@hq.dhs.gov>
Cc: [redacted]hq.dhs.gov>; [redacted]
[redacted]@hq.dhs.gov>
Subject: Re: (U//FOUO) RE: Immediate Request from US Capital Police --- UNCLASSIFIED//FOR OFFICIAL USE ONLY//U.S. PERSON INFORMATION

If this is the case please let me know what I can and cannot pass to LE partners. Specifically Cap PD.

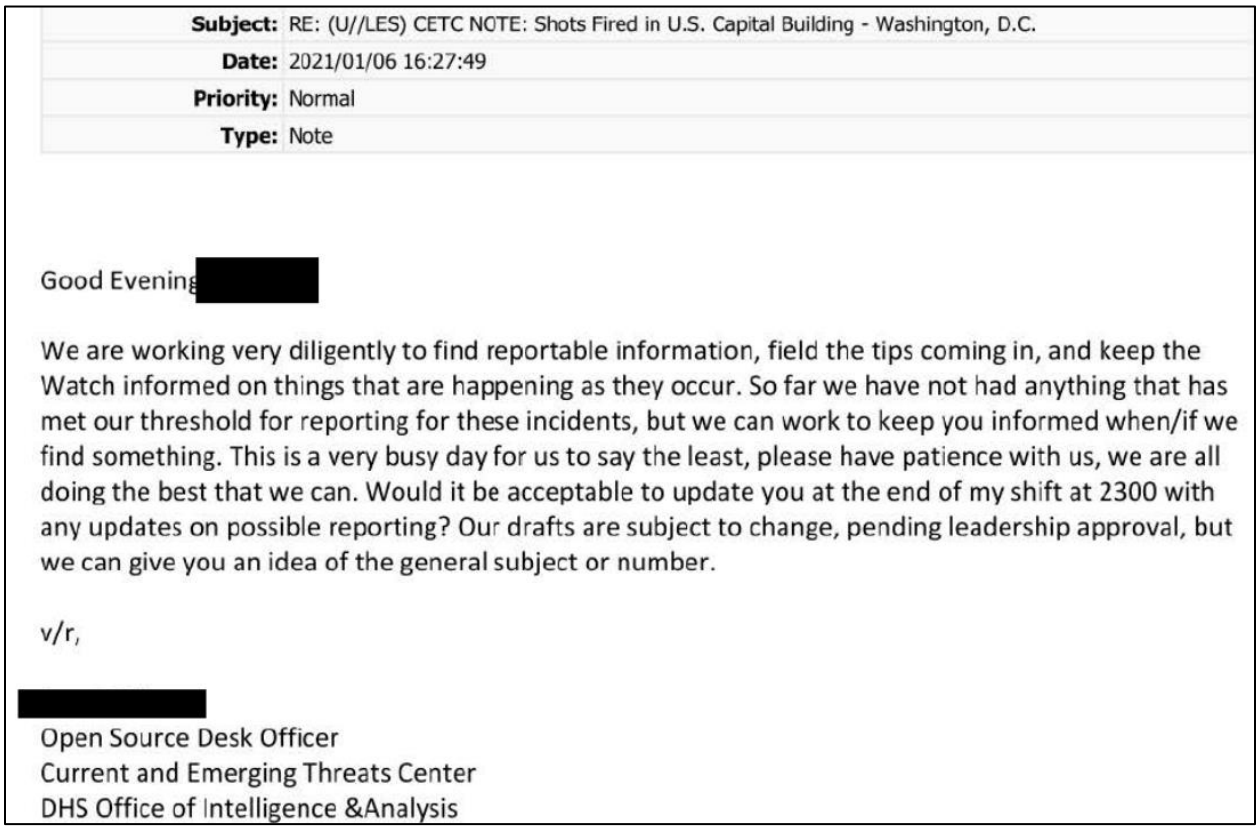
[redacted]
Field Operations Division
Department of Homeland Security

Source: Email from I&A staff to I&A staff (Jan. 6, 2021).

At 4:27pm, an I&A internal email stated:

> We are working very diligently to find reportable information, field the tips coming in, and keep the Watch informed on things that are happening as they occur. So far we have not had anything that has met our threshold for reporting these incidents, but we

can work to keep you informed when/if we find something. This is a very busy day for us to say the least, please have patience with us, we are all doing the best that we can.[385]



Subject: RE: (U//LES) CETC NOTE: Shots Fired in U.S. Capital Building - Washington, D.C.
Date: 2021/01/06 16:27:49
Priority: Normal
Type: Note

Good Evening [redacted]

We are working very diligently to find reportable information, field the tips coming in, and keep the Watch informed on things that are happening as they occur. So far we have not had anything that has met our threshold for reporting for these incidents, but we can work to keep you informed when/if we find something. This is a very busy day for us to say the least, please have patience with us, we are all doing the best that we can. Would it be acceptable to update you at the end of my shift at 2300 with any updates on possible reporting? Our drafts are subject to change, pending leadership approval, but we can give you an idea of the general subject or number.

v/r,

[redacted]
Open Source Desk Officer
Current and Emerging Threats Center
DHS Office of Intelligence &Analysis

Source: Email from I&A staff to I&A staff (Jan. 6, 2021).

An internal I&A timeline of these events shows that this exchange occurred ***after*** MPD had declared a riot, USCP had declared a lockdown at the Capitol, the "Capitol [had] been breached and people [were] outside the Senate Chamber," USCP had sent an "immediate request" for intelligence, the House of Representatives and Vice President had been evacuated, guns had been drawn inside the House chamber, shots fired had been reported, and Congressional "[M]embers [had] barricaded the entrance" to the House chamber.[386] Even after those events had transpired, I&A was still struggling to assess the credibility of threats against the Capitol and to report out its intelligence.

These documents also raise questions about the testimony given before the Committee in March 2021 by the DHS Acting Under Secretary that "[a]s the events of January 6th unfolded, I&A immediately established a crisis action team to monitor the situation, augment our intelligence posture, and facilitate information sharing with critical partners and DHS

[385] *Id.*
[386] Office of Intelligence and Analysis, *OSCO Reporting Roll Up: 6 January 2021 1100 – 1530* (Jan. 6, 2021) (on file with Committee).

leadership."[387] To the contrary, this investigation found that not only did I&A fail to sound the alarm before January 6th about the potential for violence, but even as the insurrection was unfolding in real time, the agency appears to have still failed to take immediate action and perform its duties to facilitate effective information sharing.

3. I&A's experiences in 2020 affected its ability to accurately assess the threat on January 6th.

In 2020, I&A faced criticism for abusing its intelligence collection authorities in the wake of racial justice demonstrations, including for collecting intelligence and issuing reports on journalists covering the demonstrations.[388] DHS reportedly "deployed helicopters, airplanes and drones over 15 cities where demonstrators gathered to protest the death of George Floyd, logging at least 270 hours of surveillance," and critics contended that DHS's aggressive tactics violated protesters' First Amendment rights.[389] DHS later conducted an internal review of I&A's activities during the Portland protests, and reported that "I&A leadership was particularly focused on the civil unrest in Portland, and everything relating to it was treated as being urgent."[390] The DHS report found that I&A collectors were pressured to find evidence to support management's conclusion about the Portland protests, such as by linking the protests to Antifa despite the fact that "overwhelming intelligence regarding the motivations or affiliations of the violent protesters did not exist."[391]

DHS investigators identified at least 34 Operational Background Reports (OBRs) that had been compiled on protesters who had been arrested in Portland. The DHS report found that the Acting Under Secretary of I&A at the time was "[c]onvinced that there was a coordinated effort to commit violence," and that his "intended purpose was to use the OBRs to confirm his suspicions that a link existed amongst the arrestees and identify a single individual or group that was 'masterminding' the attacks."[392] DHS's report stated the OBRs "essentially amounted to dossiers on [U.S. persons]" and were disseminated to government officials.[393] The DHS report

[387] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Testimony Submitted for the Record of Melissa Smislova, Office of Intelligence and Analysis, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).
[388] Department of Homeland Security, *Report on DHS Administrative Review into I&A Open Source Collection and Dissemination Activities During Civil Unrest: Portland, Oregon, June through July 2020* (Jan. 6, 2021) (on file with Committee); Zolan Kanno-Youngs and Marc Tracy, *Homeland Security Shuts Down 'Intelligence' Reports on Journalists*, New York Times (July 31, 2020); Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[389] Zolan Kanno-Youngs, *U.S. Watched George Floyd Protests in 15 Cities Using Aerial Surveillance*, New York Times (Jun. 19, 2020).
[390] Department of Homeland Security, *Report on DHS Administrative Review into I&A Open Source Collection and Dissemination Activities During Civil Unrest: Portland, Oregon, June through July 2020* (Jan. 6, 2021) (on file with Committee).
[391] *Id.*
[392] *Id.*
[393] *Id.*

also noted that I&A's intelligence collection activities during the Portland protests, including the OBRs, "ostensibly" supported a DHS mission to protect federal property.[394]

The DHS review also found that three reports about journalists were released improperly, and concluded that they were the result of "poorly thought-out and insufficiently resourced" Open Source Collection Operations, insufficient training and supervision of personnel, "deficiencies in the [intelligence] collectors' understanding of collection requirements," and "improper collection tradecraft."[395] The report also noted that collectors tended to "[collect] on any threat, even from those that appeared to be unlikely or from profiles with no other postings or information," and that "this practice of single use sources was contrary to traditional tradecraft in open source collection."[396] Another internal review found that many I&A products in the summer of 2020 did not meet the agency's reporting thresholds.[397]

