

Congress of the United States
Washington, DC 20515

May 12, 2022

Mr. Mark Zuckerberg
Chairman and Chief Executive Officer
Meta Platforms, Inc.
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

We write to encourage Meta to take steps to preserve and archive content shared on its platforms that could potentially be used as evidence as the U.S. government and international human rights and accountability monitors investigate Russian war crimes, crimes against humanity, and other atrocities in Ukraine.

Social media platforms routinely remove graphic content that glorifies violence or human suffering or could lead to further perpetrations of violence, and have rightfully implemented graphic content policies to protect their users. However, we are concerned that the processes by which social media platforms take down or block this content—including through automated and artificial intelligence-enabled systems—can result in the unintentional removal and permanent deletion of content that could be used as evidence of potential human rights violations such as war crimes, crimes against humanity, and genocide.¹

Since Mr. Putin began his renewed unprovoked and unjustified war against Ukraine in February 2022, the world has watched in horror as Russian forces have unleashed indiscriminate violence against the people of Ukraine.² During the past two months:

- Russian forces have reportedly targeted Ukrainian civilians at schools and residential buildings, and have carried out dozens of attacks against non-military medical facilities, including the bombing of a maternity hospital in Mariupol.³

¹ Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes); “*Lost Memories*”: *War Crimes Evidence Threatened by AI Moderation*, Reuters (June 19, 2020) (online at www.reuters.com/article/us-global-socialmedia-rights-trfn-idUSKBN23Q2TO).

² See e.g., *Russia’s Attacks on Civilians in Mariupol Are “War Crimes,” OSCE Says*, Washington Post (Apr. 13, 2022) (online at www.washingtonpost.com/world/2022/04/13/osce-investigation-russia-ukraine-human-rights/).

³ Department of State, *War Crimes by Russia’s Forces in Ukraine* (Mar. 23, 2022) (online at www.state.gov/war-crimes-by-russias-forces-in-ukraine/); *Pregnant Woman, Baby Die After Russian Bombing in Mariupol*, Associated Press (Mar. 15, 2022) (online at <https://apnews.com/article/russia-ukraine-war-maternity-hospital-pregnant-woman-dead-c0f2f859296f9f02be24fc9edfca1085>); *Anatomy of the Mariupol Hospital Attack*,

- In March, an attack apparently carried out by Russian forces targeted and destroyed a Mariupol theater, where more than 1,000 civilians were sheltering, reportedly killing as many as 600 people.⁴ Prior to the attack, the theater's grounds had clear markings indicating children were inside.⁵
- Publicly reported evidence indicates Russian forces carried out “a campaign of terror and revenge” against Ukrainian civilians in the town of Bucha, near Kyiv.⁶ As of early April, United Nations human rights monitors have recorded the unlawful killing and “summary executions” of at least 50 civilians in Bucha.⁷
- On April 8, 2022, a missile strike on a train station in Kramatorsk, Ukraine, which civilians were using to evacuate amid Russia's offensive, killed 52 people.⁸
- Several reports indicate that Russian forces have perpetrated acts of sexual violence and rape against women in Ukraine.⁹

On April 22, 2022, United Nations High Commissioner for Human Rights Michelle Bachelet stated that these and other incidents have contributed to a “horror story of violations perpetrated against civilians” in Ukraine. She further stated that since the war began, “international humanitarian law has not merely been ignored but seemingly tossed aside.”¹⁰

CNN (Mar. 17, 2022) (online at www.cnn.com/interactive/2022/03/europe/mariupol-maternity-hospital-attack/index.html).

⁴ *AP Evidence Points To 600 Dead in Mariupol Theater Airstrike*, Associated Press (May 4, 2022) (online at <https://apnews.com/article/Russia-ukraine-war-mariupol-theater-c321a196fbd568899841b506afcac7a1>).

⁵ *Inside the Terror at Mariupol's Bombed Theater: “I Heard Screams Constantly,”* Washington Post (Mar. 25, 2022) (online at www.washingtonpost.com/world/2022/03/25/ukraine-mariupol-theater-deaths/); Organization for Security and Co-operation in Europe, *Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022* (Apr. 13, 2022) (online at www.osce.org/files/f/documents/f/a/515868.pdf); *Ukraine Says Russia Strikes Mariupol Theatre Sheltering Residents, Moscow Denies Attack*, Reuters (Mar. 16, 2022) (online at www.reuters.com/world/russian-bombing-hits-theatre-mariupol-sheltering-residents-city-council-2022-03-16/).

⁶ *Bucha's Month of Terror*, New York Times (Apr. 11, 2022) (online at www.nytimes.com/interactive/2022/04/11/world/europe/bucha-terror.html).

⁷ United Nations Office of the High Commissioner for Human Rights, *Press Release: Bachelet Urges Respect for International Humanitarian Law Amid Growing Evidence of War Crimes in Ukraine* (Apr. 22, 2022) (online at www.ohchr.org/en/press-releases/2022/04/bachelet-urges-respect-international-humanitarian-law-amid-growing-evidence).

