



# Law Enforcement Investigations of Extremist Calls to Action on Social Media

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In the wake of government actions that some have viewed as partisan or political—such as the [U.S. Supreme Court’s decision in \*Dobbs v. Jackson Women’s Health Organization\*](#) and the [Federal Bureau of Investigation’s \(FBI’s\) search](#) of former President Trump’s residence at Mar-a-Lago—there have been calls to action on social media platforms. Some of these calls to action have included calls for violence. For instance, following the Supreme Court’s *Dobbs* decision, individuals characterized as [abortion rights extremists reportedly issued calls for violence](#) on social media platforms. In addition, following the FBI’s search of Mar-a-Lago, individuals characterized as [right-wing extremists reportedly called for violence](#) on social media. As such, policymakers may be interested in how extremists and law enforcement use social media, as well as conducting oversight over law enforcement use of social media to thwart or investigate extremists’ threats of violence.

## Extremists’ Use of Social Media

Social media plays an important role in [the radicalization and mobilization of extremists](#) in the United States. Extremists of various beliefs and backgrounds [use social media](#) to share and consume content; foster relationships with like-minded individuals; and, in rare instances, facilitate violent attacks. While extremists [use mainstream platforms](#) (e.g., Facebook, Twitter), mainstream social media companies’ efforts to remove content that [violates their policies](#), and if necessary the account responsible for the content from their platforms, [may cause extremists to switch](#) to less moderated and encrypted social media platforms.

Former-FBI Assistant Director Michael C. McGarrity [noted in congressional testimony that domestic terrorists’ radicalization to violence](#) is increasingly taking place online where “social media is used for the distribution of propaganda, recruitment, target selection, and incitement to violence.” He further explained that the online, global nature of the threat has enabled extremists to engage with other like-minded individuals without having to join organized groups.

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## Law Enforcement Use of Social Media

Law enforcement agencies [use social media](#) as a tool for information sharing (both with other agencies and the public) and as a source of information for active investigations. There are no federal laws that *specifically* govern agencies' use of information obtained from social media sites, but the ability to obtain or use certain information may be influenced by social media [companies' policies](#) and law enforcement agencies' own social media policies and [rules of criminal procedure](#). When individuals post content on social media platforms without audience restrictions, anyone—including law enforcement—can access this content without court authorization. However, some information that individuals post on social media might be limited to certain audiences, either due to user choice or platform policies. In instances where law enforcement does not have public access to information, they may use various tools and techniques, such as informants or undercover operations, to gain access. Law enforcement [may also require](#) social media platforms to provide access to certain restricted information through a warrant, subpoena, or other court order.

Social media companies have weighed in on social media monitoring by law enforcement, and some have modified [their policies](#) expressly to prohibit their user data from being used by law enforcement to monitor social media. Law enforcement agencies themselves have [reportedly grappled](#) with the extent to which they should gather and rely on information and intelligence gleaned from social media.

Generally, federal investigations may be conducted for an [authorized national security, criminal, or foreign intelligence collection purpose](#) and in pursuit of a clearly defined objective. Investigative activity may not solely monitor the exercise of First Amendment rights. A perennial issue for federal law enforcement is [distinguishing between constitutionally protected speech and threats of violence](#) subject to enforcement action.

## Criticism of Law Enforcement Handling of Extremist Threats on Social Media and Recent Policy Changes

In some cases, extremists' planning for attacks has been carried out in the open on social media platforms, leading some to question why law enforcement did not prevent or better prepare for an attack. For example, [much of the planning for the January 6, 2021, attack on the U.S. Capitol](#) took place on popular social media platforms, and the [Norfolk FBI field office reportedly posted threat information](#) warning of violence at the Capitol on the [Law Enforcement Enterprise Portal](#).

The January 6<sup>th</sup> attack has [reportedly changed how federal law enforcement handles online intelligence](#). In 2021, the Department of Homeland Security began to gather and analyze intelligence about security threats from public social media posts. The FBI, however, [has given differing responses](#) regarding whether they utilize social media posts for intelligence gathering purposes. According to the [FBI Domestic Investigations and Operations Guide](#), the FBI is permitted to proactively search publicly available information.

## Congressional Considerations

Recently, certain government actions that have been viewed by some as being politically motivated have resulted in an uptick in violent and extremist rhetoric against [Supreme Court justices](#) and [federal law enforcement](#) on social media platforms. Policymakers may choose to examine the extent to which law enforcement is able to leverage public information on social media platforms as well as restricted information gleaned through lawful means to investigate threats of violence. In addition, [policymakers have questioned](#) what social media companies are doing to catalog and address threats of violence made on their platforms.

In its *National Strategy for Countering Domestic Terrorism*, the Biden Administration stated that the Department of Justice is examining whether new legislative authorities that balance safety and the protection of civil rights and liberties are “necessary and appropriate.” The Administration did not explain what those possible legislative authorities might be. In considering new legislative authorities and law enforcement’s use of social media to address violent extremist threats, Congress might consider the following: (1) whether law enforcement needs any additional authorities to help it utilize social media information to conduct investigations or intelligence assessments; (2) whether current safeguards to protect civil liberties when law enforcement uses public social media information for investigative purposes are adequate; and (3) the extent to which social media information can be useful when trying to predict who might carry out a violent act or where a violent act might occur.

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