In the wake of that experience in the summer of 2020, DHS-OIG found that I&A intelligence collectors experienced a "chilling effect" and were hesitant to report information, including related to January 6th.[398] Some open-source intelligence collectors at I&A reported to DHS-OIG that there was a "pendulum swing" following the events in 2020: "they thought almost anything was reportable during the Portland protests, but they were hesitant or fearful to report information related to January 6 events."[399] One I&A collector messaged a colleague on Jan. 3, 2021, stating, "there are threats [but] our threshold is just very high now," and another collector told DHS-OIG "the reporting threshold for domestic terrorism threats was so high that it made any open source reporting unfeasible."[400] The Acting Deputy Under Secretary at I&A told DHS-OIG that agency leadership "pushed collectors to report on anything related to violence" in the summer of 2020, but that changed under new I&A leadership later in 2020, when intelligence collectors were encouraged to issue reports "only when they were confident the threats were real." The I&A official told DHS-OIG that change "went too far and caused collectors to institute a very high threshold for reporting information."[401]

GAO issued a report with similar findings, noting that DHS acknowledged it had different reporting thresholds for the 2020 racial justice demonstrations and the January 6th attack, as the agency instructed collectors to focus on "true threats" or "incitement" in the lead-up to January 6th.[402] GAO concluded, "[e]stablishing this high level of confidence likely caused collectors to hold back threat information related to January 6."[403]

Much like FBI, DHS and I&A were also influenced by the MAGA protests in late 2020 that affected their work in the lead-up to January 6th, including the perception that the primary

[394] *Id.*
[395] *Id.*
[396] *Id.*
[397] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[398] *Id.*
[399] *Id.*
[400] *Id.*
[401] *Id.*
[402] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[403] *Id.*

threat would be violence between protesters and counter-protesters. In a January 3rd email to FBI Deputy Director David Bowdich, DHS stated "[t]here exists potential for violence between apposing [sic] protest groups this coming week (specifically on 5 and 6 Jan)."[404] On January 3rd and 4th, DHS sent a document titled "Preparations for Civil Disturbances - Week of 3 January 2021," noting that past demonstrations had led to violence between protesters and counter-protesters.[405] In the document, I&A provided only general warnings about the heightened threat environment nationwide.[406]

Despite all the available intelligence on the threats of violence at the Capitol, then-Acting DHS Secretary Chad Wolf said his "main concern" was violence between protesters and counter-protesters because of the experience of 2020.[407] Wolf stated, "I&A was not providing me anything that said it would be anything different than, again, the counter-protests, the violence that we had seen play out particularly in D.C. over the summer of 2020."[408] Dobitsch also stated that when her team at I&A evaluated the potential for violence, "[o]ur standing analytic line was that often the violence occurs against protesters and counterprotesters and against law enforcement," and therefore when D.C. Mayor Bowser called for a lighter law enforcement footprint and for counter-protesters not to attend, that had a "major" influence on I&A's analysis of the likelihood for violence.[409]

VII. FBI AND I&A FAILED TO FOLLOW THEIR OWN POLICIES AND GUIDELINES TO EFFECTIVELY USE OPEN-SOURCE INTELLIGENCE

This investigation found that not only are FBI and I&A empowered to use open-source information such as social media to monitor and disrupt potential violence and domestic terrorism (with specific safeguards in place to protect civil liberties), but in fact, these agencies' own guidelines ***require*** them to utilize such information in certain circumstances – and they failed to do so effectively in the lead-up to January 6th.

A. FBI

1. FBI leadership mischaracterized the Bureau's authorities to monitor social media.

In the immediate aftermath of the January 6th attack, FBI faced criticism for failing to take action based on threats and violent rhetoric that were made openly on social media. FBI has repeatedly countered that criticism by claiming it was prevented from utilizing social media information. At the Committee's March 2021 hearing, Sanborn testified that FBI "cannot collect First Amendment protected activities" without an existing predicated investigation or a tip or

[404] Email from Rear Admiral Christopher Tomney, Department of Homeland Security, to Deputy Director David Bowdich, Federal Bureau of Investigation (Jan. 3, 2021).
[405] Department of Homeland Security, *Preparations for Civil Disturbances - Week of 3 January 2021* (Jan. 3, 2021) (on file with Committee); Department of Homeland Security, *Preparations for Civil Disturbances - Week of 4 January 2021* (Jan. 4, 2021) (on file with Committee).
[406] *Id.*
[407] Chad Wolf, transcribed interview with House Select Committee (Jan. 21, 2022) (pg. 31).
[408] *Id.* (pgs. 47-48).
[409] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 70).

report from a citizen or law enforcement agency. Sanborn was then asked to clarify:

> Q: So the FBI does not monitor publicly available social media conversations?
>
> A: Correct, ma'am. It's not within our authorities.[410]

However, that is an exaggeration of the limits on FBI's authorities – in fact, DOJ and FBI policies and guidelines require FBI to consider open-source information, including on social media. As discussed in Section IV, FBI's DIOG allows employees to "conduct Internet searches of 'publicly available information' for authorized purposes," which includes proactive Internet searches.[411] The Attorney General's Guidelines (AGG) also states that assessment activities "may involve proactively surfing the Internet to find publicly accessible websites and services through which recruitment by terrorist organizations and promotion of terrorist crimes is openly taking place."[412]

In response to written questions from the Committee, FBI described its efforts to collect open-source intelligence in the lead-up to January 6th and confirmed that it "had an open assessment that, under our investigative guidelines, gave us authority to identify, obtain, and utilize information about actual or potential national security threats, federal criminal activities or the vulnerability to such threats or activities."[413] The Committee also asked FBI whether it was unable to obtain or utilize any intelligence or information due to restrictions under federal law or agency guidelines, but FBI's response only described its general efforts and did not indicate whether it was prevented from utilizing any intelligence or information.[414]

FBI's failure to more proactively disseminate open-source intelligence in the lead-up to January 6th, and statements by DOJ and FBI officials after the attack, were inconsistent with agency guidelines.

2. FBI personnel conflated agency policies and failed to follow internal procedures for reporting information.

In statements since January 6th, Moore conflated FBI standards for what type of information is actionable for further investigation (a higher standard) versus what is merely reportable (a lower standard). For example, in an interview with the House Select Committee, Moore stated that WFO chose to not issue an intelligence product such as an SIR related to the open-source intelligence it was seeing regarding the Capitol tunnels system because those online

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[410] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).
[411] Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (2021) (https://vault.fbi.gov/FBI%20Domestic%20Investigations%20and%20Operations%20Guide%20%28DIOG%29/fbi-domestic-investigations-and-operations-guide-diog-2021-version).
[412] Department of Justice, *The Attorney General's Guidelines for Domestic FBI Operations* (Sep. 29, 2008) (https://www.justice.gov/archive/opa/docs/guidelines.pdf).
[413] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[414] *Id.*

communications were First Amendment-protect speech "that weren't specific threats or actionable intelligence."[415] Likewise, Moore stated that FBI did not issue a report about the rhetoric it was seeing regarding people storming the Capitol because "[i]t has to not just be First Amendment speech. It has to be actionable."[416] But as Moore herself explained, the higher standards that require specificity or credibility are only for FBI to take further investigative action such as conducting an interview, and those higher standards do not apply to FBI's decision to disseminate the intelligence to its partners in a report, even when the information is not specific, has not been deemed credible, or is protected by the First Amendment.[417]

GAO also found that FBI did not always follow its own policies for processing and reporting tips. For example, the FBI Counterterrorism Division obtained tips "from Parler from late November 2020 through January 6, 2021, including information regarding potential violence at January 6 events," but the Counterterrorism Division did not develop Guardian entries because it determined the information was not credible.[418] However, FBI policy requires every tip received to be logged into the Guardian system as long as it meets an "authorized purpose" for investigation, regardless of credibility or whether the tip was further investigated.[419] This was also the same Guardian system that Moore claimed enabled FBI to assess the broader threat by viewing all tips received related to January 6th (as described above in Section V), yet the system did not contain all of the January 6th-related tips that it should have. As GAO noted, "[i]f the FBI does not process tips or information according to policy and procedures, information can get lost or may not be developed into threat products that the FBI can share with partners."[420] GAO reported that FBI is in the process of assessing its protocols to make improvements following January 6th.[421]

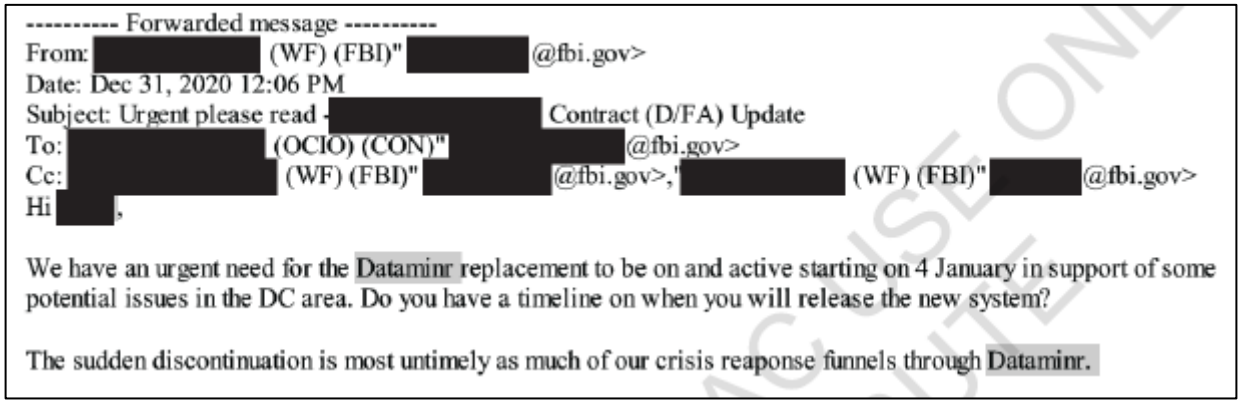
3. <u>FBI's change in contracts left it without a key social media monitoring tool just days before the attack.</u>

This investigation found that FBI's efforts to effectively detect threats on social media in the lead-up to January 6th were hampered by the Bureau's change in contracts mere days before the attack. Prior to 2021, FBI contracted with the company Dataminr that used pre-defined search terms to identify potential threats from voluminous open-source posts online, which FBI could then investigate further as appropriate.[422] Effective Jan. 1, 2021, FBI's contract for these services switched to a new company called ZeroFox that would perform similar functions under a new system.[423] Internal FBI communications obtained by the Committee show how that

[415] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 60).
[416] *Id.* (pg. 65).
[417] *Id.* (pgs. 24-25, 28-29, 33, 59, 81).
[418] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[419] *Id.*; Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 28-29, 33, 81).
[420] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[421] *Id.*
[422] Federal Bureau of Investigation, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Nov. 18, 2021); Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[423] *Id.*

transition caused confusion and concern as the Bureau's open-source monitoring capabilities were degraded less than a week before January 6th.

