

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EMPOWER OVERSIGHT
WHISTLEBLOWERS & RESEARCH,
11166 Fairfax Blvd., Suite 500 #1076
Fairfax, VA 22030

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF JUSTICE,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Defendant.

Civil Action No.: 24-2462

COMPLAINT

1. Plaintiff Empower Oversight Whistleblowers & Research (hereinafter, “Empower Oversight”) brings this action against Defendant U.S. Department of Justice (“DOJ”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. The records Empower Oversight seeks concern a matter of significant public interest. Indeed, the requested records are likely to show a startling failure by DOJ to respect the long-established separation of powers in the United States Constitution.

3. These records will show the lengths to which DOJ went starting in 2016 to secretly surveil various congressional staff members (of both political parties) who

were actively engaged in oversight of DOJ pursuant to their constitutional authorities.

4. That surveillance is undisputed, as various third-party technology companies have alerted current and former congressional staff members that the companies received subpoenas for the staffers' communications records, along with non-disclosure orders (NDOs) that prevented the companies from notifying the staff members.

5. Considering the significant constitutional issues posed by such brazen retaliation against staff members who were performing oversight of DOJ, the public has a deep interest in learning more about these abuses. That is why Empower Oversight submitted five FOIA requests to DOJ for records about such surveillance. Additionally, Empower Oversight initiated a separate civil action in the U.S. District Court for the District of Columbia seeking to intervene in the underlying subpoena matter and to unseal various motions DOJ submitted when requesting that the Court issue NDOs. *See In re Application of the United States for an Order Pursuant to 18 U.S.C. § 2705(b)*, No. 24-mc-0058-JEB (D.D.C.).

6. To date, DOJ has failed to produce *any* requested records to Empower Oversight, thereby depriving the public of these important records.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

8. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

9. Plaintiff Empower Oversight is a nonprofit, nonpartisan educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. Empower Oversight works to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, as well as work to hold authorities accountable to act on such reports. Empower Oversight has its principal place of business located in Fairfax, Virginia, and it submitted the FOIA Requests described herein to DOJ.

10. DOJ is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), and it has possession and control of the records Empower Oversight seeks. Additionally, the Office of the Attorney General (OAG), the Office of the Deputy Attorney General (DAG), the Office of the Associate Attorney General (AAG), the Office of Public Affairs (OPA), the Executive Office of U.S. Attorneys (EOUSA), the National Security Division (NSD), and the U.S. Attorney's Office for the District of Columbia are each offices or subcomponents of DOJ that have the records Empower Oversight seeks.

BACKGROUND

11. On October 19, 2023, Empower Oversight's founder, Jason Foster, received a notification that DOJ had served a subpoena on Google in 2017 for records of a Google email address and two Google Voice telephone numbers connected to Mr. Foster's family's telephones and his official work phone at the U.S. Senate. At the time, in 2017, Mr. Foster was Chief Investigative Counsel to the U.S. Senate Judiciary Committee, and he was responsible for directing congressional oversight investigations into waste, fraud, abuse and misconduct at DOJ.

12. Although Google received this subpoena in 2017, it was unable to notify Mr. Foster about the subpoenas until 2023, because DOJ also sought and received several NDOs related to the subpoena.

13. After receiving the notice from Google, Mr. Foster learned that several of the other accounts listed in the subpoena belonged to other staffers, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight of DOJ.

14. Despite the obvious and serious separation-of-powers issues raised by such subpoenas, DOJ did not provide any of this background to Google when it served the subpoena.

15. Considering the breadth of the subpoena, it resulted in a serious invasion of privacy, put at risk various privileged communications, and compelled Google to provide DOJ information that would easily enable DOJ to identify

confidential whistleblowers who were providing Congress with information about government misconduct.

16. To better understand DOJ's surveillance of congressional staff members who were engaged in oversight, Empower Oversight submitted five FOIA requests for records from DOJ.

