

Testimony of Gurbir S. Grewal New Jersey Attorney General

Before the House Committee on Oversight and Reform
Subcommittee on Civil Rights and Civil Liberties

Hearing: Confronting Violent White Supremacy (Part V):
Examining the Rise of Militia Extremism

Wednesday, May 26, 2021

Chairman Raskin, Ranking Member Sessions, and members of the Subcommittee, thank you for inviting me to testify today about the rise of militia extremism. As the Attorney General of New Jersey, I appreciate the opportunity to share with you the strategies we are deploying in New Jersey to address this threat.

Background

A quarter century after domestic terrorists bombed the Alfred P. Murrah Federal Building in Oklahoma City, the threat of domestic violent extremism fueled by militia, anti-government, and white-supremacist ideologies may be greater today than at any time in recent memory. And last October, the U.S. Department of Homeland Security reported that, among domestic violent extremists, racially and ethnically motivated violent extremists—specifically white supremacist extremists—are the most persistent and lethal threat to domestic security.¹

In 2020, we saw the U.S. Department of Justice charge members of a so-called militia group with conspiring to kidnap the Governor of Michigan, and Michigan’s Attorney General file related charges against other individuals for providing material support of terroristic activities and possessing a firearm in the course of that offense.² We also saw the Department of Justice prosecute members of the violent extremist group “The Base” for a host of firearms and other offenses. Members of the group allegedly had used encrypted chat rooms to discuss

¹ See U.S. Dep’t of Homeland Security, Homeland Threat Assessment 18 (Oct. 2020), https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf.

² See Press Release, U.S. Dep’t of Justice, Six Arrested on Federal Charge of Conspiracy to Kidnap the Governor of Michigan (Oct. 8, 2020), <https://www.justice.gov/opa/pr/six-arrested-federal-charge-conspiracy-kidnap-governor-michigan>; Press Release, Mich. Dep’t of Attorney General, AG Nessel Charges 7 under Michigan’s Anti-Terrorism Act as Part of Massive Joint Law Enforcement Investigation (Oct. 8, 2020), https://www.michigan.gov/ag/0,4534,7-359-92297_99936-541891--,00.html.

establishing a white ethno-state and committing acts of violence against Black and Jewish Americans, and had trained using a homemade assault rifle.³

Self-proclaimed militia groups and white supremacists also threatened and attacked the democratic process. Those activities began with voter intimidation during early voting and on Election Day.⁴ And they culminated on January 6, 2021, when the nation witnessed members of militias and white-supremacist organizations participate in an insurrection at the heart of our democracy.⁵

The Biden-Harris Administration’s request for an additional \$101 million for the Department of Justice to use in addressing the rising threat of domestic terrorism underscores the seriousness of this issue and the resources that are required to address it.⁶

In New Jersey, we have experienced incidents of terrorism, including a 2019 attack in Jersey City that left six dead, including a law enforcement officer, three civilians, and the two perpetrators, who were motivated by antisemitism and anti-law enforcement beliefs. At the same time, we have been fortunate in that we have not had to confront within our borders some of the harrowing scenes of militia-related violence that have played out in other parts of the country.

But we are under no illusion that the ideologies that give rise to unlawful militia extremism are not present in our State – even in the ranks of law enforcement. Just days ago, the Department of Justice charged a man identified as the Bergen County Coordinator for the New Jersey chapter of the Oath Keepers with crimes related to the January 6 breach of the Capitol.⁷

³ See Press Release, U.S. Dep’t of Justice, Three Alleged Members of the Violent Extremist Group “The Base” Facing Federal Firearms and Alien-Related Charges (Jan. 16, 2020), <https://www.justice.gov/usao-md/pr/three-alleged-members-violent-extremist-group-base-facing-federal-firearms-and-alien>; see also Alain Stephens, *They Planned to Start a Race War. DIY Gun Kits Allowed Them to Build an Arsenal*, The Trace (Jan. 23, 2020), <https://www.thetrace.org/2020/01/white-supremacists-the-base-fbi-virginia-diy-ghost-gun>; Timothy Williams, Adam Goldman & Neil MacFarquhar, *Virginia Capital on Edge as F.B.I. Arrests Suspected Neo-Nazis Before Gun Rally*, N.Y. Times (Jan. 16, 2020; updated Jan. 22, 2020), <https://www.nytimes.com/2020/01/16/us/fbi-arrest-virginia-gun-rally.html>.