On Dec. 31, 2020 – the last day of the contract with Dataminr –WFO sent an email to the FBI Office of the Chief Information Officer (OCIO), stating, "[w]e have an urgent need for the Dataminr replacement to be on and active starting on 4 January in support of some potential issues in the DC area. Do you have a timeline on when you will release the new system? The sudden discontinuation is most untimely as much of our crisis response funnels through Dataminr."[424]



---------- Forwarded message ----------
From: [redacted] (WF) (FBI)" [redacted]@fbi.gov>
Date: Dec 31, 2020 12:06 PM
Subject: Urgent please read - [redacted] Contract (D/FA) Update
To: [redacted] (OCIO) (CON)" [redacted]@fbi.gov>
Cc: [redacted] (WF) (FBI)" [redacted]@fbi.gov>,"[redacted] (WF) (FBI)" [redacted]@fbi.gov>
Hi [redacted],

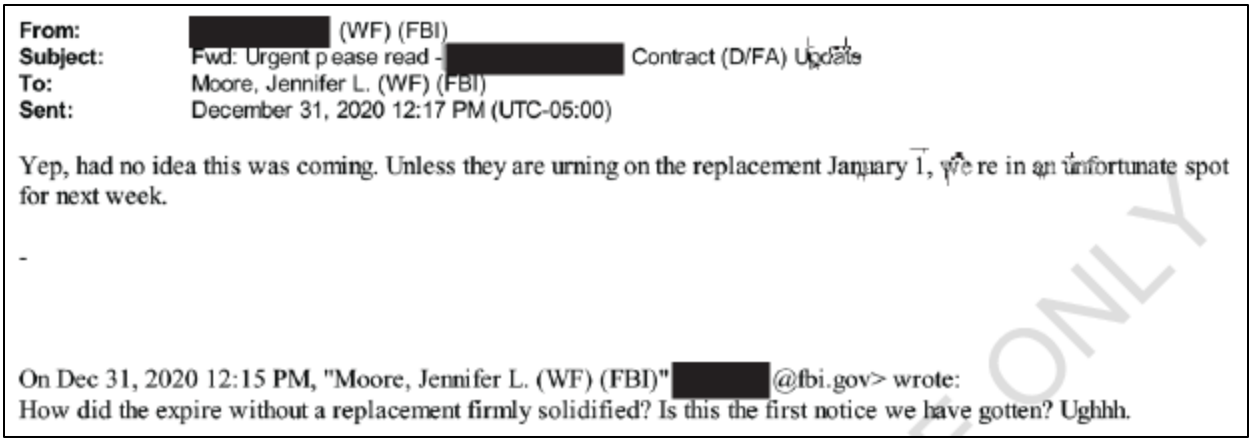
We have an urgent need for the Dataminr replacement to be on and active starting on 4 January in support of some potential issues in the DC area. Do you have a timeline on when you will release the new system?

The sudden discontinuation is most untimely as much of our crisis reaponse funnels through Dataminr.

Source: Email from FBI-WFO staff to FBI-OCIO staff (Dec. 31, 2020).

After that email was forwarded to her, Moore replied, "How did the [sic] expire without a replacement firmly solidified? Is this the first notice we have gotten? Ughhh."[425] WFO staff then replied to Moore and stated, "Yep, had no idea this was coming. Unless they are [turning] on the replacement January 1, we're in an unfortunate spot for next week."[426]

[424] Email from Federal Bureau of Investigation Washington Field Office staff to Federal Bureau of Investigation Office of the Chief Information Officer staff (Dec. 31, 2020).
[425] *Id.*
[426] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Dec. 31, 2020).



From: [redacted] (WF) (FBI)
Subject: Fwd: Urgent p ease read - [redacted] Contract (D/FA) Updats
To: Moore, Jennifer L. (WF) (FBI)
Sent: December 31, 2020 12:17 PM (UTC-05:00)

Yep, had no idea this was coming. Unless they are urning on the replacement January 1, we re in an unfortunate spot for next week.

-

On Dec 31, 2020 12:15 PM, "Moore, Jennifer L. (WF) (FBI)" [redacted]@fbi.gov> wrote:
How did the expire without a replacement firmly solidified? Is this the first notice we have gotten? Ughhh.

Source: Email from FBI-WFO staff to Jennifer Moore, FBI-WFO (Dec. 31, 2020).

That evening, WFO staff emailed Moore with their "thoughts on the loss of Dataminr."[427] WFO noted that Dataminr had "allowed us to be proactive and stay aware of current events" amid violent incidents in recent months, as it allowed FBI employees to "quickly access threat reporting without needing to be an expert. Their key term search allows Intel to enter terms we are interested in without having to constantly monitor social media as we'll receive notification alerts when a social media posts [sic] hits on one of our key terms," and described those alerts as "crucial."[428] WFO raised concern about the loss of Dataminr at that moment:

> All field office employees working command posts and any incident are already trained on Dataminr and have access allowing immediate monitoring in the command post. In light of events of next week, WFO is concerned there will not be enough time to get all employees trained on a new tool and access by this coming week and probably not for the Inauguration. […] The amount of time saved combing through endless streams of social media is spent liaising with partners and collaborating and supporting operations. We will lose time if we do not have a social media tool and will have to resort to scrolling through social media looking for concerning posts.[429]

[427] *Id.*
[428] *Id.*
[429] *Id.*

From: [redacted] (WF) (FBI)
Subject: Dataminr
To: Moore, Jennifer L. (WF) (FBI)
Sent: December 31, 2020 6:12 PM (UTC-05:00)

Here are our thoughts on the loss of Dataminr and specifically any social media tool due to upcoming events in the WFO AOR:

WFO will be monitoring and working the First Amendment activities in DC in the next week. Throughout this year and especially in November and December we saw a number of violent incidents to include stabbings, assaults, and fireworks thrown. Intel received first hand information of these incidents via real time open source reporting pushed out through Dataminr. This tool has allowed us to be proactive and stay aware of current events.

Accounts and Training:
All field office employees working command posts and any incident are already trained on Dataminr and have access allowing immediate monitoring in the command post. In light of the events of next week, WFO is concerned there will not be enough time to get all employees trained on a new tool and access by this coming week and probably not for the Inauguration.

Time:
The amount of time saved combing through endless streams of social media is spent liaising with partners and collaborating and supporting operations. We will lose this time if we do not have a social media tool and will have to revert to scrolling through social media looking for concerning posts.

Access:
Dataminr is user friendly and does not require an expertise in social media exploitation. This allows for any IA or SOS who work the Command Posts to quickly access threat reporting without needing to be an expert. Their key term search allows Intel to enter terms we are interested in without having to constantly monitor social media as we'll receive notification alerts when a social media posts hits on one of our key terms/ The notification alerts are crucial so that the IAs and SOSs can spend time running baselines and liaising without having to constantly be monitoring social media.

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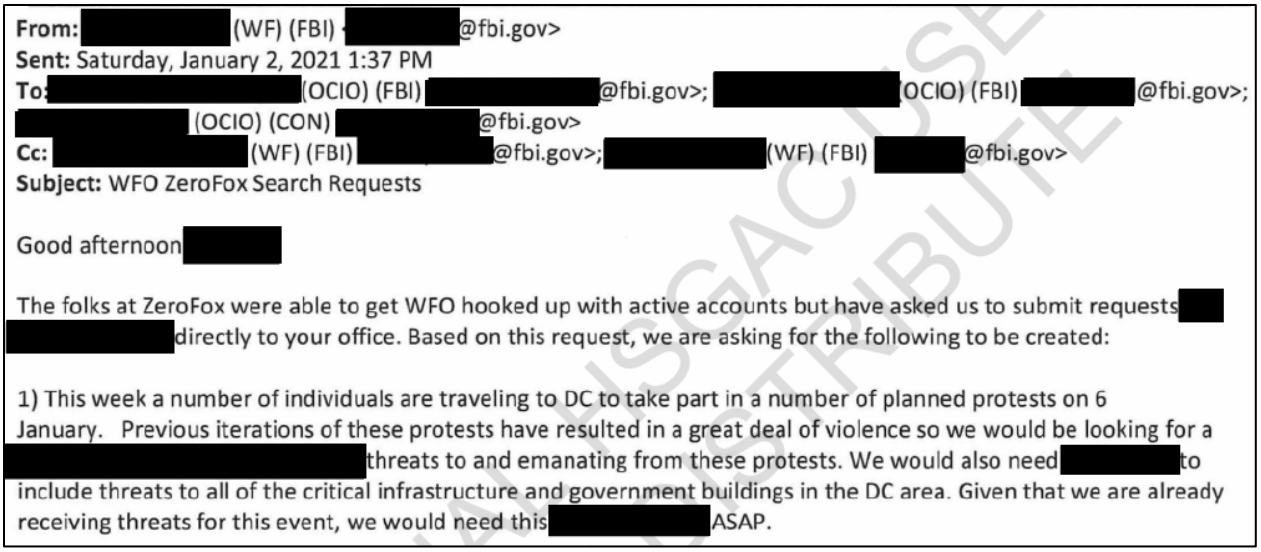
NOT FOR DISTRIBUTE

Source: Email from FBI-WFO staff to Jennifer Moore, FBI-WFO (Dec. 31, 2020).