Request Number 1

17. On October 24, 2023, Empower Oversight submitted a FOIA request to DOJ seeking seven categories of records (*see* Ex. A at 3–4):

- (1) All documents or communications referencing U.S. District Court for the District of Columbia grand jury subpoena number GJ2017091241939.
- (2) All grand jury subpoenas issued in relation to the same investigation as U.S. District Court for the District of Columbia grand jury subpoena number GJ2017091241939.
- (3) All documents in U.S. Attorney's Office for the District of Columbia file number 2017R01896.
- (4) All communications discussing or referencing U.S. Attorney's Office for the District of Columbia file number 2017R01896.
- (5) All communications exchanged between members of the press and DAG Rosenstein, Robert Hur, Edward O'Callaghan, Sarah Isgur, aka Sarah Isgur Flores, and/or Jessie Liu for the period from December 1, 2016 to September 26, 2017, regarding (a) communications between Michael Flynn and Sergey Kislyak, (b) Carter Page, (c) Joe Pientka, (d) Bill Priestap, (e) congressional oversight requests, (f) Senator Charles Grassley, (g) Jason Foster, and/or (h) the Crossfire Hurricane investigation.
- (6) All grand jury subpoenas issued for personal communications of DAG Rosenstein, Robert Hur, Edward

O’Callaghan, and/or Jessie Liu between May 1, 2017 and May 1, 2018.

- (7) All communications exchanged between the U.S. Attorney’s Office for the District of Columbia, the National Security Division, the Deputy Attorney General’s Office and/or the FBI and Verizon between March 15, 2016, and the present regarding obtaining communications data associated with devices that Verizon serviced for U.S. House Representatives or U.S. Senate.

18. Empower Oversight directed this request to OAG, DAG, AAG, OPA, EOUSA, and the U.S. Attorney’s Office for the District of Columbia. *See id.* at 1, 3–4.

19. On October 26, 2023, DOJ sent Empower Oversight a letter acknowledging receipt of the FOIA request and assigning it tracking number EMRUFOIA102423-1. *See Ex. B.*

20. On October 30, 2023, EOUSA sent Empower Oversight an email acknowledging receipt of the FOIA request and assigning it tracking number EOUSA-2024-000212. *See Ex. C.* This letter did not provide any information beyond an acknowledgment of receipt. *Id.*

21. On December 14, 2023, DOJ’s Office of Information Policy (OIP) sent Empower Oversight a letter acknowledging receipt of the FOIA request and assigning it tracking number FOIA-2023-00200. *See Ex. D.* In this letter, OIP stated that the request fell “within ‘unusual circumstances,’” and it stated that DOJ would need additional time to respond. *Id.* at 1.

22. Since then, Empower Oversight has not received any further communications or records from DOJ in response to Request No. 1.

Request Number 2.

23. On October 30, 2023, Empower Oversight submitted a FOIA request to EOUSA seeking several categories of records (*see* Ex. E at 3–5):

- (1) Any and all court orders prohibiting Google from notifying Mr. Foster, or any Legislative Branch authorities, of the subpoena at Exhibit A.
- (2) Any and all filings seeking to obtain or extend any such order identified in request #1 and all communications about any such filings.

For the period September 1, 2017 through October 3, 2017:

- (3) All of AUSA Chawla’s communications, calendar entries, and notes of meetings, phone calls, or messages.

For the period October 16, 2023 through November 3, 2023:

- (4) All of AUSA Chawla’s communications, calendar entries, and notes of meetings, phone calls, or messages.

For the period December 1, 2016 through December 31, 2017:

- (5) All of AUSA Chawla’s communications and notes of meetings, phone calls, or messages with the FBI regarding the following topics:
 - a. Senator Grassley,
 - b. the Senate Judiciary Committee,
 - c. Jason Foster,
 - d. Jason Foster’s communications records,
 - e. other Senate Judiciary staff (names to facilitate searches upon request), or
 - f. other Senate Judiciary staff’s communications records.
- (6) All of AUSA Chawla’s communications and notes of meetings, phone calls, or messages with the FBI regarding the following topics:
 - a. other Senators or Members of the House of Representatives,