⁴ See, e.g., Lizzy Acker, *‘Armed Groups of Individuals’ Reportedly Intimidate Voters at Lane County Ballot Drop-off*, OregonLive (Nov. 2, 2020), <https://www.oregonlive.com/politics/2020/11/armed-groups-of-individuals-reportedly-intimidate-voters-at-lane-county-ballot-drop-off.html>.

⁵ See, e.g., Press Release, U.S. Dep’t of Justice, Lifetime Founding Member of Oath Keepers Pleads Guilty to Breaching Capitol on Jan. 6 to Obstruct Congressional Proceeding (Apr. 16, 2021), <https://www.justice.gov/opa/pr/lifetime-founding-member-oath-keepers-pleads-guilty-breaching-capitol-jan-6-obstruct>.

⁶ See Press Release, U.S. Dep’t of Justice, Statement by Attorney General Merrick B. Garland on the President’s FY22 Discretionary Funding Request (Apr. 9, 2021), <https://www.justice.gov/opa/pr/statement-attorney-general-merrick-b-garland-president-s-fy22-discretionary-funding-request>.

⁷ See Press Release, U.S. Dep’t of Justice, U.S. Attorney’s Office, District of Columbia, New Jersey Man and Oath Keeper Arrested for Crimes Related to Jan. 6 Capitol Breach (May 20, 2021), <https://www.justice.gov/usao-dc/pr/new-jersey-man-and-oath-keeper-arrested-crimes-related-jan-6-capitol-breach> (describing charges “that include violent entry and disorderly conduct; entering and remaining in a restricted building with intent to disrupt government; obstruction of an official proceeding; and corruptly altering, destroying or concealing evidence,” as

And New Jersey law enforcement agencies have recognized the risk that militia extremism will infiltrate their ranks, especially after the Jersey City Police Department disclosed that it had identified a cadre of self-styled Three Percenters in one of its units in 2013.⁸

So, along with our federal, state, and local partners, including the New Jersey State Police, the New Jersey Office of Homeland Security and Preparedness, and our county and municipal terrorism coordinators, we actively monitor potential threats and analyze intelligence involving violent extremism, including militia-like activity. Our protocols for information-sharing among law enforcement and counter terrorism agencies have evolved with the threat landscape. For example, in the wake of multiple mass shootings including the deadly school shooting in Parkland, Florida, that left 17 students and teachers dead, I issued a statewide law enforcement directive to establish that when local law enforcement agencies receive tips about suspicious activity related to terrorism or threatened acts of violence, they must immediately notify both their county terrorism coordinators and the Office of Homeland Security and Preparedness, which in turn immediately shares such reports with the Federal Bureau of Investigation.⁹ This dual-reporting mandate allows for an immediate local law enforcement response if necessary, but also permits the Office of Homeland Security and Preparedness to evaluate the reported information and disseminate it as appropriate.

With these tools and others at its disposal, our Office of Homeland Security and Preparedness increased the threat level posed by white supremacist extremists from moderate to high in February 2020—eight months before the U.S. Department of Homeland Security made a similar assessment.¹⁰ Today, New Jersey classifies white supremacist extremists and homegrown violent extremists as the most persistent hostile actors in the State.

The New Jersey State Police also track every bias incident that is reported to any law enforcement agency in the State, and as discussed below, periodically release bias incident data to the public.¹¹ Local law enforcement agencies are required to report all confirmed or suspected bias incidents through an electronic uniform crime reporting portal as soon as practicable, but not

well as chat messages allegedly describing the defendant as an individual “coming in with a team from NJ, and who also has contacts with several militia leaders coming in”).

⁸ See Michaelangelo Conte, *Jersey City Police Brass Identify a Pro-militia Clique in the Department and Say They’ve Been Stopped*, Jersey Journal (Apr. 29, 2013; updated Mar. 30, 2019), https://www.nj.com/jjournal-news/2013/04/jersey_city_police_brass_ident.html.