⁸ *Missile Kills at Least 52 at Crowded Ukrainian Train Station*, Associated Press (Apr. 8, 2022) (online at <https://apnews.com/article/russia-ukraine-europe-ap-top-news-migration-united-nations-ee2fa37bb0ace7b4714c084998765f65>).

⁹ See e.g., Human Rights Watch, *Ukraine: Apparent War Crimes in Russia-Controlled Areas* (Apr. 3, 2022) (online at www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas).

¹⁰ United Nations Office of the High Commissioner for Human Rights, *Press Release: Bachelet Urges Respect for International Humanitarian Law Amid Growing Evidence of War Crimes in Ukraine* (Apr. 22, 2022) (online at www.ohchr.org/en/press-releases/2022/04/bachelet-urges-respect-international-humanitarian-law-amid-growing-evidence).

Often, images and videos of these despicable acts and their aftermath have been recorded and shared on social media platforms, including Facebook and Instagram.¹¹ If verified as authentic, this content could provide the U.S. government and international human rights investigators with a trove of evidence that would help to substantiate allegations of war crimes and other atrocities committed by Russian forces against the people of Ukraine.¹²

International human rights monitors have previously used social media content to investigate and prosecute war crime violators in prior conflicts—often to great effect.¹³ For example, in 2017, the International Criminal Court (ICC) issued an arrest warrant for a Libyan military commander that relied primarily on evidence posted on social media platforms and showed the commander’s participation in the summary execution of prisoners.¹⁴ Swedish officials used video and content posted on social media to prosecute and convict a Syrian man who participated in extrajudicial killings of captured Syrian soldiers.¹⁵

We are concerned that the automated systems and processes that social media platforms often use to remove graphic and violent posts could lead to the loss of important content that contains evidence of potential human rights violations and war crimes.¹⁶ In fact, because of these automated systems, international investigators and human rights organizations have argued that they “are increasingly losing the race to identify and preserve information that may have legitimate human rights and historical value before it is removed.”¹⁷

¹¹ *The Race to Archive Social Posts That May Prove Russian War Crimes*, Wired (Apr. 11, 2022) (online at www.wired.com/story/open-source-russia-war-crimes-ukraine/); *Videos Showing Potential Russian War Crimes Flood Social Media, 'Overwhelming' Human Rights Experts Rushing To Document Them*, Business Insider (Mar. 12, 2022) (online at www.businessinsider.com/videos-showing-russian-atrocities-in-ukraine-flood-social-media-2022-3).

¹² *The Race to Archive Social Posts That May Prove Russian War Crimes*, Wired (Apr. 11, 2022) (online at www.wired.com/story/open-source-russia-war-crimes-ukraine/); *Can a Tweet Be Evidence? How Social Media Is Being Used to Hunt Down War Crimes in Ukraine*, Grid (Apr. 11, 2022) (online at www.grid.news/story/global/2022/04/11/in-ukraine-war-crimes-are-being-captured-on-social-media/).

¹³ *Digital Detectives Scour Ukraine Social Media for Evidence of Russian War Crimes*, Politico (Mar. 4, 2022) (online at www.politico.eu/article/activists-ukraine-social-media-evidence-russia-war-crimes/); Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes).

¹⁴ “*Lost Memories*”: *War Crimes Evidence Threatened by AI Moderation*, Reuters (June 19, 2020) (online at www.reuters.com/article/us-global-socialmedia-rights-trfn-idUSKBN23Q2TO).

¹⁵ *Syrian Rebel Gets Life Sentence for Mass Killing Caught on Video*, New York Times (Feb. 16, 2017) (online at www.nytimes.com/2017/02/16/world/europe/syrian-rebel-haisam-omar-sakhanh-sentenced.html).

¹⁶ Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes); “*Lost Memories*”: *War Crimes Evidence Threatened by AI Moderation*, Reuters (June 19, 2020) (online at www.reuters.com/article/us-global-socialmedia-rights-trfn-idUSKBN23Q2TO).

¹⁷ UC Berkeley School of Law Human Rights Center, *Digital Lockers: Archiving Social Media Evidence of Atrocity Crimes* (2021) (online at https://humanrights.berkeley.edu/sites/default/files/digital_lockers_report5.pdf).

For example, in 2020, Human Rights Watch reported that of about 5,400 pieces of social media content cited to support allegations of human rights abuses since 2007, more than 11% had subsequently been removed from platforms like Facebook, Twitter, and YouTube.¹⁸

We are concerned that social media platforms, including Facebook and Instagram, do not have adequate procedures in place to archive this content so that it can be made available to international organizations conducting investigations into allegations of war crimes and other atrocities.¹⁹ Without proper archival procedures and mechanisms in place, the removal of this content means “valuable evidence ... can be effectively lost forever,” further hindering the ability of investigators to collect, examine, and verify evidence of human rights violations and war crimes.²⁰

Several investigations into allegations of human rights violations and war crimes in Ukraine are ongoing. On March 2, 2022, ICC Prosecutor Karim A.A. Khan announced the ICC would open an investigation and start collecting evidence of alleged crimes perpetrated in Ukraine.²¹ On March 23, 2022, Secretary of State Antony Blinken announced the Department of State had formally assessed that Russian forces operating in Ukraine had committed war crimes.²² Secretary Blinken further stated that the Department would “continue to track reports of war crimes and will share information we gather with allies, partners, and international institutions and organizations, as appropriate.”²³

On April 12, 2022, a panel of experts for the Organization for Security and Co-operation in Europe (OSCE) reported it had identified “credible evidence” that human rights violations had occurred in Ukraine, “mostly in the areas under the effective control of Russia or entities under overall control of Russia.” For example, the panel found that Russia deliberately carried out an airstrike against the maternity hospital in Mariupol without warning, which “constitutes a clear

¹⁸ Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes).