- b. other Senate or House committees,
 - c. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or
 - d. the communications records of Senators, Members, committees, or their attorneys or staff.
- (7) All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with Google, Apple, Verizon, AT&T, or Microsoft regarding the following topics:
- a. Senator Grassley,
 - b. the Senate Judiciary Committee,
 - c. Jason Foster,
 - d. Jason Foster's communications records,
 - e. other Senate Judiciary staff (names to facilitate searches upon request), or
 - f. other Senate Judiciary staff's communications records.
- (8) All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with Google, Apple, Verizon, AT&T, or Microsoft regarding the following topics:
- a. other Senators or Members of the House of Representatives,
 - b. other Senate or House committees,
 - c. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or
 - d. the communications records of Senators, Members, committees, or their attorneys or staff.
- (9) All of Acting U.S. Attorney Phillips's communications discussing any of the following topics:
- a. Senator Grassley,
 - b. the Senate Judiciary Committee,
 - c. Jason Foster,
 - d. Jason Foster's communications records,
 - e. other Senate Judiciary staff (names to facilitate searches upon request), or
 - f. other Senate Judiciary staff's communications records.
 - g. other Senators or Members of the House of Representatives,
 - h. other Senate or House committees,
 - i. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or

j. the communications records of Senators, Members, committees, or their attorneys or staff.

- (10) All communications between then-Acting U.S. Attorney Phillips and the press or DOJ public affairs personnel.
- (11) All communications between AUSA Chawla and the press or DOJ public affairs personnel.
- (12) All calendar entries for then-Acting U.S. Attorney Phillips.

24. On November 2, 2023, DOJ sent Empower Oversight a letter acknowledging receipt of this request and assigning it tracking number EMRUFOIA103123-2. *See* Ex. F.

25. Since then, Empower Oversight has not received any further communications or records from DOJ in response to Request No. 2.¹

Request Number 3

26. On November 30, 2023, Empower Oversight submitted a FOIA request to EOUSA and the U.S. Attorney's Office for the District of Columbia seeking several categories of records (*see* Ex. G at 4):

- (1) Any and all applications for court orders under 18 U.S.C. § 2705(b) prohibiting Google from notifying anyone of the subpoena at Exhibit A. For reference, the orders DOJ obtained are included as Exhibit C.
- (2) All communications, calendar entries, and notes of meetings, phone calls, or messages of AUSA Tejpal Chawla, AUSA Jocelyn Ballantine, and/or Special AUSA Laura Ingersoll discussing subpoena number GJ2017091241939, USAO investigation number 2017R01896, congressional Members or staff whose accounts were targeted in the subpoena, Jason Foster,

¹ For the purposes of Request No. 2, Empower Oversight excludes from this civil action any claims related to parts 3 or 4 of the Request. *See* Ex. E at 3–4.

and/or the investigation for which subpoena number GJ2017091241939 was issued for the following periods:

- a. August 31, 2017 through September 17, 2017;
- b. August 9, 2018 through August 28, 2018;
- c. August 2, 2019 through August 22, 2019;
- d. August 20, 2020 through September 8, 2020; and
- e. August 12, 2021 through September 1, 2021.

27. On December 1, 2023, DOJ sent a letter to Empower Oversight acknowledging receipt of the request and assigning it tracking number EMRUFOIA113023-2. *See* Ex. H.

28. Since then, Empower Oversight has not received any further communications or records from DOJ in response to Request No. 3.

Request Number 4

29. On December 7, 2023, Empower Oversight submitted a FOIA request to EOUSA and the U.S. Attorney's Office for the District of Columbia seeking several categories of records (*see* Ex. I at 3):

- (1) All legal process issued by the U.S. Attorney's Office for the District of Columbia pursuant to 5 U.S.C. § 2703 for the period from September 1, 2017 through September 30, 2017.
- (2) The following records associated with all nondisclosure orders issued under 5 U.S.C. § 2705(b) for the period from September 1, 2017 through September 30, 2017, pursuant to an application by the U.S. Attorney's Office for the District of Columbia:
 - a. The underlying legal process (warrant, subpoena, or court order) whose nondisclosure was ordered,
 - b. All prior and/or subsequent nondisclosure orders issued under 5 U.S.C. § 2705(b) ordering the nondisclosure of the same legal process,

- c. All applications for the nondisclosure orders issued during the requested period and all applications for prior and/or subsequent nondisclosure orders ordering the nondisclosure of the same legal process[.]