After the new contract with ZeroFox went into effect on Jan. 1, 2021, internal emails show that WFO personnel were still concerned about operability. In a January 2nd email from the WFO Intelligence Response Team to FBI-OCIO, WFO said that ZeroFox had created accounts for WFO personnel but they had not yet set up the automated searches that WFO relied on.[430] WFO noted the upcoming protests on January 6th and stated, "[p]revious iterations of these protests have resulted in a great deal of violence […] Given that we are already receiving threats for this event, we would need this [redacted] ASAP."[431] WFO forwarded that email to Moore that night, stating: "again just to keep you in the loop on the social media aspect. We have accounts but the searches are not set up yet."[432]

[430] Email from Federal Bureau of Investigation Washington Field Office Intelligence Response Team staff to Federal Bureau of Investigation Office of the Chief Information Officer staff (Jan. 2, 2021).
[431] *Id.*
[432] Email from Federal Bureau of Investigation Washington Field Office staff to Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 2, 2021).



From: [redacted] (WF) (FBI) [redacted]@fbi.gov>
Sent: Saturday, January 2, 2021 1:37 PM
To: [redacted] (OCIO) (FBI) [redacted]@fbi.gov>; [redacted] (OCIO) (FBI) [redacted]@fbi.gov>; [redacted] (OCIO) (CON) [redacted]@fbi.gov>
Cc: [redacted] (WF) (FBI) [redacted]@fbi.gov>; [redacted] (WF) (FBI) [redacted]@fbi.gov>
Subject: WFO ZeroFox Search Requests

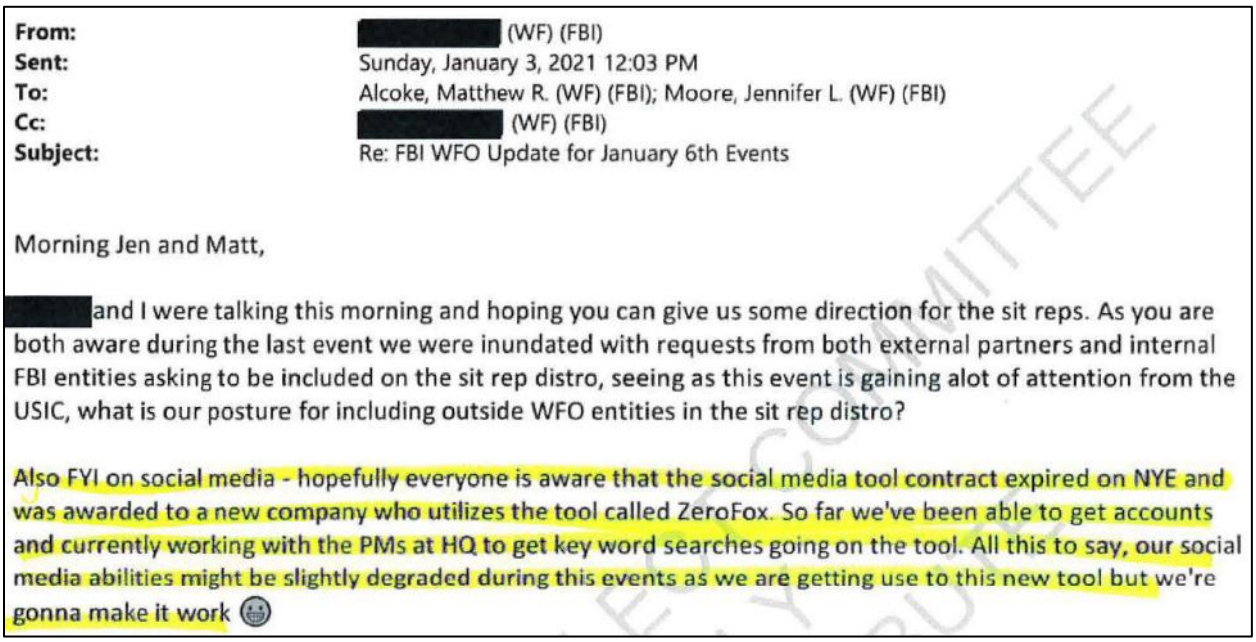
Good afternoon [redacted]

The folks at ZeroFox were able to get WFO hooked up with active accounts but have asked us to submit requests [redacted] directly to your office. Based on this request, we are asking for the following to be created:

1) This week a number of individuals are traveling to DC to take part in a number of planned protests on 6 January. Previous iterations of these protests have resulted in a great deal of violence so we would be looking for a [redacted] threats to and emanating from these protests. We would also need [redacted] to include threats to all of the critical infrastructure and government buildings in the DC area. Given that we are already receiving threats for this event, we would need this [redacted] ASAP.

Source: Email from FBI-WFO Intelligence Response Team staff to FBI-OCIO staff (Jan. 2, 2021).

On January 3rd, WFO staff emailed Moore and WFO official Matthew Alcoke an update on the ZeroFox transition, stating that WFO was working with ZeroFox to start the automated searches. WFO then said, "[a]ll this to say, our social media abilities might be slightly degraded during this events [sic] as we are getting use [sic] to this new tool but we're gonna make it work."[433]



From: [redacted] (WF) (FBI)
Sent: Sunday, January 3, 2021 12:03 PM
To: Alcoke, Matthew R. (WF) (FBI); Moore, Jennifer L. (WF) (FBI)
Cc: [redacted] (WF) (FBI)
Subject: Re: FBI WFO Update for January 6th Events

Morning Jen and Matt,

[redacted] and I were talking this morning and hoping you can give us some direction for the sit reps. As you are both aware during the last event we were inundated with requests from both external partners and internal FBI entities asking to be included on the sit rep distro, seeing as this event is gaining alot of attention from the USIC, what is our posture for including outside WFO entities in the sit rep distro?

Also FYI on social media - hopefully everyone is aware that the social media tool contract expired on NYE and was awarded to a new company who utilizes the tool called ZeroFox. So far we've been able to get accounts and currently working with the PMs at HQ to get key word searches going on the tool. All this to say, our social media abilities might be slightly degraded during this events as we are getting use to this new tool but we're gonna make it work

Source: Email from FBI-WFO staff to Matthew Alcoke and Jennifer Moore, FBI-WFO (Jan. 3, 2021).

In response to written questions from the Committee, FBI stated that the transition from Dataminr to ZeroFox days before January 6th "was a challenge" and "was not ideal. […] This

[433] Email from Federal Bureau of Investigation Washington Field Office staff to Matthew Alcoke and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 3, 2021).

temporarily required the use of different tools and the assignment of additional analysts to satisfy investigative needs when ZeroFox was initially implemented."[434] In a separate written statement to the Committee, Moore also addressed the contract transition, stating: "Although this transition – and its timing – was a challenge for WFO, my team was absolutely focused on any actionable intelligence that was being posted online."[435] However, when asked by the House Select Committee about whether the change affected FBI's ability to monitor for threats on social media, Moore stated, "[i]t absolutely changed how we looked at social media. So this was beyond not the ideal time for this to occur, but in government contracting and contracting changes, you can't predict the future and when that change is going to happen. I would have preferred it not to have occurred in this moment, without a doubt."[436] Moore further explained that the change required FBI to use more analysts to search social media manually, which was "more laborious."[437]

Former FBI Deputy Director Bowdich also spoke to these challenges. After noting that the volume of tips and leads generated from social media was "off the charts" and that social media was one of FBI's "greatest challenges," Bowdich stated that he did not recall whether there was any loss of operational capability as a result of the contract switch, but noted that "the rollout is oftentimes where you will see challenges any time you switch to a new system."[438]

It should also be noted that even if FBI had not been anticipating widespread violence on January 6th – which, as demonstrated in Section V, should not have been the case – FBI was also in the midst of preparing for the Presidential Inauguration on January 20th, raising further concerns about FBI's decision to migrate its contract for social media intelligence less than 3 weeks before a National Special Security Event.

B. I&A

1. I&A personnel misinterpreted agency guidance and incorrectly believed they could not report open-source threat information.

As the Committee's June 2021 staff report found, I&A struggled to distinguish between overt threats and mere rhetoric on social media.[439] This investigation further found that I&A personnel misapplied agency guidelines on how to assess the credibility of threats and which threats should be reported.

In a review of I&A's intelligence actions related to January 6th, DHS-OIG reported that I&A failed to follow DHS guidance on reporting open-source information in the lead-up to the

[434] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[435] Jennifer Moore, statement provided to Senate Committee on Homeland Security and Governmental Affairs (Nov. 28, 2022).
[436] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 122).
[437] *Id.* (pg. 123).
[438] David Bowdich, transcribed interview with House Select Committee (Dec. 16, 2021) (pgs. 69, 78-80).
[439] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).

attack.[440] According to the guidance, I&A intelligence collectors may report information in intelligence products if the information:

- contains true threats or incitement to violence, and not hyperbole;
- provides information that enhances I&A's understanding of known threat actors; ***or***
- includes information that demonstrates a risk of violence during a heightened threat environment.[441]

In other words, as DHS-OIG reported, I&A collectors may report information from social media if the information "enhances I&A's understanding of known threat actors, even if the information does not include true threats or incitement."[442] However, I&A collectors categorized online statements regarding January 6th as hyperbole and believed that "they could not report the information and did not consider whether it met either of the other two criteria for open source intelligence reporting."[443]