⁹ See Memorandum from Gurbir S. Grewal, Attorney General, to All Chief Law Enforcement Officers, *Immediate Notification of Investigative Tips and Leads (Update to Attorney General Directive 2016-7): “Replacement of the October 9, 2007, ‘Guidelines for Dissemination of Investigative Tips and Leads Received from the New Jersey Public and Law Enforcement’ (2007 Guidelines)”* (Mar. 26, 2018), https://www.state.nj.us/lps/dcj/agguide/directives/AG-Directive-2016-7_Investigative-Tips-Leads.pdf.

¹⁰ See N.J. Office of Homeland Security and Preparedness, 2020 Terrorism Threat Assessment (Feb. 2020), <https://www.njhomelandsecurity.gov/analysis/2020-terrorism-threat-assessment>.

¹¹ See N.J. State Police, Bias Incident Reports, <https://www.njsp.org/ucr/bias-incident-reports.shtml>.

more than 24 hours from the initial law enforcement response.¹² To facilitate inter-agency cooperation and a holistic view of the threat environment, each report prompts an immediate notification to the State Police, the Office of Homeland Security and Preparedness, the Division of Criminal Justice, and the bias crime officers in all twenty-one county prosecutors' offices.¹³ Our reporting protocols help to ensure that each bias incident investigation is actively pursued to a successful conclusion or until all leads have been considered.¹⁴

Most reported bias incidents involve bias-based harassment and vandalism, but they also include acts of horrific violence. And we watch the overall trend in reported bias incidents as a kind of canary in the coal mine for additional acts of extremist, hate-filled violence.

Unfortunately, the trend line since 2015 has not been a good one. The total number of reported bias incidents in New Jersey has risen dramatically from a low of 367 reported incidents in 2015 to 994 reported incidents in 2019¹⁵ and a preliminary total of 1,441 reported incidents in 2020.¹⁶ The number has never been higher in any of our twenty-five years of reporting.¹⁷

There are a number of reasons for these trends. We hope some of the increase is due to our efforts to build community trust in law enforcement, to ensure that our residents know they can safely report bias incidents to the police and that the police will be responsive to their complaints. But, as I will discuss, other factors are at play as well, and the rising tide of hate that we see in New Jersey is rising from coast to coast.¹⁸

The States cannot address the problem alone. That's why, in April, a bipartisan group of 35 attorneys general called on Congress to pass the National Opposition to Hate, Assaults, and Threats to Equality (NO HATE) Act to provide federal support to state and local law enforcement agencies that improve their hate crime reporting and to help ensure that individuals who are convicted of hate crimes are educated about the impact of their conduct on the affected community. We were glad to see Congress and President Biden come together to enact this legislation, and welcome additional tools for law enforcement to address hate in our communities.

¹² See N.J. Attorney General's Bias Incident Investigation Standards 3 (Apr. 5, 2019), https://www.state.nj.us/lps/dcj/agguide/Bias-Invest-Standards_040519.pdf.

¹³ See *id.* at 12.

¹⁴ See *id.* at 5.

¹⁵ See N.J. Office of the Attorney General, N.J. Division on Civil Rights & N.J. State Police, Bias Incident Report 2019, at 7, https://www.njsp.org/ucr/pdf/bias/2019_bias_report.pdf.

¹⁶ See N.J. State Police, Bias Incident Reports, 2020 Preliminary Bias Incident Report, <https://www.njsp.org/ucr/2020-preliminary-bias-incident-report.shtml>.

¹⁷ See N.J. Office of the Attorney General, N.J. Division on Civil Rights & N.J. State Police, Bias Incident Report 2019, at 7, https://www.njsp.org/ucr/pdf/bias/2019_bias_report.pdf.

¹⁸ The trend corresponds with findings that, in recent years, unauthorized militia groups have increasingly directed their animosity at immigrants, Muslims, and Black Americans, in addition to the government itself. See Anti-Defamation League, *The Militia Movement* (2020), <https://www.adl.org/resources/backgrounders/the-militia-movement-2020>.

Before discussing the approach my office has taken to addressing militias and other forms of violent extremism, I'd like to offer some background on the scope of my office's authority, as each state attorney general's office is structured differently. In New Jersey, the Attorney General's role is unique in two ways. First, the New Jersey Attorney General oversees the largest Attorney General's office in the country. Our Department of Law & Public Safety employs over 7,000 employees across sixteen divisions, including the Divisions of State Police, Criminal Justice, Law, Civil Rights, and Consumer Affairs, and houses additional agencies including the Office of Homeland Security and Preparedness.