30. On December 7, 2023, DOJ sent Empower Oversight a letter acknowledging receipt of the request and assigning it tracking number EMRUFOIA120723. *See* Ex. J.

31. Since then, Empower Oversight has not received any further communications or records from DOJ in response to Request No. 4.

Request Number 5

32. On June 20, 2024, Empower Oversight submitted a FOIA request to EOUSA and NSD seeking several categories of records (*see* Ex. K at 5–6):

- (1) All communications, notes of meetings, and messages of AUSA Tejpal Chawla, from March 4, 2024 through March 5, 2024;
- (2) All communications, notes of meetings, and messages of AUSA Tejpal Chawla from March 6, 2024, to the present, discussing:
 - a. Empower Oversight;
 - b. Empower Oversight’s referenced May 2, 2024, Motion to Unseal and Intervene;
 - c. Subpoena number GJ2017091241939;
 - d. USAO investigation number 2017R01896;
 - e. Any member of Congress;
 - f. Any staffer of a member of Congress;
 - g. Jason Foster;
 - h. Any of the four other referenced Empower Oversight FOIA requests; and/or
 - i. The investigation for which subpoena number GJ2017091241939 was issued.

- (3) All communications, notes of meetings, and messages of Gregg Maisel of the U.S. Attorney's Office for the District of Columbia on May 15, 2024.
- (4) All communications, notes of meetings, and messages of Gregg Maisel of the U.S. Attorney's Office for the District of Columbia from May 16, 2024, to the present, discussing:
 - a. Empower Oversight;
 - b. Empower Oversight's referenced May 2, 2024, Motion to Unseal and Intervene;
 - c. Subpoena number GJ2017091241939;
 - d. USAO investigation number 2017R01896;
 - e. Any member of Congress;
 - f. Any staffer of a member of Congress;
 - g. Jason Foster;
 - h. Any of the four other referenced Empower Oversight FOIA requests; and/or
 - i. The investigation for which subpoena number GJ2017091241939 was issued.
- (5) All communications, notes of meetings, and messages of Jennifer Gellie of DOJ's National Security Division on May 15, 2024.
- (6) All communications, notes of meetings, and messages of Jennifer Gellie of DOJ's National Security Division from May 16, 2024, to the present, discussing:
 - a. Empower Oversight;
 - b. Empower Oversight's referenced May 2, 2024, Motion to Unseal and Intervene;
 - c. Subpoena number GJ2017091241939;
 - d. USAO investigation number 2017R01896;
 - e. Any member of Congress;
 - f. Any staffer of a member of Congress;
 - g. Jason Foster;
 - h. Any of the four other referenced Empower Oversight FOIA requests; and/or
 - i. The investigation for which subpoena number GJ2017091241939 was issued.

33. On June 21, 2024, DOJ sent Empower Oversight a letter acknowledging receipt of the request and assigning it tracking number EMRUFOIA062024. *See* Ex. L.

34. On July 5, 2024, NSD sent Empower Oversight a letter acknowledging receipt of the request and assigning it tracking number FOIA/PA 24-434. *See* Ex. M. In that response, NSD also stated that it was only processing subparts 5 and 6 of the request, contending that EOUSA would be responsible for responding to the other subparts. *See id.* at 1. Regarding subpart 6, NSD also requested clarification or further explanation. *See id.*

35. On August 19, 2024, Empower Oversight sent an email to NSD explaining that Empower Oversight did not agree that any further clarification or explanation was necessary for subpart 6 of the request. *See* Ex. N.

36. On August 12, 2024, EOUSA sent Empower Oversight a letter acknowledging receipt of the request and assigning it tracking number EOUSA-2024-002840. *See* Ex. O.

37. Since then, Empower Oversight has not received any further communications or records from DOJ in response to Request No. 5.

COUNT I
Violation of FOIA, 5 U.S.C. § 552

38. Plaintiff repeats the foregoing paragraphs as if set forth fully herein.

39. DOJ is an agency of the federal government within the meaning of 5 U.S.C. § 552(f).

40. By letters dated October 24, 30, November 30, 2023, December 7, 2023, and June 20, 2024, Empower Oversight submitted five FOIA requests to DOJ. *See* Exs. A, E, G, I, K.