One such online statement that I&A collectors obtained was that of an "individual [who] suggested storming the U.S. House of Representatives chamber in the U.S. Capitol and mentioned grievances about police in Washington, D.C." The I&A collectors decided this statement was hyperbole and therefore did not report it, without considering whether it would enhance understanding of threat actors or demonstrated a risk of violence.[444] I&A collectors also believed they could not report the information they had observed regarding people "talking about storming Congress, bringing guns, willing to die for the cause, [and] hanging politicians with ropes," because, as DHS-OIG reported, they did not believe the information met I&A's reporting threshold.[445] In a separate review, GAO also found I&A failed to issue reports based on intelligence it had obtained regarding potential violence on January 6th because I&A collectors determined the threats were not credible – but I&A personnel did not follow internal procedures for assessing credibility, nor procedures for sharing intelligence.[446]

DHS-OIG attributed the failures to inexperienced open source collectors and inadequate training on I&A guidelines.[447] OIG noted that in the months leading up to January 6th, I&A "rapidly hired inexperienced open source collectors […] mostly at entry level positions, with many not having Federal government or intelligence experience." On January 6th, 16 out of 21 collectors had less than 1 year of experience.[448] OIG also found that I&A did not provide adequate training to open-source intelligence collectors and did not sufficiently define reporting thresholds, resulting in collectors being unsure about what information should be reported.[449] In

[440] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[441] *Id.* Emphasis added.
[442] *Id.*
[443] *Id.*
[444] *Id.*
[445] *Id.*
[446] Government Accountability Office, *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021* (GAO-23-106625) (Feb. 2023).
[447] Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[448] *Id.*
[449] *Id.*

a July 2022 follow-up report, DHS-OIG found that I&A had taken steps to implement the March 2022 report's recommendations, including by enhancing training provided to open source collectors.[450]

Dobitsch reinforced these findings, acknowledging in an interview with the House Select Committee that after the events of the summer of 2020, "there was a lot of confusion" about I&A's reporting guidelines and that the training provided to I&A staff "was not clear."[451] Dobitsch confirmed that I&A's open source intelligence collectors were trained only to report open source information related to "true threats and incitement," and were not instructed to consider whether information met I&A's other two criteria for reporting, which includes information that "enhances I&A's understanding of known threat actors" or information that "demonstrates a risk of violence during a heightened threat environment."[452] Dobitsch stated that this change after the summer of 2020 "reduced the information from which we would report on compared to the summer," calling it "a significant narrowing of scope of mission."[453] Dobitsch told the House Select Committee that "since January 6th, the guidance has now changed back to an increased focus on what we would call risk and vulnerabilities rather than just true threats and incitement."[454]

VIII. LACK OF COORDINATION AMONG FEDERAL AGENCIES CONTRIBUTED TO THE FAILURES ON JANUARY 6TH

A. Officials Disagreed as to Which Agency was Designated as the Federal Lead

As the Committee's June 2021 staff report found, DOD officials told the Committee that it was their understanding that DOJ was designated as the lead federal agency. For example, former Secretary of the Army Ryan McCarthy told the Committee that the White House designated DOJ as the lead federal agency on January 4th.[455] However, former Acting Attorney General Rosen testified that it was not accurate that DOJ was the lead federal agency.[456] This investigation further found that officials across multiple agencies disagreed or were confused as to who was serving as the lead agency for January 6th.

In a January 2nd email from WFO Assistant Director in Charge Steven D'Antuono to WFO officials Matthew Alcoke and Jennifer Moore, D'Antuono wrote that the FBI Deputy Director wanted updated intelligence about January 6th, stating:

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[450] Department of Homeland Security Office of Inspector General, *The Office of Intelligence and Analysis Needs to Improve Its Open Source Intelligence and Reporting* (OIG-22-50) (Jul. 6, 2022).
[451] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 31).
[452] *Id.* (pg. 29); Department of Homeland Security Office of Inspector General, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach* (OIG-22-29) (Mar. 4, 2022).
[453] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 42).
[454] *Id.* (pg. 29).
[455] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[456] *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, Hearing before the H. Comm. On Oversight and Reform, 117th Cong. (2021).

> What I could gather from the Deputy is that the focus is no one knows what is going to happen and that scares them so they want to know what the intel is and plan accordingly but that is tough because there really is no centralized role in this for Defense or the Federal government components. This sits squarely in MPD's realm. I'm trying to tamp this down with the Deputy like I have the last couple of protests but this one may be different.[457]

From: D'Antuono, Steven Michael (WF) (FBI)
Sent: Saturday, January 2, 2021 8:15 PM
To: Alcoke, Matthew R. (WF) (FBI); Moore, Jennifer L. (WF) (FBI)
Subject: Re: The 6th

What I could gather from the Deputy is that the focus is no one knows what is going to happen and that scares them so they want to know what the intel is and plan accordingly but that is tough because there really is no centralized role in this for Defense or the Federal government components. This sits squarely in MPD's realm. I'm trying to tamp this down with the Deputy like I have the last couple of protests but this one may be different. I think we should at least prepare to have the lite command post in the CP and not on the [redacted] I get the impression that some parts of our government will want to be in a CP or at least getting the intel we are pushing out (i.e. what we had to deal with the last time and the JCS wanting our SitReps). I didn't get the impression the Deputy wanted to stand something up in SIOC that is why he was mentioning it to me to do which I agree it is ours to handle not HQ's.

Steven M. D'Antuono
Assistant Director in Charge
FBI – Washington Field Office
[redacted](mobile)
(office)

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Source: Email from Steven D'Antuono, FBI-WFO, to Matthew Alcoke and Jennifer Moore, FBI-WFO (Jan. 2, 2021).

Alcoke then replied:

> Got it, and thanks for trying to ramp down. Since (as you know) we're mostly just packaging and passing along intel and observations from our partners, some of the DoD or fed components may be better suited going direct with MPD, USPP, and USCP; especially since our re-packing and passing along their info could put us in a tough spot. But we'll do what we can, as I realize *managing* what the elephant sees and hears

[457] Email from Steven D'Antuono, Federal Bureau of Investigation Washington Field Office, to Matthew Alcoke and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 2, 2021).

is sometimes the best way to control the elephant's movements (that's the bigger fed elephant, not the DD!!).[458]

From: Alcoke, Matthew R. (WF) (FBI)
Subject: Re: The 6th
To: D'Antuono, Steven Michae (WF) (FBI); Moore, Jennifer L. (WF) (FBI)
Sent: January 2, 2021 8:27 PM (UTC-05:00)

Got it, and thanks for trying to ramp down. Since (as you know) we re mostly just packaging and passing along intel and observations from our partners, some of the DoD or fed components may be better suited going direct with MPD, USPP, and USCP; especially since our re-packaging and passing along their info could put us in a tough spot. But we ll do what we can, as I realize ***managing*** what the elephant sees and hears is sometimes the best way to control the elephant s movements (that s the bigger fed elephant, not the DD!!).

--Matt

Matthew R. Alcoke
Special Agent in Charge
FBI | Washington Field Office
CT & Criticial Incident Mgt Division

Source: Email from Matthew Alcoke, FBI-WFO, to Steven D'Antuono and Jennifer Moore, FBI-WFO (Jan. 2, 2021).

As this exchange reveals, just four days before January 6th, the federal agencies were still sorting out who had what roles, and FBI and WFO were trying to downplay expectations that they would take the lead for assessing and sharing intelligence.

FBI Deputy Director Bowdich similarly did not see FBI as serving as the lead federal agency. Bowdich stated that he could not recall any conversation within DOJ or with any DOD officials about who the lead federal agency would be.[459] Bowdich explained that his understanding from the January 4th interagency call with DOD was that FBI would be the lead for intelligence, the Command Post, any criminal investigations, and tactical support and response as appropriate – but Bowdich contended that did not necessarily mean FBI was the "lead agency," which was not a term FBI typically used.[460] Bowdich stated that he believed it would be problematic to designate a lead federal agency over local agencies, but "[i]n terrorism, the FBI absolutely needs to continue to be the lead on that. I'm firm with that, and I recognize that comes with responsibilities. But the reason is, there's so much intelligence that if you created additional structures […] You could have misconnections. You could have competition. You should not have that, especially in terrorism, because it could be very, very dangerous."[461]

As noted above, then-Acting Attorney General Rosen stated he had not heard of anyone designating DOJ the lead agency and he did not know why DOD thought that, because that

[458] Email from Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, to Steven D'Antuono and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 2, 2021). Moore later stated that Alcoke was not in charge of intelligence and that he used a "laymen's term" and "inappropriate wording" to describe FBI-WFO's efforts (Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pg. 21)).
[459] David Bowdich, transcribed interview with House Select Committee (Dec. 16, 2021) (pg. 94-95).
[460] *Id.* (pg. 95-96).
[461] *Id.* (pg. 129).

would obfuscate the lead role other agencies had in other areas.[462] Donoghue took a similar position as Rosen, telling the Committee that no one at the White House ever told him – or, to his knowledge, anyone at DOJ – that DOJ had been designated the lead agency.[463]

In an interview with the Committee, Donoghue said that on the January 3rd interagency call, DOD asked for a civilian agency lead for the events in D.C., but DOJ stated it was not prepared to assume that role.[464] According to Donoghue, DOJ also made clear on the January 4th interagency call that DOJ and FBI would take the lead on intelligence, the Command Post, and any criminal investigations, but not "street operations" law enforcement – and that DOJ could not serve as the overall lead agency.[465]

While not explicitly calling for a lead agency, former Acting U.S. Attorney Sherwin acknowledged that the coordination between agencies was not clear. Sherwin stated that "the biggest takeaway I would take from a leadership perspective was there was a lot of confusion," noting that DOD and DOJ had to coordinate assets, federal agencies and the D.C. city government had to keep open lines of communication, and there were "uncertainties" about how the various agencies cooperated and who was in charge.[466] Sherwin further stated:

> […] having lived through 2020 and then January 2021, in general, I think there is a lot of confusion about the interplay between DOD and DOJ, and there is probably still confusion as we sit here today. And there was a hell of a lot of confusion in the summer of 2020 and a hell of a lot of confusion on January 6th. And I don't know if there is any less confusion now. That has to be resolved. How you work together? Who is the final decisionmaker in a critical situation like that?[467]