Second, the New Jersey Attorney General has more robust criminal authority than just about any other Attorney General in the country. As New Jersey's Attorney General, I have supervisory authority over every criminal prosecutor in the State—whether they work for the State, a county, or a municipality. The Attorney General also has supervisory authority over every one of the 38,000 law enforcement officers in the State. And we can use that authority not only to supervise individual cases, but also to issue statewide criminal justice policies that bind every prosecutor and law enforcement officer.

New Jersey's Approach

In New Jersey, we have taken a holistic approach to confronting violent extremism by unauthorized militias or other actors. That means not only prosecuting criminal misconduct, but also confronting the root causes of extremist violence and hate.

Like many other States, New Jersey has criminal laws prohibiting unlawful militia activity¹⁹ and domestic terrorism.²⁰ Our prosecutors charge these crimes in appropriate cases. But if investigators know that a person or group is planning violence, it's imperative that officials take swift action to prevent them from carrying out their plans. As a result, prosecutors often will charge the individual or individuals involved with one or more easier-to-prove offenses—unlawful possession of a firearm, for example—just to disrupt their scheme and get them off the street quickly.

I am proud of the work we do to prosecute those who plan and engage in violent criminal activity in our communities. But my testimony today will focus on some of the things we are doing to address root causes of the violence that we have seen from militias and other extremist organizations—things that may or may not stop the next attack, but that we expect to reduce violence in our communities in the longer term.

¹⁹ See N.J.S.A. 2C:39-14(a) (“Any person who teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or destructive device, or technique capable of causing injury or death to a person, knowing or having reason to know or intending that it will be employed for use in, or in furtherance of, an illegal activity is guilty of a crime of the second degree.”); N.J.S.A. 2C:39-14(b) (“Any person who assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive or destructive device, or technique capable of causing injury or death to a person, intending to unlawfully employ it for use in, or in furtherance of, an illegal activity is guilty of a crime of the second degree.”).

²⁰ See N.J.S.A. 2C:38-1 *et seq.*

I will highlight two categories of initiatives: those designed to address the ideologies that lead to violent extremism, and those designed to prevent extremists from unlawfully accessing firearms.

Addressing Hate and Bias

Beyond our initiatives to improve the reporting and investigation of bias incidents, some of which I discussed above, our efforts to combat hate and bias have focused in large part on our young people. Unfortunately, hate and bias among New Jersey's young people and in our schools is far too prevalent. For instance, in 2019, almost 25 percent of all reported bias incidents occurred in K-12 schools, more than in any other type of location. And given that bias incidents often go unreported, these numbers likely represent only a small fraction of the bias incidents involving New Jersey's young people.

In 2019, Governor Phil Murphy created the Youth Bias Task Force, which took stock of this problem and produced a groundbreaking report recommending sweeping reforms to the State's education system, tougher bias crime laws, and a robust public engagement campaign to address hate, bias, and stereotyping.²¹ The report recognizes the truth of Nelson Mandela's observation: "No one is born hating another person because of the color of his skin, or his background, or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite." It is therefore crucial that we ensure students learn the importance of diversity and tolerance in schools, instead of the opposite. Many of the report's recommendations therefore focus on education.

Among the task force's enforcement-related recommendations was a recommendation that we improve public access to our data on reported bias incidents. After a quarter century of annual reporting, we are now releasing this data on a monthly basis. Our increased reporting will provide policymakers with a more up-to-date understanding of how often bias incidents are occurring, where they are happening, who is being targeted, and other critical information. We believe data-driven approaches to tackling this problem will have the greatest chance of success, so we are making every effort to ensure this data reaches those who can use it to battle hate and extremism.

When considering why reported bias incidents are prevalent among young people and why their numbers have been climbing in recent years, the report identifies the roles played by hateful and extremist rhetoric on social media and from public figures. Our office has worked with Facebook to elevate residents' complaints about hate speech on community group pages—ultimately leading the company to remove certain groups from its website—and we have worked with other attorneys general to encourage social media companies to more proactively address hate and misinformation that violates their own content standards. Of course, you don't need to

²¹ An Anti-Bias Vision or the Next Generation, Report & Recommendations by the New Jersey Interagency Task Force to Combat Youth Bias to the Governor & Attorney General (Oct. 2020), <https://www.nj.gov/oag/dcr/downloads/2020-ybtf-report.pdf>.

use social media to encounter hateful, extremist content. Too many public figures who our kids see on television and elsewhere engage in similar rhetoric, instead of serving as role models.