¹⁹ See e.g., *Tech Companies Are Deleting Evidence of War Crimes*, The Atlantic (May 8, 2019) (online at www.theatlantic.com/ideas/archive/2019/05/facebook-algorithms-are-making-it-harder/588931/); *These Tech Companies Managed to Eradicate ISIS Content. But They’re Also Erasing Crucial Evidence of War Crimes*, Time (Apr. 11, 2020) (online at <https://time.com/5798001/facebook-youtube-algorithms-extremism/>); “*Lost Memories*”: *War Crimes Evidence Threatened by AI Moderation*, Reuters (June 19, 2020) (online at www.reuters.com/article/us-global-socialmedia-rights-trfn-idUSKBN23Q2TO).

²⁰ *The Race to Archive Social Posts That May Prove Russian War Crimes*, Wired (Apr. 11, 2022) (online at www.wired.com/story/open-source-russia-war-crimes-ukraine/); Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes).

²¹ International Criminal Court, *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation* (Mar. 2, 2022) (online at www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states).

²² Department of State, *War Crimes by Russia’s Forces in Ukraine* (Mar. 23, 2022) (online at www.state.gov/war-crimes-by-russias-forces-in-ukraine/).

²³ *Id.*

violation of IHL [international humanitarian law] and those responsible for it have committed a war crime.”²⁴

As Russia continues its unjustified war against Ukraine, the ICC, OSCE, and the U.S. government will continue to collect evidence of war crimes and other atrocities. These organizations will require access to the entirety of information and evidence available, including content posted on social media platforms, to conduct full and complete investigations.

We therefore request that Meta take steps to preserve content, and the metadata associated with this content, that potentially could provide evidence of war crimes and human rights violations in Ukraine. We also request that Meta work to ensure this content is made accessible, in compliance with relevant privacy laws and regulations, to international human rights investigators who are examining allegations of human rights violations perpetrated against the people of Ukraine.

Specifically, we request that Meta consider taking the following actions:

1. Archive and preserve all content related to the war in Ukraine that may provide evidence of war crimes or human rights violations. Meta should preserve this content for an extended period of time, such as for successive and renewable one-year periods, to ensure international human rights monitors have sufficient time to access and examine the content;
2. Engage and coordinate with international human rights monitors and civil society organizations examining human rights violations in Ukraine to establish a viable and lawful mechanism for archiving and sharing social media content that potentially shows war crimes and other atrocities²⁵;
3. Provide additional transparency around how Meta’s platforms utilize automated systems to flag and take down content that violates the company’s policies, such as why specific content regarding the war in Ukraine was removed, and how the company preserves or archives this content; and
4. Implement a method for users of Meta’s platforms to flag or mark content as containing potential evidence of war crimes and other atrocities.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X, and the Committee on Foreign Affairs is responsible for broad oversight of

²⁴ Organization for Security and Co-operation in Europe, *Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022* (Apr. 13, 2022) (online at www.osce.org/files/f/documents/f/a/515868.pdf).

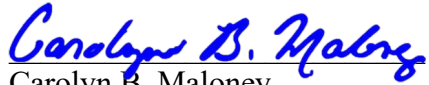
²⁵ Human Rights Watch, “*Video Unavailable*”: *Social Media Platforms Remove Evidence of War Crimes* (Sept. 10, 2020) (online at www.hrw.org/report/2020/09/10/video-unavailable/social-media-platforms-remove-evidence-war-crimes).

Mr. Mark Zuckerberg

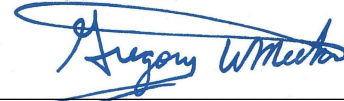
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foreign policy and international human rights and accountability. If you have any questions regarding this request, please contact Committee on Oversight and Reform staff at (202) 225-5051 or Committee on Foreign Affairs staff at (202) 225-5021.

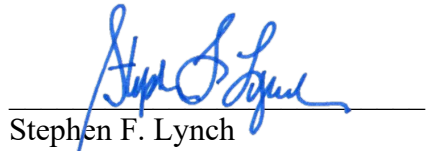
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Gregory W. Meeks
Chairman
Committee on Foreign Affairs



Stephen F. Lynch
Chairman
Subcommittee on National Security



William R. Keating
Chairman
Subcommittee on Europe, Energy,
the Environment and Cyber

cc: The Honorable James Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
Committee on Foreign Affairs

The Honorable Glenn Grothman, Ranking Member
Subcommittee on National Security

The Honorable Brian Fitzpatrick, Ranking Member
Subcommittee on Europe, Energy, the Environment and Cyber