DHS officials also had different impressions of who was in charge. Then-Acting DHS Secretary Wolf stated that while he was not aware of any conversation that explicitly clarified who was the lead agency, he recalled (contrary to the assessments of DOD stated above) that DOD was serving in that role, as they were coordinating and setting the agenda for agency partner calls and "quarterbacking the situation and the response."[468] Wolf further stated, "it was clear that DOD was taking charge for, you know, what was leading up to and then eventually became the events of January 6th."[469] Yet Ken Cuccinelli, who was performing the duties of DHS Deputy Secretary at the time, stated that it was his understanding there was no lead agency, and instead, DHS "spent our time and effort trying to manage and coordinate each of us working within our own jurisdiction."[470] Likewise, both Rodriguez and Harvin from D.C. HSEMA – which routinely coordinates with federal agencies as part of its mission – stated there was no lead

[462] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pgs. 148, 151, and 154).
[463] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pgs. 64-65).
[464] *Id.* (pgs. 45-46).
[465] *Id.* (pgs. 83-91).
[466] Michael Sherwin, transcribed interview with House Select Committee (Apr. 19, 2022) (pgs. 18-19).
[467] *Id.* (pg. 115).
[468] Chad Wolf, transcribed interview with House Select Committee (Jan. 21, 2022) (pgs. 48-50).
[469] *Id.* (pg. 53).
[470] Ken Cuccinelli, transcribed interview with House Select Committee (Dec. 7, 2021) (pg. 118).

federal agency that provided coordination ahead of January 6th, with Harvin stating that the combined effort was "disjointed."[471]

Despite reporting confusion among the various agencies regarding their roles, some former officials argued against the notion of declaring a "lead agency" for events such as January 6th. Rosen claimed the term "lead agency" was semantic because it:

> […] distracts from the underlying issue, which is, what difference does it make whether you use that label or not? The Capitol Police, who are responsible for securing the Capitol, had been unable to provide it, and the rioters were getting into the building. So, at that point, everyone has a responsibility to help. […] I just feel that that's a semantic distraction from the fact that the real problem here is that the security at the Capitol that the police were supposed to provide – for whatever reason, they weren't able to provide that security.[472]

The Committee previously found that USCP was not prepared for the attack, which hampered its response on January 6th.[473] However, as this report makes clear, DOJ and FBI also failed to fully assess the intelligence they had obtained and disseminate a threat assessment or other urgent warning to USCP.

When asked which agency would take on the role of developing an interagency security plan for January 6th if not DOJ, Donoghue similarly told the Committee "[t]here was no single agency in charge because you have overlapping jurisdictions" but that "there was a great deal of coordination between them […] So if you planned this again, that would be something to consider. It would be difficult, I think, to have all these different agencies and different branches of government brought under one authority for a single event."[474]

Like Rosen, Donoghue explained that the "lead agency" question was semantic and that it would be operationally difficult, if not impossible, to assign one agency to the lead role. Donoghue told the Committee that agencies have different jurisdictions and authorities, and that one agency "can't have responsibility if you don't have authority."[475] For example, Donoghue noted the U.S. Park Police has authority for law enforcement on monument grounds, the Federal Protective Service has authority over the security of federal buildings, MPD has authority for law enforcement in D.C. generally, and USCP has authority over the Capitol.[476] Likewise, USCP and FBI are in separate branches of government, so one cannot assert authority over the other's jurisdiction – which is why Executive Branch agencies needed to be requested by USCP to assist

[471] Christopher Rodriguez, transcribed interview with House Select Committee (Jan. 25, 2022) (pg. 80); Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pg. 40).
[472] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 160).
[473] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[474] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 47-49).
[475] *Id.* (pg. 46).
[476] *Id.* (pgs. 17, 47, 91).

in the security operations on the Capitol grounds.[477] Further complicating matters, Donoghue pointed out, is the fact that the military is rightly hesitant to get involved in domestic civilian law enforcement operations – as evidenced by the convoluted process USCP encountered when attempting to request National Guard assistance on January 6th.[478] "The problem was," Donoghue stated, "given how fractured the political and legal authority was in D.C., there was no way to place one agency on top of everyone else."[479]

For those reasons, Donoghue argued that assigning a "lead agency" would be semantic at best, but would also create operational complications – and instead, the focus should be on ensuring each agency performs its specific mission while coordinating with each other.[480] Donoghue stated, "[t]his is a paradigm that had been used over and over many times and that had worked and that was successful because the agencies had expertise in covering their own areas. No one was better equipped to protect the Capitol than the Capitol Police, so it made perfect sense to leave that to them and to simply tell them, if you need assistance, let us know and we'll provide it."[481] Wolf offered a similar assessment, adding that the question of which agency should be designated the lead for a particular event would depend on issues such as the nature of the event, the location, and the assets required.[482]

While it is true that each agency has distinct missions and responsibilities, lead agencies have been designated for past high-profile events in D.C.[483] Furthermore, this report's findings on the intelligence sharing in the lead-up to January 6th demonstrate the need for greater inter-agency coordination.

B. DHS Did Not Designate January 6th as a National Special Security Event

As noted in Section IV, the DHS Secretary may designate a significant event as a National Special Security Event (NSSE), to coordinate and bolster federal agencies' efforts on intelligence and security preparation.[484] Another benefit of an NSSE is that it clearly designates one agency – the U.S. Secret Service (USSS) – as the lead agency charged with coordinating the

[477] *Id.* (pgs. 47, 90-91).
[478] *Id.* (pgs. 46-47); Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).
[479] Richard Donoghue, transcribed interview with House Select Committee (Oct. 1, 2021) (pg. 155).
[480] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 54); Richard Donoghue, transcribed interview with House Select Committee (Oct. 1, 2021) (pg. 156).
[481] Richard Donoghue, transcribed interview with House Select Committee (Oct. 1, 2021) (pg. 156).
[482] Chad Wolf, transcribed interview with House Select Committee (Jan. 21, 2022) (pg. 53).
[483] *See*, e.g., United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).
[484] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021); United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).

event.[485] In addition, DHS and FBI often issue threat assessments in advance of an NSSE.[486] However, the DHS Secretary did not designate January 6th as either an NSSE or a Special Event Assessment Rating (SEAR) event.[487] GAO found that the Joint Session of Congress on January 6th could have been designated an NSSE or SEAR, which "would likely have assured additional security to help respond to the January 6 attack on the Capitol."[488]

According to GAO, USSS officials defended the decision not to designate January 6th an NSSE by noting that past Joint Sessions of Congress to certify the presidential election were not normally NSSEs "because it was considered routine congressional business." However, as noted by GAO and reaffirmed in the intelligence these agencies possessed (as described in Section V), the 2021 threat environment was entirely different from past elections – demonstrating a "gap in the adaptability of how these events are considered."[489] GAO also reported that DHS's policy for designating an NSSE is unclear: an NSSE designation begins with a request from an agency to DHS, but there was confusion among local and federal agencies about who had the authority or responsibility to request an NSSE.[490] Separately, Rosen also stated that he was not aware of any agencies having requested that January 6th be designated an NSSE.[491]

FBI explained that "[d]uring a typical NSSE, the FBI participates in the multi-agency senior leader tabletop exercise intended to ensure unified responses," noting that its role "generally includes the dissemination of relevant threat intelligence information to partner agencies," among other responsibilities.[492] The Committee asked FBI whether it had recommended that DHS designate the January 6th Joint Session an NSSE, or whether FBI provided any related information to DHS as part of that process. In its written response to the Committee, FBI did not indicate whether it had recommended an NSSE designation, but stated, "[t]hough the anticipated events of January 6th had not been designated by DHS as an NSSE, WFO leveraged past experience preparing for an NSSE," noting that "the NSSE planning for the upcoming Presidential Inauguration was underway, and the FBI was already in frequent communication with partners about the threat picture in the national capital region. […] Even if the January 6th Joint Session of Congress had been designated as an NSSE, the FBI would not have had the lead role in the interagency preparation process."[493] However, it is not clear that the Inauguration's designation as an NSSE benefited the security preparations for the Joint

[485] United States Secret Services, 2021 Inauguration (accessed Apr. 10, 2023) (https://www.secretservice.gov/protection/inauguration).
[486] Department of Homeland Security Office of Intelligence and Analysis, *et al.*, *Joint Threat Assessment 59th Presidential Inauguration, Washington, DC* (IA-49381-21) (Jan. 14, 2021); Department of Homeland Security Office of Intelligence and Analysis, *et al.*, *Super Bowl XLV: Joint Special Event Threat Assessment* (IA-0123011) (Jan. 11, 2011); Written Response from Department of Homeland Security to Senate Committee on Homeland Security and Governmental Affairs (Jun. 7, 2021).
[487] Government Accountability Office, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, But Not All DHS Guidance Is Clear* (GAO-21-105255) (Aug. 2021).
[488] *Id.*
[489] *Id.*
[490] *Id.*
[491] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 151).
[492] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[493] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).

Session two weeks prior, let alone FBI's efforts to gather, assess, and disseminate intelligence specific to January 6th.

