

EMPOWER OVERSIGHT

Whistleblowers & Research



June 26, 2024

Via Electronic Transmission

Inspector General Michael E. Horowitz
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue NW
Washington, DC 20530

RE: Withholding Names of Senior Government Officials Who Have Engaged in Misconduct from Public Reports Required Under 5a U.S.C. § 5(a)(19)

Dear Inspector General Horowitz:

Under 5a U.S.C. § 5(a)(19), inspectors general are required to submit reports “on each investigation conducted by the Office [of the Inspector General] involving a senior Government employee where allegations of misconduct were substantiated, including the name of the senior government official (as defined by the department or agency) if already made public by the Office....”

Your office publishes these reports of substantiated misconduct by senior government officials on its website, but does not include the names of those senior officials. For example, on May 15, 2024, your office posted an investigative summary titled “Findings of Misconduct by a then Federal Bureau of Investigation Senior Official for Numerous Comments to a Subordinate in Violation of the Department’s Zero Tolerance Policy on Harassment and FBI Policies.”¹ On March 5, 2024, your office posted an investigative summary titled “Findings of Misconduct by a then FBI Special Agent in Charge for Ethical Violations Pertaining to Financial Conflict of Interest and Use of Public Office for Private Gain.”² On January 2, 2024, your office posted an investigative summary about “Finding of Misconduct by an FBI Then-Acting Deputy Assistant Director for Harassing a Subordinate in Violation of the Department’s Zero Tolerance Policy on Harassment and FBI Policy and Engaging in Unprofessional Conduct on Duty in Violation of FBI Policy.”³

¹ https://oig.justice.gov/sites/default/files/reports/24-066_0_0.pdf (last visited June 3, 2024).

² <https://oig.justice.gov/sites/default/files/reports/24-048.pdf> (last visited June 3, 2024).

³ <https://oig.justice.gov/sites/default/files/reports/24-021.pdf> (last visited June 3, 2024).

All three of these examples involved substantiated misconduct by Senior Executive Service (“SES”) personnel. Based on Empower Oversight’s experience representing whistleblowers and other employees abused by Department of Justice (“DOJ”) officials, DOJ agencies routinely release the names of SES officials in discovery. Also, the U.S. Court of Appeals for the District of Columbia Circuit has held that the names of senior officials who have been found to have engaged in misconduct can be released to the public under the Freedom of Information Act, 5 U.S.C. § 552. *Stern v. FBI*, 737 F.2d 84, 93-94 (D.C. Cir. 1984). Thus, there appears to be no basis for your office to withhold the names of senior government officials from reports where allegations of misconduct by those officials have been substantiated.

The public has a substantial interest in learning the names of these officials who have abused the public trust by engaging in misconduct. Senior officials often leave the government and find jobs in the private sector where they cash in on their government executive experience and can continue their abuse of employees. For example, Empower Oversight has information suggesting the executive who is the subject of the May 15, 2024, investigative summary listed above is working for a highly respected firm providing advice to corporations on investigations and compliance.

Empower Oversight requests that your office either release the names of these senior government officials or provide an explanation of why it is concealing from the public the names of senior government officials who have engaged in misconduct, thus, allowing the private sector to hire these officials without the full story of their executive service in DOJ.

Cordially,

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