

EMPOWER OVERSIGHT

Whistleblowers & Research



July 25, 2023

Via Electronic Transmission: DOJ FOIA Portal

Arla Witte-Simpson
FOIA Public Liaison
Executive Office for United States Attorneys
Department of Justice
175 N Street, N.E.
Washington, DC 20530-0001
Phone: (202) 252-6036

RE: FOIA Request for Records Relating to Database for January 6th Cases

Dear Ms. Witte-Simpson:

INTRODUCTION

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, and seek to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

BACKGROUND

According to a report by Politico, the Department of Justice (“DOJ”) has awarded Deloitte Financial Advisory Services a contract to provide litigation support, specifically creating a database, for January 6, 2021 Capitol riot (“January 6th”) prosecutions.¹ Details of the contract are available on USASpending.gov.² The database reportedly contains videos, photographs, documents and social media posts related to the Capitol riot, and is being used by the U.S. Attorney’s Office for the District of Columbia.

The collection of this sensitive information raises questions about what information is included in the database and who has access to it. The U.S. Court of Appeals for the D.C. Circuit has held that “[m]atters of substantive law enforcement policy are properly the subject of public

¹ Josh Gerstein and Kyle Cheney, *Feds agree to pay \$6.1M to create database for Capitol riot prosecutions*, POLITICO (July 9, 2021) available at <https://www.politico.com/news/2021/07/09/doj-database-capitol-riot-prosecutions-498911> (last visited July 6, 2023).

² See https://www.usaspending.gov/award/CONT_IDV_15JPSS20D00000371_1501.

concern, whether or not the policy in question is lawful” under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.³

RECORDS REQUEST

Pursuant to FOIA, Empower Oversight requests the following records pursuant to shed light on DOJ’s use of this information:

1. The contract with Deloitte Financial Advisory Services associated with PIID15JPSS20D00000371, described on USASpending.gov at https://www.usaspending.gov/award/CONT_IDV_15JPSS20D00000371_1501;
2. Any and all records describing the criteria for including information in the database for January 6th prosecutions (“the database”);
3. Any and all records describing personnel and/or agencies with access to the database;
4. Any and all records describing personnel who have authority to grant access to the database;
5. Any and all records describing or listing queries of the database;
6. Any and all records describing the number of individuals whose information is included in the database, whether those individuals are facing prosecution or not; charges those individuals are facing; the individuals’ geographic location and any available demographic information about them; and the date when individuals’ information was entered into the database.
7. Any and all records describing the retention policy for the database.
8. Records of all payments made to Deloitte Financial Advisory Services or any other entity to update and maintain the database.

DEFINITIONS

“COMMUNICATION(S)” means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

“DOCUMENT(S)” or “RECORD(S)” mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms “DOCUMENT(S)” or “RECORD(S)” include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records,

³ *ACLU v. U.S. Dep’t of Justice*, 655 F.3d 1, 14 (D.C. Cir. 2011) (internal citations and quotations omitted).

ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” “REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” or “PERTAINS TO” mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

“INCLUDING” means comprising part of, but not being limited to, the whole.

INSTRUCTIONS

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact Mike Zummer by e-mail at mzummer@empowr.us.

FEE WAIVER REQUEST

Empower Oversight agrees to pay up to \$25.00 in applicable fees, but notes that it qualifies as a “representative of the news media” and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public’s understanding of DOJ’s vetting of staff.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please do not hesitate to contact me with any questions.

Cordially,

[/Tristan Leavitt/](#)
Tristan Leavitt
President