41. Those requests reasonably described all requested records and complied with all applicable statutes and regulations.

42. DOJ failed to respond to any of those requests by conducting a search reasonably calculated to locate responsive records, as FOIA requires. *See Weisberg v. U.S. Dep't of Just.*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

43. And the requested records are not exempt from FOIA pursuant to 5 U.S.C. § 552(b).

44. DOJ has also failed to respond to Empower Oversight's requests within the statutory time period. *See* 5 U.S.C. § 552(a)(6).

45. Accordingly, Empower Oversight has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

46. By failing to release all responsive, non-exempt records, DOJ has violated FOIA. *See* 5 U.S.C. § 552(a)(3)(A).

PRAYER FOR RELIEF

WHEREFORE, Empower Oversight respectfully requests that this Court:

i. Declare that the records sought by the requests, as described in the foregoing paragraphs, must be disclosed pursuant to 5 U.S.C. § 552.

ii. Order DOJ to conduct legally sufficient searches immediately for all records responsive to Empower Oversight's FOIA requests and demonstrate that the search methods were reasonably likely to lead to the discovery of responsive records.

iii. Order DOJ to produce by a date certain all non-exempt records responsive to Empower Oversight's FOIA requests.

iv. Award Empower Oversight attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E).

v. Grant Empower Oversight such other and further relief as this Court deems proper.

August 27, 2024

Respectfully submitted,

/s/ Brian J. Field
BRIAN J. FIELD
D.C. Bar No. 985577
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006
Tel.: (202) 787-1060
Email: bfield@schaerr-jaffe.com

Counsel for Plaintiff

EXHIBIT A

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

October 24, 2023

Via Electronic Transmission: MRUFOIA.Requests@USDOJ.Gov

Office of the Attorney General
Office of the Deputy Attorney General
Office of the Associate Attorney General
Office of Public Affairs
U.S. Attorney's Office for the District of Columbia
Executive Office of U.S. Attorneys
c/o FOIA/PA Mail Referral Unit
Department of Justice
Room 115
LOC Building
Washington, DC 20530-0001
Phone: (202) 616-3837

RE: FOIA Request for Records Regarding Subpoena of U.S. Senate Staffer's Personal Communication Records

Dear FOIA Officer:

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 October 19, 2023, Jason Foster, Founder of Empower Oversight, received a notification that the U.S. Department of Justice ("DOJ") had served legal process on Google in 2017 for records of a Google Voice telephone number that connected to his family's telephones. In 2017, Mr. Foster was Chief Investigative Counsel to U.S. Senate Judiciary Committee Chairman Chuck Grassley, directing congressional oversight investigations into waste, fraud, abuse, and misconduct at the Justice Department pursuant to the Senate's authorities under the U.S. Constitution.

Google provided a redacted copy of the subpoena issued by the U.S. District Court for the District of Columbia on September 12, 2017, which compelled the release of records related to other Google accounts that are redacted, presumably related to other customers. Empower Oversight has information indicating that the other accounts listed in the subpoena belonged to other staffers, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight investigations of the Justice Department at the time pursuant to their authorities under the U.S. Constitution.

For each of the listed telephone and email accounts, the subpoena compelled Google to release customer or subscriber information, as well as subscribers' names, addresses, local and long distance telephone connection records, text message logs, records of session times and durations, length of service and types of service utilized for the period from December 1, 2016 to May 1, 2017. So, not only did the subpoena compel the release of identifying information of the subscriber to each account, but it also compelled the release of records indicating with whom the user was communicating.