Until social media companies and other platforms begin adequately protecting kids from hateful and extremist content, and until public figures begin to take seriously their responsibility to serve as role models for the next generation, we will need to continue our work to educate young people, educators, and parents to help kids engage safely online and in the public sphere. Adults must learn how to recognize signs of radicalization and how to talk to children about hate and extremist group recruitment tactics; about how to avoid viewing, posting, and proliferating content that promotes bias, stereotypes, or hate; and about how to recognize the difference between real and fake news online.

Addressing Unlawful Firearms Activity

We have also been working hard to keep firearms out of the hands of individuals who pose a threat to public safety. New Jersey has some of the strongest firearm safety laws in the country, including universal background checks, limits on assault rifles and large capacity magazines, and red flag laws that keep dangerous weapons out of the hands of criminals and extremists. In 2019, Governor Murphy signed the Extreme Risk Protective Order Act, which creates a process through which individuals may apply for a court order against a family or household member who presents a significant danger of bodily injury to himself or others by possessing or purchasing a firearm, which blocks that person from possessing or purchasing a firearm or ammunition until the threat abates. These laws have been effective: according to the CDC, New Jersey has the third lowest gun death rate in the country.

But even the strongest laws have little effect without effective enforcement. We have engaged in robust enforcement to stem the flow of illegal firearms into New Jersey and keep our residents safe, including by working strategically and collaboratively with local, state, and federal partners to crack down on criminal organizations that traffic in guns and tracing guns used in crimes to their purchasers.

We have also found ways to use crime gun intelligence to further our investigations. For instance, in 2018 I issued a first-of-its-kind statewide directive requiring all state and local law enforcement agencies to share information regarding the dealers and purchasers of firearms used in crimes in New Jersey and to opt into the ATF's eTrace Collective Data Sharing System, which allows departments in the same state to share the results of the trace reports they receive from ATF on crime gun data.²² By eliminating barriers to information-sharing, this policy enables law enforcement to solve crimes more quickly and learn about the sources of illegal firearms entering New Jersey.

²² See Memorandum from Gurbir S. Grewal, Attorney General, to All Chief Law Enforcement Officers, *Directive Instructing All Law Enforcement Agencies in New Jersey to Participate in the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives eTrace System "Collective Data Sharing" Program* (Aug. 22, 2018), <https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2018-4.pdf>.

My office has also pursued gun sellers and manufacturers that flout New Jersey's laws. For example, after Governor Murphy signed legislation making it illegal in New Jersey to purchase parts to manufacture or distribute information to print "ghost guns," homemade or 3D printed firearms that are untraceable by law enforcement, my office sent cease-and-desist letters to ghost gun companies across the country, ordering them to stop advertising and selling their products to New Jersey buyers and promising to sue any that failed to comply. In response to the cease-and-desist letters, fifteen ghost gun companies agreed to block all New Jersey sales. And when one company continued to advertise and market ghost guns to New Jersey residents after receiving our cease-and-desist letter, we sued—and eventually secured a first-of-its kind settlement in which the distributor agreed to stop advertising and shipping ghost guns and untraceable parts to New Jersey consumers.

We believe that New Jersey's efforts to address unlawful activity involving firearms reduce the risk of violence from militia members and other violent extremists. But in spite of our successes, this is an example of one area where federal standards are needed to aid our efforts. In 2019, we found that approximately 80 percent of all guns used in crimes in New Jersey come from out of state.

If the Federal Government were to adopt the same kind of commonsense firearms safety laws that we have in our State, we could significantly reduce the number of firearms that make it into the hands of individuals who seek to use them for unlawful purposes, including those related to militia extremism. For that reason, we welcome the Department of Justice's recent proposal to update the regulatory definition of "firearm" to close a loophole that currently exists for ghost guns, while we recognize that there's more to be done.

Conclusion

These are just a some of the approaches that my office has been using to combat the rise of militia extremism and violent extremism. I appreciate the opportunity to share our strategies with the Subcommittee and thank the Subcommittee for its careful examination of this important issue.