

**Statement of the United States Department of Justice
Before the United States Senate Committee on the Judiciary**

Good afternoon, Chairman Durbin, Ranking Member Grassley, and members of the Committee. Thank you for inviting the United States Department of Justice to appear before you today to discuss election threats. My name is Kenneth Polite, Jr., and I am the Assistant Attorney General of the Department's Criminal Division, testifying today on behalf of the Department.

The Department of Justice is committed to addressing threats to the state and local election community. Threats to these individuals must be met with an unwavering response: we will not tolerate criminal intimidation of those who administer and safeguard our electoral system. Through direct engagement with the election community, training of our federal, state, and local law enforcement agents, grant-funding for enhanced election security, and federal criminal investigation and prosecution of election-related threats where appropriate, the Department is working intently to prepare and protect our election officials and their staff as we approach the 2022 midterm elections.

Formation of the Election Threats Task Force

On June 25, 2021, the Department launched the Election Threats Task Force to combat the sharp rise in reports of threats received by the election community during and following the 2020 election cycle. Comprised of the Criminal Division's Public Integrity and Computer Crime and Intellectual Property Sections, the Civil Rights Division's Voting and Criminal Sections, and the National Security Division's Counterterrorism Section, as well as the FBI's Criminal Investigative Division, the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, and the United States Postal Inspection Service, the Task Force unites the foremost subject-matter experts across the government, who have deep experience with election-related

issues. In partnership with United States Attorneys' Offices, these experts are uniquely positioned to engage with FBI Field Offices, state and local law enforcement, and election agencies to better understand and respond to the threats encountered in each jurisdiction.

Outreach

As part of our outreach to the election community, in August 2021, the Attorney General convened a virtual discussion with a bipartisan group of over 1,400 election officials to discuss mounting and persistent threats to the safety of election officials and workers across the country and the Task Force formed by the Department in response. Attorney General Garland was joined by the Deputy Attorney General, the Associate Attorney General, and the Director of the FBI. The Attorney General expressed the Department's commitment to addressing the rise in hostility to the election community and emphasized that "only by protecting those who administer the election process can we ensure that the right to vote, itself, is protected." The Attorney General also heard directly from state and local election officials about the hostile treatment that many face in their communities.

In a similar vein, the Task Force has proactively developed relationships with numerous organizations of election officials, including the National Association of Secretaries of State, the National Association of State Election Directors, the National Association of Election Officials—also known as Election Center—and the National Association of Counties, as well as non-profit organizations acting as liaisons to the election community. The Task Force has regularly engaged with these organizations' memberships to hear directly from election officials and workers regarding the types of threatening communications that they receive, the challenges such communications pose to election administration, and their greatest concerns and needs with respect to combating physical threats. These conversations are critical to positioning the Task Force to

effectively address threats to the election community and to identify and respond to trends in this area. In response to the expressed needs of the election community, the Task Force has shared information about the types of communications that election officials and workers have reported nationwide, the legal standards that apply, how determinations are made on whether to open a criminal investigation, and common investigative steps undertaken in these matters. The Task Force has also provided detailed guidance to the election community on best practices for memorializing threats and reporting such communications to the FBI, has encouraged broad reporting, and has provided contact information for each of the fifty-six FBI Election Crime Coordinators in field offices throughout the country.

The Task Force has also met with representatives from social media companies to discuss policies and procedures for identifying, reporting, and removing threats. To ensure all potential victims and witnesses have direct points of contact for reporting threats, the Task Force has presented to vendors providing goods or services to the election community regarding the Task Force's work and how to report threats to the FBI. And finally, to ensure robust communication and coordination in combating election-related threats, the Task Force has met with state and local law enforcement agencies, and state and local prosecutors' offices to discuss concurrent enforcement efforts.

This engagement is ongoing. On July 8, the Director of the Public Integrity Section's Election Crimes Branch provided an update on the Task Force's work to the National Association of Secretaries of State at their Summer Conference. Earlier this week, I briefed over 1,000 state and local election officials on intelligence, data, and analysis stemming from the Task Force's first year of work. FBI is also sharing that data with state and local law enforcement partners. On August 23, I will share additional information about the Task Force's work with the National

Association of Election Officials at their Annual Conference. We will continue to seek opportunities for meaningful engagement with the election community.

Training

The Task Force has provided recurring training to all the FBI Election Crime Coordinators and Assistant United States Attorneys serving as District Election Officers, or specialized election crime prosecutors, across the country. These trainings have included scenario-based exercises and have focused on (1) canvassing state and local law enforcement and election agencies for reports of threats; (2) tracking and reviewing such reports nationwide; (3) best practices for criminally investigating election threats; and (4) employing all available federal statutes to prosecute such threats.