When asked whether designating January 6th as an NSSE would have benefitted FBI in any way, Moore stated that DHS "would have been responsible for [producing] a threat assessment picture in advance of the event," and that FBI's role in an NSSE is akin to an "assistant" offering support."[494] However, internal FBI-WFO communications obtained by the Committee suggest that FBI would have increased its planning for January 6th had the event been designated an NSSE. On January 2nd, Alcoke emailed D'Antuono and Moore: "[i]f there's info we haven't yet seen indicating the FBI should plan to have a larger role in this (i.e. newly designating Jan 6 as an NSSE or a likely critical incident), we'll develop a response and staffing plan."[495]

The Committee also asked FBI whether it took into account President Trump's calls for Vice President Pence to decline to certify the electoral count, other public pressure on officials to decertify the election results, or the public "Stop the Steal" movement when assessing the potential for violence on January 6th. However, FBI's response merely noted that *The Attorney General's Guidelines* do not authorize FBI to investigate U.S. persons "solely for the purpose of monitoring activities protected by the First Amendment," which raises questions as to whether and how FBI took into account the growing public pressure to decertify the 2020 election that made January 6th distinctly unlike any previous Joint Sessions to certify a presidential election.[496]

D.C. HSEMA officials noted the lack of federal leadership in the lead-up to January 6th due to the fact the event was not designated an NSSE. Harvin first noted the benefits of an NSSE, stating, "under an NSSE, it is a shared threat environment, a shared threat picture. All the agencies are going to have that information, and there will be a unified response against that."[497] Harvin pointed to the example of past Presidential Inauguration NSSEs, noting there is organized coordination and that "[t]here's no ambiguity about who's in charge when it comes to NSSEs."[498] Harvin said those experiences stood in contrast to January 6th, as he did not see any federal agency step up to take the lead – and in that absence, Harvin reluctantly convened federal agencies to coordinate "because no one else [was] doing so."[499]

Rodriguez offered a similar perspective. Rodriguez argued that for significant events, there should be a lead federal agency to convene stakeholders at the federal, state, and local levels.[500] Rodriguez stated:

> I think that the lesson learned for me […] having come from the Federal Government, is that there is no strong coordination touch point for the Federal Government for these

[494] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 126-127, 129).
[495] Email from Matthew Alcoke, Federal Bureau of Investigation Washington Field Office, to Steven D'Antuono and Jennifer Moore, Federal Bureau of Investigation Washington Field Office (Jan. 2, 2021).
[496] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[497] Donell Harvin, transcribed interview with House Select Committee (Jan. 24, 2022) (pg. 39).
[498] *Id.* (pg. 40).
[499] *Id.*
[500] Christopher Rodriguez, transcribed interview with House Select Committee (Jan. 25, 2022) (pg. 80).

> types of events, outside of NSSEs. You know, the NSSE process, the Secret Service is the agency to coordinate, and they bring us all together. I think now, in a post-January 6th environment, there is no strong lead coordinating Federal entity […] I don't know whether that's FEMA. I don't know whether that's I&A, but someone's got to be pulling all these agencies together for these types of events.[501]

C. After January 6th, Agency Officials Blamed Each Other for the Failures

In their statements and testimony since January 6th, agency officials provided candid assessments of what went wrong, and recommendations for corrective action. But those assessments and recommendations were most often directed at their fellow agencies, rather than their own agencies' shortcomings that may have contributed to the failures on January 6th.

DOJ officials were unambiguous in their judgment that the blame for the failures on January 6th lay squarely with USCP. Former Acting Attorney General Rosen brushed off criticism that FBI and DOJ failed to more proactively share the intelligence they had about the potential for violence, and even implied that USCP should not have needed the intelligence to know what was going to happen at the Capitol.[502] Rosen stated:

> […] the risk of violence is almost common sense. There's [sic] reports that a lot of people are coming to a rally who are unhappy about the election. And it may not be totally clear if they're going to get violent or not at the Ellipse, at the Capitol, or somewhere else, but the need for the police agencies and others, but especially the frontline crowd control, to prepare doesn't really turn on how detailed the crime warnings are, that this is kind of obvious […] there were specific warnings of threats that were available to the Capitol Police.[503]

Donoghue offered a similar assessment. Donoghue told the Committee, "[i]n my view it was a single point of failure event," and when asked to clarify what that single point of failure was, he replied: "The Capitol Police."[504] Donoghue further explained:

> I can't explain to you why that perimeter did not hold. Someone from the Capitol Police has to explain that. But their only responsibility was the Capitol, and they had more than enough personnel and resources to secure it throughout that day. Why they failed to do it, I don't know. I was as surprised, if not more surprised, than anyone that they allowed people to get in that building. […] But as I said, this was on the small side for a D.C. protest, and as a result, I'm uncertain as to why the Capitol Police were not able to secure that building that day. […] to this day I still don't understand why that happened.[505]

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[501] *Id.* (pg. 77).
[502] Jeffrey Rosen, transcribed interview with House Select Committee (Oct. 13, 2021) (pg. 164).
[503] *Id.*
[504] Richard Donoghue, transcribed interview with Senate Committee on Homeland Security and Governmental Affairs (Aug. 27, 2021) (pg. 56).
[505] *Id.* (pgs. 56-57).

Donoghue stated that USCP had a "complete failure of planning and leadership."[506] Like Rosen, Donoghue argued that the risk to the Capitol that day was widely known and that USCP should not have needed additional intelligence, stating, "[e]veryone knew that the Capitol was at risk. Everyone knew that there were going to be thousands of angry protesters showing up at the Capitol. Certainly, no one anticipated this type of breach, but you plan for the worst, and the Capitol Police should have planned for the worst, and they should have been prepared to defend that perimeter."[507]

As the Committee's June 2021 staff report described, although front-line USCP officers fought bravely at the Capitol to protect Members of Congress and staff, USCP leadership had not properly trained or equipped officers for the attack and had not effectively disseminated the intelligence they had received. However, as described above in Sections V and VI, while USCP did have access to limited intelligence that it obtained directly, FBI and DOJ had received a multitude of tips and other intelligence indicating the potential for violence at the Capitol, but they did not report that information or a broader threat assessment to USCP.

FBI officials variously blamed other intelligence agencies, local law enforcement, and USCP for the failures on January 6th. For example, FBI faulted other agencies for failing to notify it about potential violence on January 6th. FBI told GAO, "while the FBI and its partners were aware of and planned for a response to potential violence in the [national capital region] on the [sic] January 6, 2021, the FBI did not receive actionable intelligence regarding violence at the Capitol Complex from its partners."[508] However, FBI is the primary federal law enforcement and domestic intelligence agency, and its partners rely on FBI – rather than vice versa – to assess and report threats. Former FBI Deputy Director Bowdich also placed blame on local law enforcement, stating, "[t]he Metro P.D. are typically very, very good at crowd control. I have seen it time and time and time again. But in this case, I think law enforcement was overwhelmed, certainly at the Capitol. That's clear, indeed, to say that."[509] And Moore stated that rather than a failure of FBI to share more intelligence, the problem was that agencies like USCP failed to report to their leadership the intelligence they did receive from FBI: "one takeaway from January 6th was obviously the intel that we were sharing wasn't getting where it needed to be."[510] While it is accurate that USCP did not adequately elevate the intelligence it did have, as described above in Section VI, FBI issued only two limited reports related to January 6th the night before the attack, and its informal communications with partners often downplayed the threat.

The Committee asked FBI whether it made appropriate assessments regarding the potential for violence at the Capitol, whether it misinterpreted or misjudged any intelligence or threats, and whether its intelligence process worked as intended. In its written response, FBI noted that it "made considerable efforts to identify and mitigate threats related to January 6; we

[506] Richard Donoghue, transcribed interview with House Select Committee (Oct. 1, 2021) (pg. 203).
[507] *Id.* (pgs. 203-204).
[508] Department of Justice, *Entrance Conference Questions – DOJ, GAO 104793, 104829, and 105001 – January 6 Capitol Attack Reviews* (received Apr. 1, 2022) (on file with Committee).
[509] David Bowdich, transcribed interview with House Select Committee (Dec. 16, 2021) (pg. 124).
[510] Jennifer Moore, transcribed interview with House Select Committee (Jul. 26, 2022) (pgs. 70 and 138-139). As noted in Section VI, FBI sent the Norfolk SIR to USCP but USCP Chief Sund did not personally receive it before January 6th. However, FBI did not distribute that SIR until the night before the attack, and the intelligence it contained was limited.

did not treat it as 'business as usual.' The FBI is committed to learning from the events of January 6, to be sure that nothing like what happened at the Capitol ever happens again."[511] FBI's response did not acknowledge mistakes in its intelligence assessments, nor address the large amount of intelligence that it did not share with its partners, as discussed above.

DHS officials blamed USCP for its security failures, contrasting USCP's efforts to secure the Capitol with DHS's efforts to secure other federal facilities under its protection that day. Wolf stated: "I think there was a major breakdown with the Capitol Police, at the end of the day. […] from DHS's perspective, we prepared for the worst. We brought in assets. You know, we had more than enough people at different buildings. Yes, we had to pay them overtime and, yes, we had to do a bunch of stuff that you, sort of, don't want to do from a fiscal standpoint, but you've got to be aware of the threat. […] I don't know why that didn't occur for the Capitol."[512] That analysis diminishes the threat to the Capitol on January 6th, as demonstrated by intelligence I&A had obtained yet failed to report to partners such as USCP. Moreover, Wolf's claims that DHS "prepared for the worst" is incompatible with I&A's failures to disseminate the threats it had obtained to USCP and other partners.

Likewise, Cuccinelli said, "from my perspective, it had been a law enforcement failure that day, which I lay at the feet of the Capitol Police. I haven't been subtle about that."[513] Cuccinelli further stated:

> [USCP] are the first-line defense, and they are more than capable, on a good day, to manage – doesn't mean by themselves – but to manage a situation like this. They were woefully unprepared, to an astonishing degree for someone who had previously been closely associated with law enforcement. I was astonished, truly astonished. […] we didn't have anything specific. Nobody did. But we were better prepared to manage our responsibilities and to flex to help others with theirs than they were. It's not a competition, but, I mean, they got an F. They got an F.[514]

Cuccinelli also spared no criticism for DOD's role in the preparations for January 6th, stating that DOD "demonstrated an extraordinary lack of understanding of civilian law enforcement."[515] In particular, Cuccinelli criticized former Secretary of the Army Ryan McCarthy, who Cuccinelli stated "seemed to be in charge of freaking out – that was his job, and he did it very thoroughly – had no ever-loving idea what he was doing."[516]

I&A officials explained that they felt at the time that the high-level threat products they had issued in 2020 were sufficient. While acknowledging that in hindsight I&A should have issued an intelligence report specifically about risks to the Capitol, Smislova testified before the Committee that "we thought we had provided that warning" in its Dec. 30, 2020, product about

[511] Federal Bureau of Investigation, written response to interrogatories from Senate Committee on Homeland Security and Governmental Affairs (Apr. 7, 2023).
[512] Chad Wolf, transcribed interview with House Select Committee (Jan. 21, 2022) (pg. 134).
[513] Ken Cuccinelli, transcribed interview with House Select Committee (Dec. 7, 2021) (pg. 134).
[514] *Id.* (pgs. 140-141).
[515] *Id.* (pg. 121).
[516] *Id.* (pg. 121).

