

EMPOWER OVERSIGHT

Whistleblowers & Research



July 10, 2024

VIA E-MAIL AND FBI ELECTRONIC PORTAL

Director Christopher Wray
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

RE: Request for Records Pursuant to the Privacy Act and Freedom of Information Act

Dear Director Wray:

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

On June 28, 2024, Empower Oversight submitted a whistleblower disclosure and retaliation complaint to the Department of Justice (“DOJ”) Office of Inspector General (“OIG”) from a client who previously served as a supervisory special agent (“SSA”) in the Federal Bureau of Investigation’s Security Division (“SecD”).¹ The SSA disclosed various ways SecD abused the security clearance process.

¹ See Press Release, Empower Oversight, *New Empower Oversight Whistleblower: Rampant Reprisal in FBI Clearance Work*, July 2, 2024, <https://empowr.us/new-empower-oversight-whistleblower-rampant-reprisal-in-fbi-clearance-work>.

Some of the disclosed abuses of authority related to FBI staff operations specialist Marcus Allen, who Empower Oversight also represents. Empower Oversight long argued that the FBI had no basis to suspend and then revoke Mr. Allen's security clearance.² When Mr. Allen's clearance was finally reinstated on May 31, 2024,³ the FBI provided no statement of its reasoning for finally admitting after 27 months that Mr. Allen could once again be trusted with access to classified information.

However, the new whistleblower disclosure to DOJ OIG highlights that *three different employees* also objected to SecD's use of the security clearance process in Mr. Allen's case. Most recently, according to the disclosure: "Since his suspension, [the SSA whistleblower] learned that one of the [Clearance Adjudication Unit] adjudicators he had supervised . . . had suffered retaliation for recommending the reinstatement of former [staff operations specialist] Allen's clearance."⁴ The initial SecD investigator on Mr. Allen's case also suffered retaliation for expressing his views that Mr. Allen's case did not merit suspension of his security clearance.

The revelation that multiple FBI employees within SecD objected to its actions on Mr. Allen's case—and in turn suffered their own retaliation for it—highlights just how dysfunctional SecD has become. We have also recently obtained shocking information about improper questions to FBI employees, who were compelled to inform on their coworkers' political and medical beliefs.⁵ These facts paint a disturbing picture of how politicized the FBI, and SecD in particular, has become under your watch.

Over the last two days it has been publicly reported that the House Committee on the Judiciary Committee will be holding a July 30 hearing to examine some of these issues.⁶ The

² See Press Release, Empower Oversight, *Empower Oversight Files 26-page Appeal for FBI Whistleblower Marcus Allen's Full Reinstatement from Improper Security Clearance Suspension*, Oct. 26, 2023, <https://empowr.us/empower-oversight-files-26-page-appeal-for-fbi-whistleblower-marcus-allens-full-reinstatement-from-improper-security-clearance-suspension>; Press Release, Empower Oversight, *FBI is Breaking the Law in its Retaliation Against Whistleblower Marcus Allen*, Jan. 23, 2024, <https://empowr.us/empower-oversight-fbi-is-breaking-the-law-in-its-retaliation-against-agent-marcus-allen>.

³ See Press Release, Empower Oversight, *FBI Whistleblower's Security Clearance Reinstated in Full*, June 4, 2024, <https://empowr.us/fbi-whistleblowers-security-clearance-reinstated-in-full>.

⁴ Letter from Empower Oversight President Tristan Leavitt to Justice Department Inspector General Michael Horowitz and Office of Professional Responsibility Counsel Jeffrey Ragsdale (June 28, 2024).

⁵ Press Release, Empower Oversight, *Documents Reveal Political Bias and Abuse of the FBI Security Clearance Process*, June 28, 2024, <https://empowr.us/documents-reveal-political-bias-and-abuse-of-the-fbi-security-clearance-process>.

⁶ Kerry Picket, "DOJ inspector general to testify to Congress about FBI retaliation against whistleblowers," *Washington Times* (July 10, 2024), available at <https://www.washingtontimes.com/news/2024/jul/10/doj-inspector-general-to-testify-to-congress-about>; see also Jordain Carney (@jordainc), X (July 8, 2024, 3:16 PM), <https://x.com/jordainc/status/1810392658734621079>.

hearing will include testimony from DOJ Inspector General Michael Horowitz, whose office issued a Management Advisory Memo in May based in part on Mr. Allen’s case.⁷

RECORDS REQUEST

In light of these developments, we request on Mr. Allen’s behalf—pursuant to the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. § 552)—the Reinstatement Electronic Communication (“Reinstatement EC”) and all other documents that describe the basis for Mr. Allen’s clearance reinstatement of May 31, 2024.

Mr. Allen has executed a Form DOJ-361 authorizing the release of information to Empower Oversight, which is attached as Exhibit A.

EXPEDITED PROCESSING

Consistent with at least one prior case in the U.S. District Court for the District of Columbia, upcoming congressional action is a recognized reason for urgency in gaining access to government records ahead of prior applicants. *Schachter v. I.R.S.*, No. 82-1010, 1982 WL 1689, at *2 (D.D.C. Oct. 19, 1982). Accordingly, Empower Oversight and Mr. Allen request expedited processing of this request, as it is in the public interest for this information to be available before the Inspector General’s related congressional testimony on July 30, 2024.

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,

⁷ Department of Justice, Office of the Inspector General, Management Advisory Memorandum 24-067, May 2024 available at <https://oig.justice.gov/sites/default/files/reports/24-067.pdf> (“This concern came to our attention in connection with the OIG’s assessment of complaints the OIG received from employees of a DOJ component, alleging that their security clearances were suspended in retaliation for protected whistleblowing activity. . . . For example, in one matter, the OIG initiated a reprisal investigation . . . after the employee had been suspended without pay for over 1 year In that case, the employee was suspended without pay for approximately 15 months before the FBI issued a decision revoking his security clearance and it then took another 4 months for the FBI to provide the employee with the information that the FBI used to support its revocation decision.”)

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, 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 [REDACTED].

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 the Department's handling of allegations that it or its employees was negligent or engaged in wrongdoing.

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