Funding

With respect to funding, the Department's Office of Justice Programs (OJP) made clear that it is allowable to use grant funds received under the Edward Byrne Memorial Justice Assistance Grant Program ("JAG") to deter, detect, and protect against threats of violence against election workers, administrators, officials, and others associated with the electoral process. In addition to sending a letter to JAG State Administering Agency directors, OJP's Bureau of Justice Assistance conducted several webinars for election stakeholders to provide information on the Byrne JAG program, and how to access Byrne JAG funds for the purpose of responding to potential threats. These measures would include protective security details and physical security enhancements to workplaces. We would welcome the opportunity to work with Congress to further protect the safety of election workers from threats, acts of violence, intimidation, and harassment.

Federal Criminal Enforcement

Finally, the Task Force is committed to reviewing and assessing all threatening and harassing communications directed at the election community and reported to the Task Force in order to identify those situations where federal criminal prosecution is both appropriate and permissible. It is important to bear in mind that the vast majority of communications directed at election workers, offensive though they may be, will not constitute true threats subject to federal criminal prosecution due to the robust protections afforded to political speech by the First Amendment. Nevertheless, mindful of the importance of these First Amendment protections, the Task Force is committed to reviewing and assessing all threatening and harassing communications referred to us. We have already reviewed and assessed approximately 1,000 such communications. We are also carefully tracking any incident that involves physical violence against an election worker. While only one such incident has been reported thus far, we must remain vigilant in protecting election workers from all forms of violence, both actual and threatened.

The Department is currently pursuing five indicted cases charging threats to the election community. As with all criminal charges, these indictments are merely allegations, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

In *United States v. Katelyn Jones*, the Task Force has partnered with the United States Attorney's Office for the Eastern District of Michigan in a case involving text messages and Instagram posts directed at the Chair of the Wayne County Board of Canvassers allegedly threatening the Chair and her family by sending images of mutilated bodies accompanied by messages including "I'd [sic] be a shame if something happened to your daughter at school," and "[expletive] with our elections is TERRORISM . . . so yes you should be afraid, your daughter should be afraid and so should [your husband]." The Department has charged Jones with two

counts of sending interstate threatening communications, in violation of 18 U.S.C. § 875(c). Trial is set for August 24.

In *United States v. Chad Stark*, the Task Force has partnered with the United States Attorney's Office for the Northern District of Georgia in a case involving a Craigslist post allegedly targeting several Georgia officials and local law enforcement, threatening to "end [] the lives of these traitors and take back our country by force," "exterminate these people," and "put a bullet [] behind the[ir] ears." The Department has charged Stark with one count of sending an interstate threatening communication, in violation of 18 U.S.C. § 875(c). A trial date has not yet been set.

In *United States v. Gjergi Juncaj*, the Task Force has charged a case in the District of Nevada involving multiple phone calls to an employee of the Nevada Secretary of State's Office on the morning of January 7, 2021, allegedly making repeated death threats to the employee for "stealing the election." The Department has charged Juncaj with four counts of making interstate threatening phone calls, in violation of 47 U.S.C. § 223(a)(1)(C). Trial is set for September 26.

In *United States v. Travis Ford*, the Task Force secured a felony guilty plea in the District of Nebraska from a defendant who posted comments on Instagram posts threatening to kill or physically harm the President of the United States, an election official, and another public figure. Sentencing is set for October 6.

Just last week in *United States v. James Clark*, the Task Force charged a case in the District of Arizona involving a threat submitted to an Arizona election official on February 14, 2021, threatening to "detonat[]" an "explosive device" "in her personal space." The Department has charged the defendant with one count of making a bomb threat, in violation of 18 U.S.C. § 844(e);

one count of a bomb hoax, in violation of 18 U.S.C. § 1038(a); and one count of sending an interstate threatening communication in violation of 18 U.S.C. § 875(c). A trial date has not yet been set.

Our state and local partners have also been pursuing enforcement in threats cases. In July, the Denver District Attorney's Office charged a defendant with threatening the Colorado Secretary of State. Earlier this year, in Maricopa County, Arizona, a defendant was charged, pleaded guilty, and sentenced for threatening AZ election officials. Last year, a defendant in Wayne County, Michigan, was charged, pleaded guilty, and sentenced for threatening Michigan election officials.

Conclusion

The courageous and dedicated men and women who are responsible for administering the most fundamental aspect of our democracy—our elections—should not face threats for merely doing their jobs. The trauma experienced in this community is profound and unprecedented. The Department is committed to investigating and prosecuting violations of federal law against election officials and election workers, many of whom are volunteers, which is not only essential to ensure that our elections are free from attempted interference, but also because threats of violence are never acceptable against anyone, regardless of motivation. I want to assure you that our attention to ensuring the safety and security of those in the election community will not wane. We look forward to continuing this work as long as the threat persists and supporting the United States Attorneys' Offices and FBI Field Offices nationwide as they carry on the critical work that the Task Force has begun.

Thank you, Mr. Chairman, Ranking Member Grassley, and members of the Committee, for this opportunity to discuss the ongoing work of the Department of Justice. I would be pleased to respond to questions.