The subpoena number was GJ2017091241939, with USAO #2017R01896. *See* Exhibit A.¹

Other former staffers have publicly referenced receiving similar notices, including former U.S. House of Representatives Permanent Select Committee on Intelligence (“HPSCI”) staffer Kashyap Patel.² DAG Rosenstein had threatened to subpoena HPSCI staffer’s personal records during a confrontation over the Justice Department’s failure to comply with that committee’s compulsory process.³ But the targets were not limited to Republican staff. Democrats in Congress have called for investigations into the targeting of their communications as well, which reportedly included subpoenas to Apple for information about HPSCI aides and their families, including one account belonging to a child.⁴ According to its website, the Justice Department’s Inspector General’s Office is “reviewing the DOJ’s use of subpoenas and other legal authorities to obtain communication records of Members of Congress and affiliated persons, and the news media in connection with recent investigations of alleged unauthorized disclosures of information to the media[.]”⁵

There appears to have been an extensive and far-reaching effort to use grand jury subpoenas and perhaps other means to gather the personal communications records of innocent congressional staffers and their families with little or no legitimate predicate. For example, the number listed in the subpoena that Google disclosed to Mr. Foster was actually used by his wife, who never communicated with the media on that phone number or any other.

This raises serious public interest questions about the basis for such intrusion into the personal communications of attorneys advising congressional committees conducting oversight of the Department. Constitutional separation of powers and privilege issues raised by the Speech

¹ For privacy purposes, Empower Oversight has redacted the specific phone number from the attached subpoena. Should any DOJ component need that number in order to process this FOIA request, Empower Oversight is willing to provide it upon request.

² Patel filed suit in the U.S. District Court for the District of Columbia against current and former federal officials, after receiving a similar notice from Google. *See Patel v. Liu*, No. 23-02699-APM (D.D.C. Sept. 14, 2023) (Complaint) [ECF Doc. 1]. The subpoena for Mr. Patel’s records was issued by the U.S. District Court for the District of Columbia on November 20, 2017, about two months after the subpoena for Mr. Foster’s records. The Patel subpoena number was GJ2017112043546, with USAO#2017R01887.

³ Catherine Herridge, *Rosenstein threatened to ‘subpoena’ GOP-led committee in ‘chilling’ clash over records, emails show*, FOX NEWS (Jun. 12, 2018), available at <https://www.foxnews.com/politics/rosenstein-threatened-to-subpoena-gop-led-committee-in-chilling-clash-over-records-emails-show> (last visited Oct. 23, 2023).

⁴ Myah Ward, *Adam Schiff calls for investigation after report of his phone records being seized by Trump DOJ*, POLITICO (June 10, 2021) available at <https://www.politico.com/news/2021/06/10/adam-schiff-investigation-trump-doj-493343> (last visited Oct. 23, 2023).

⁵ *Ongoing Work*, Justice Department Inspector General, available at <https://oig.justice.gov/ongoing-work> (last visited Oct. 23, 2023).

or Debate Clause (U.S. CONST. art. I, § 6) and attorney-client communications of those targeted with these subpoenas should have triggered requirements for enhanced procedural protections and approvals.

If the only reason the Justice Department targeted the communications of these congressional attorneys was their access to classified information that was later published by the media, it raises the question of whether the Department also subpoenaed the personal phone and email records of every Executive Branch official who had access to the same information. If not, then the entire exercise looks more like a pretext to gather intelligence on those conducting oversight of the Department rather than a legitimate classified leak inquiry.

The subpoena for Mr. Foster's records raises the same concerns as that of his other Democrat and Republican colleagues working for Congress at the time. It begs the question of whether DOJ was equally zealous in seeking the communication records of its own employees with access to any leaked information.

RECORDS REQUEST

In order to shed light on possible DOJ wrongdoing as well as law enforcement policy, specifically DOJ's use of grand jury subpoenas to obtain personal communications records of congressional staffers investigating DOJ, Empower Oversight requests the following records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552:

- (1) All documents or communications referencing U.S. District Court for the District of Columbia grand jury subpoena number GJ2017091241939.
- (2) All grand jury subpoenas issued in relation to the same investigation as U.S. District Court for the District of Columbia grand jury subpoena number GJ2017091241939.
- (3) All documents in U.S. Attorney's Office for the District of Columbia file number 2017R01896.
- (4) All communications discussing or referencing U.S. Attorney's Office for the District of Columbia file number 2017R01896.
- (5) All communications exchanged between members of the press and DAG Rosenstein, Robert Hur, Edward O'Callaghan, Sarah Isgur, aka Sarah Isgur Flores, and/or Jessie Liu for the period from December 1, 2016 to September 26, 2017, regarding (a) communications between Michael Flynn and Sergey Kislyak, (b) Carter Page, (c) Joe Pientka, (d) Bill Priestap, (e) congressional oversight requests, (f) Senator Charles Grassley, (g) Jason Foster, and/or (h) the Crossfire Hurricane investigation.
- (6) All grand jury subpoenas issued for personal communications of DAG Rosenstein, Robert Hur, Edward O'Callaghan, and/or Jessie Liu between May 1, 2017 and May 1, 2018.
- (7) All communications exchanged between the U.S. Attorney's Office for the District of Columbia, the National Security Division, the Deputy Attorney General's Office and/or the FBI and Verizon between March 15, 2016, and the present regarding obtaining communications data associated with devices that Verizon serviced for U.S. House Representatives or U.S. Senate.

For this request, Empower Oversight requests records from at least the following DOJ components, as well as any other locations that DOJ determines are reasonably likely to have

responsive records: Office of the Attorney General; Office of the Deputy Attorney General; Office of the Associate Attorney General; Office of Public Affairs; and the U.S. Attorney's Office for the District of Columbia.

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

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, 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 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

UNITED STATES DISTRICT COURT
for the
District of Columbia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Custodian Of Records
Google
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.


Place: U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA U.S. Courthouse, 3 rd Floor Grand Jury # 16-3 333 Constitution Avenue, N.W. Washington, D.C. 20001	Date and Time: Tuesday, September 26, 2017 at 9:00 AM
--	--

You must also bring with you the following documents, electronically stored information, or objects:

PLEASE SEE ATTACHMENT

Date: September 12, 2017

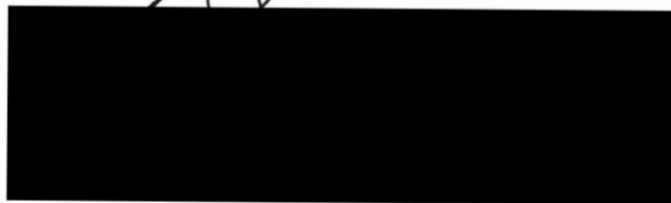
CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, telephone number and email of the Assistant United States Attorney, who requests this subpoena, are:



Subpoena #GJ2017091241939
USAO #2017R01896



ATTACHMENT
Google/ Google Voice

All customer or subscriber account information for any and all accounts associated with the following identifiers listed below from: **December 1, 2016 to May 1, 2017**:

[REDACTED]

- [REDACTED] This phone number redacted by Empower Oversight, all other redactions by Google.

[REDACTED]

In addition, for each such account, the information shall include the subscriber's:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Text message logs;
5. Records of session times and durations;
6. Length of service (including start date) and types of service utilized;

EXHIBIT B

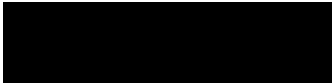
U.S. Department of Justice



Washington, D.C. 20530

October 26, 2023

Mike Zummer



Dear Sir/Madam:

This is in response to your request for records, Tracking Number, EMRUFOIA102423-1. Your Freedom of Information Act and/or Privacy Act (FOIA/PA) request was received by this office which serves as the receipt and referral unit for FOIA/PA requests addressed to the Department of Justice (DOJ). Federal agencies are required to respond to a FOIA request within 20 business days. This period does not begin until the request is actually received by the component within the DOJ that maintains the records sought, or ten business days after the request is received in this office, whichever is earlier.

We have referred your request to the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records. All future inquiries concerning the status of your request should be addressed to the office(s) listed below:

FOIA/PA
Office of Information Policy
Department of Justice
441 G St, NW
6th Floor
Washington, DC 20530-0001
(202) 514-FOIA

FOIA/ PA
Office of Pardon Attorney
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530
(202) 616-6070

FOIA/PA
Executive Office for U.S. Attorneys
Department of Justice
Suite 5.400
175 N. Street N.E.
Washington, DC 20530-0001
(202) 252-6020

Sincerely,

MRUFOIA
Logistics Management
Facilities and Administrative Services Staff
Justice Management Division

EXHIBIT C

3/27/24, 5:21 PM

Mail - Michael Zumner - Outlook

Request Acknowledgement by Executive Office for U.S. Attorneys

usaeo.foia.requests@usdoj.gov <usaeo.foia.requests@usdoj.gov>

Mon 10/30/2023 1:19 PM

To:mzumner@empowr.us <mzumner@empowr.us>

Dear Michael Zumner,

Your request has been received by the Executive Office for U.S. Attorneys. The request has been assigned tracking # E0USA-2024-000212, please log into your account and review your submission.

