

EMPOWER OVERSIGHT

Whistleblowers & Research



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VIA ELECTRONIC TRANSMISSION: FOIA STAR, NSDFOIA@USDOJ.GOV,
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Douglas Hibbard
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Office of Information Policy
Department of Justice
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Arnetta Mallory, FOIA Initiatives Coordinator
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
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Marguerite A. Driessen, Attorney Advisor
Professional Responsibility Advisory Office
Department of Justice
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Karen McFadden
FOIA Contact
Justice Management Division
Department of Justice
Room 1111 RFK, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530

RE: SUSAN HENNESSEY, FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Hibbard, Ms. Mallory, Ms. Driessen, and Ms. McFadden:

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities help to hold those authorities accountable to act on such reports.

On June 30, 2021, Senators Charles Grassley and Ron Johnson wrote to Attorney General Merrick Garland raising a number of serious questions about Ms. Susan Hennessey’s work in the National Security Division.¹ In light of her prejudicial comments on Twitter about Special Counsel John Durham’s ongoing investigations, which she later deleted *en masse*, her

¹ “Senators Raise Concerns over More Conflicts of Interest and Political Bias in Recent Justice Dept. National Security Hire,” *Senate Judiciary Committee Press Release* ([Jun 30, 2021](#)); letter from Senators Charles Grassley and Ron Johnson to Attorney General Merrick Garland ([Jun 29, 2021](#)).

ability to appear objective and impartial in any official duties related to those investigation is obviously in question.

There is an acute public interest in access to documents relating to the Justice Department's hiring of Ms. Hennessey, and what steps, if any, the Department has taken to mitigate the appearance that Ms. Hennessey's biases could interfere with Special Counsel Durham's independent work.

Accordingly, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, please provide all records relating to:

1. the Justice Department's consideration and hiring of Ms. Hennessey, including all records related to her interest in joining the Department, consideration of her for any Department position, any statements of recommendation, evaluations of her qualifications, records relating to interviews with Ms. Hennessey, notes from any such interviews, and any offers of employment;
2. all forms completed by Ms. Hennessey in the application, hiring, and onboarding processes at Department of Justice;
3. all conflicts Ms. Hennessey reported or the Department assessed to apply to her;
4. all recusals applicable to Ms. Hennessey, including all records relating to any recusal or draft recusal of Ms. Hennessey from matters related to Special Counsel Durham's inquiry;
5. all records relating to Ms. Hennessey's deleted tweets;
6. all records to or from the relevant Justice Department Ethics Officials, including Michael Nannes or Cynthia Shaw, regarding Ms. Hennessey;
7. Ms. Hennessey's calendar entries from the first day of her employment at the Department to the present;
8. all records sent or received by Ms. Hennessey that include the terms "Durham," "Special Counsel," "Steele," "dossier," "Clinesmith," or "Danchenko";
9. all records relating to Ms. Hennessey's previous employer, Lawfare, and leaks regarding Special Counsel Mueller's investigation.

Please ensure the Department's searches include all relevant custodians in the National Security Division, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of the Associate Attorney General, the Justice Management Division, the Professional Responsibility Advisory Office, the Department's Ethics Officials Michael Nannes and Cynthia Shaw, and the Department's White House Liaison.

Fee Waiver Request

Empower Oversight requests a waiver of fees associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii). The information sought is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government. Empower Oversight is a non-profit organization as defined under

Section 501(c)(3) of the Internal Revenue Code and has no commercial interest in making this request.

The public has a significant interest in the ongoing probe by Special Counsel Durham, the decision of the Biden Administration to hire an outspoken critic of that probe, and that decision's potential to affect the Durham probe absent proper Departmental safeguards.² Empower Oversight is committed to government accountability and public integrity through the power of information and is accordingly committed to public disclosure of documents via its website.

Request for Expedited Processing

Empower Oversight also requests expedited processing of this request. Special Counsel Durham's ongoing investigation is of massive public interest, and there is extensive interest in ensuring the integrity of his investigation. The information requested is urgently needed to inform the public concerning actual or alleged federal government activity, namely the steps the Department has taken to ensure Ms. Hennessey's appearances of bias do not affect Special Counsel Durham's investigation. The request is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity which affect public confidence.³ As noted above, Empower Oversight is engaged in disseminating information to the public through its website and working with media.⁴ It is important that this request be processed and the results publicly disseminated prior to the conclusion of Mr. Durham's work, so that the public can have confidence in its integrity.

Thank you for your prompt attention to this matter.

Cordially,

/Jason Foster/

Jason Foster
Founder & President

² See e.g., "New Biden DOJ staffer deleted over 39K tweets, including Russia collusion accusations," *Fox News* ([May 10, 2021](#)); "Susan Hennessey Brings Resistance Twitter to the Biden DOJ," *National Review* ([May 10, 2021](#)); "House Republicans see 'political bias' in DOJ hire of outspoken Trump critic," *The Washington Times* ([June 3, 2021](#)).

³ *Id.*

⁴ Mission, *Empower Oversight* (<https://empowr.us/mission/>).