Domestic Violent Extremism (DVE), which I&A thought at the time "was sufficient."[517] However, as described above in Section VI, that product provided only a high-level overview of the DVE threat across the country, and did not address January 6th. In a briefing with Committee staff, I&A officials likewise stated that they assumed their agency partners had a shared understanding of the threat, and that I&A was assured by its partners that they understood the threat I&A was informally communicating.[518] In addition, much like FBI criticized its fellow intelligence agencies for not providing it with actionable intelligence, Dobitsch leveled the same criticism at FBI: after noting that I&A did not receive the Norfolk SIR, Dobitsch stated, "[i]t seems as though they did have some information available to them that they did not disseminate to us."[519]

Finally, USCP officials faulted the intelligence agencies for not providing sufficient warning of the potential for violence. Sean Gallagher, Deputy Chief of the USCP Protective Services Bureau (which oversees USCP intelligence activities) on January 6th, acknowledged that USCP should have shared its own intelligence more broadly with its federal partners, but also noted that USCP is a "consumer of intelligence" from its federal partners, and stated, "definitively I think there could have been more information and intelligence and sharing of information from some of our Federal partners."[520]

Former USCP Chief Sund likewise testified before the Committee that USCP relies on agencies like FBI and DHS for intelligence to help USCP prepare for events, and those agencies did not provide sufficient intelligence ahead of January 6th. Sund testified, "[a]lthough it appears that there were numerous participants from multiple states planning this attack, the entire intelligence community (IC) seems to have missed it."[521] Sund further stated that USCP's preparations for January 6th were based on the available intelligence, and that "[w]ithout the intelligence to properly prepare, the USCP was significantly outnumbered and left to defend the Capitol against an extremely violent mob."[522] In his written testimony for the Committee, Sund went as far as to say, "USCP did not fail" and "we were successful in accomplishing our mission on January 6, 2021."[523] However, as the Committee's June 2021 staff report detailed, USCP did obtain limited intelligence on its own regarding January 6th, but it failed to warn its officers and

[517] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Hearing on Examining the January 6 Attack on the U.S. Capitol Part II*, 117th Cong. (Mar. 3, 2021) (S. Hrg. 117-XX).
[518] Office of Intelligence and Analysis, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 2, 2022).
[519] Stephanie Dobitsch, transcribed interview with House Select Committee (May 5, 2022) (pg. 79).
[520] Sean Gallagher, transcribed interview with House Select Committee (Jan. 11, 2022) (pgs. 65-66).
[521] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, Testimony Submitted for the Record of former Chief of Police Steven A. Sund, U.S. Capitol Police, *Hearing on Examining the January 6 Attack on the U.S. Capitol*, 117th Cong. (Feb. 23, 2021) (S. Hrg. 117-617).
[522] *Id.* As noted in Section VI, Sund acknowledged in testimony before the Committee that USCP received the FBI Norfolk Field Office SIR on January 5th, but it did not make its way up the USCP chain of command to Sund before January 6th.
[523] *Id.*

was not prepared for the attack, hampering its response and leaving front-line officers to defend the Capitol without appropriate warning or equipment.[524]

IX. CONCLUSION

At the Committee's March 3, 2021, hearing on the Capitol attack, Chairman Peters said, "it is clear that this violent coordinated attack was the result of a massive and historic intelligence failure." That was not a failure to see the warning signs – on the contrary, this investigation demonstrated the sheer volume of intelligence FBI and I&A received that indicated the potential for violence on January 6th. Rather, these agencies failed to properly assess that intelligence and adequately communicate the severity of the threat to USCP and other agencies to better prepare them to respond to a violent attack on the Capitol, protect our democratic process, and ensure the peaceful transfer of power.

This investigation found that FBI and I&A should have assessed in totality the large volume of intelligence, tips, and threats they had received indicating the potential for violence on January 6th. FBI and I&A should have also issued specific intelligence reports (such as Joint Intelligence Bulletins) that sufficiently conveyed the nature of the threat to their law enforcement partners such as USCP, well before January 6th. Even without actionable or credible threats, the agencies should have communicated the concerning volume of violent rhetoric specifically targeting the U.S. Capitol and the overall heightened threat environment surrounding January 6th. Indeed, if DOJ and FBI "all knew" that thousands of people would come to the Capitol to disrupt Congress from certifying the U.S. presidential election, as former officials later recalled, it is unacceptable that these agencies did not take sufficient steps to warn their partner agencies to prepare for such a threat.

These agencies have pointed to Constitutional restrictions when asked why they did not take further action ahead of January 6th, but as this report makes clear, FBI and I&A had the authority – indeed, the *responsibility* – to report the intelligence they were seeing to their law enforcement partners. The threats to the Capitol on January 6th were not made solely in private conversations that required secretive law enforcement investigative tactics to detect. On the contrary, these threats were made openly, often in publicly available social media posts, and FBI and I&A were aware of them. Federal agencies tasked with domestic intelligence may not routinely monitor Americans' online private communications or track their political beliefs. However, these agencies also should not be expected to turn a blind eye to voluminous and public threats such as those that Americans were seeing all across the country in the lead-up to January 6th. FBI is rightly constrained from taking investigative or enforcement action against an individual merely on the basis of First Amendment-protected speech. However, FBI also has an obligation to take into account the larger threat picture, including social media and online calls for violence when there is a significant increase in threats that may indicate a growing danger of violence.

[524] Senate Committee on Homeland Security and Governmental Affairs and Senate Committee on Rules and Administration, *Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures of January 6* (Jun. 2021).

I&A also had failures in its intelligence processes and was still reeling from its mistakes in Portland. Ultimately, however, it did not meaningfully contribute to the intelligence sharing process in the lead-up to January 6th. FBI's significant intelligence failures in the lead-up to January 6th, on the other hand, were stunning *because* it is the primary federal law enforcement and domestic intelligence agency and should have been better prepared. While both agencies failed, I&A's mistakes both in the lead-up to January 6th and in Portland raise the larger question of whether Congress should review and reform I&A's role in domestic intelligence 20 years after its creation.

I&A's primary role in domestic intelligence is collecting information on threats to homeland security and issuing high-level reports on general trends. As demonstrated in this report's findings of I&A's inaction leading up to January 6th, this role has not been sufficiently reconciled with that of law enforcement agencies tasked with ensuring security. When I&A has acted more proactively in the past, it has at times been influenced by political considerations with little protection for Constitutional rights, such as in 2020 when I&A abused its intelligence collection authorities during racial justice demonstrations and collected intelligence on journalists. Yet this report found that in the lead-up to January 6th, I&A took a hands-off approach to collecting and reporting intelligence on domestic extremists who were advocating violence, pointing to Constitutional protections for free speech. Additionally, as this report detailed, not only did I&A fail to warn about the potential for violence ahead of January 6th, there are also questions about the agency's ability to disseminate real-time intelligence to law enforcement in an emergency.

Repeating the "failure of imagination" that the 9/11 Commission described nearly 20 years earlier, the intelligence processes in advance of January 6th suffered from a bias toward discounting intelligence that indicated an unprecedented event. FBI and I&A intelligence collectors, analysts, and leaders failed to sound the alarm about January 6th in part because they could not conceive that the U.S. Capitol Building would be overrun by rioters. This reflects the intelligence community's struggle to adapt to the new reality that the primary threat to homeland security (as identified by these same agencies) is now domestic terrorism driven largely by anti-government and white supremacist ideologies. As this Committee's November 2022 domestic terrorism report demonstrated, the federal government's restructuring after the Sept. 11th attacks focused the intelligence community's efforts on international terrorism, but it has not fully recalibrated to sufficiently address the current primary threat of domestic terrorism. As I&A intelligence collectors told DHS-OIG, "they did not think storming the U.S. Capitol was possible, and, therefore, they dismissed this specific type of threat as hyperbole." Similarly, FBI based its assumptions on the types of violence experienced in previous events (such as violence between protesters), rather than fully assessing the voluminous intelligence it had that indicated a heightened threat of violence at the Capitol on January 6th.

This report focused on intelligence failures, but clearly other factors also contributed to January 6th. As the Committee's June 2021 report laid out, USCP and other agencies failed to adequately prepare for and respond to the events that day. And as the House Select Committee's report demonstrated, former President Trump was the primary cause of the insurrection. President Trump, his lawyers, and elected officials seeking to curry favor repeated false claims that the 2020 election had been stolen, and that coupled with President Trump's calls for a

protest in D.C. on January 6th that would "be wild," directly contributed to this attack. But the fact remains that the federal agencies tasked with preventing domestic terrorism and disseminating intelligence – namely FBI and I&A – did not sound the alarm, and much of the violence that followed on January 6th may have been prevented had they done so.

The result of these failures was plain to see on January 6, 2021: the U.S. Capitol Building was stormed and overrun, law enforcement officers and rioters lost their lives, and the peaceful transition of power was threatened. Our nation is still reckoning with the fallout from January 6th, but what is clear is the need for a reevaluation of the federal government's domestic intelligence collection, analysis, and dissemination processes. This Committee will continue to conduct oversight of FBI and I&A to ensure they address these identified failures and make necessary reforms.