The application address is <https://eousafoia.usdoj.gov>.

Thank you,
Executive Office for U.S. Attorneys

EXHIBIT D



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

December 14, 2023

Mike Zummer
Empower Oversight
mzummer@empowr.us

Re: FOIA-2023-00200

Dear Mike Zummer:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated October 24, 2024, and received in this Office on October 26, 2023, in which you requested records concerning the use of grand jury subpoenas by the Department of Justice to obtain personal communications of congressional staffers investigating the Department. You directed your request to the FOIA/PA Mail Referral Unit (MRU), Justice Management Division, who forwarded it to this Office for handling. The MRU tracking number associated with this request is EMRUFOIA102423-1.

The records you seek require a search in and/or consultation with another Office, and so your request falls within “unusual circumstances.” See 5 U.S.C. § 552 (a)(6)(B)(i)-(iii) (2018). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request.

We regret the necessity of this delay, but we assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact this Office by telephone at the above number, by e-mail at doj.oip.foia@usdoj.gov, or you may write to the Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison, Valeree Villanueva, at the telephone number listed above to discuss any aspect of your request.

-2-

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Sincerely,
Initial Request Staff
Office of Information Policy
U.S. Department of Justice

EXHIBIT E

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

October 30, 2023

Via Electronic Transmission: MRUFOIA.Requests@USDOJ.Gov

U.S. Attorney's Office for the District of Columbia
Executive Office of U.S. Attorneys
601 D Street, NW
Washington, DC 20579
Phone: (202) 252-7566

RE: FOIA Request for Records Regarding Subpoena of U.S. Senate and U.S. House Attorney's Communication Records

Dear FOIA Officer:

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 October 19, 2023, Jason Foster, Founder of Empower Oversight, received a notification that the U.S. Department of Justice ("DOJ") had served legal process on Google in 2017 for records of a Google Voice telephone number that connected to his family's telephones. In 2017, Mr. Foster was Chief Investigative Counsel to U.S. Senate Judiciary Committee Chairman Chuck Grassley, directing congressional oversight investigations into waste, fraud, abuse, and misconduct at the Justice Department pursuant to the Senate's authorities under the U.S. Constitution.

Google provided a redacted copy of the subpoena issued on September 12, 2017 by the U.S. District Court for the District of Columbia, which compelled the release of records related to other customers' Google accounts (redacted in the copy produced by Google). Empower Oversight has information indicating that the other accounts listed in the subpoena belonged to other attorneys, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight investigations of the Justice Department at the time, pursuant to their authorities under the U.S. Constitution.

For each of the listed telephone and email accounts, the subpoena compelled Google to release customer or subscriber information, as well as subscribers' names, addresses, local and long-distance telephone connection records, text message logs, records of session times and durations, length of service, and types of service utilized for the period from December 1, 2016 to May 1, 2017. So, not only did the subpoena compel the release of identifying information of the subscriber to each account, but it also compelled the release of records indicating with whom the user was communicating.

The subpoena number was GJ2017091241939, with USAO #2017R01896. *See* Exhibit A.¹ Also attached to this letter is a copy of one of the Google notices Mr. Foster received, which states: "A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you." *See* Exhibit B.² Google did not, however, provide a copy of the "court order" referenced in its notices that purportedly delayed notification for more than six years after the issuance date of the subpoena.

Other attorneys have publicly referenced receiving similar notices, including former U.S. House of Representatives Permanent Select Committee on Intelligence ("HPSCI") staffer Kashyap Patel.³ Deputy Attorney General Rod Rosenstein had threatened to subpoena HPSCI staffers' personal records during a confrontation over the Justice Department's failure to comply with that committee's compulsory process.⁴ But the targets were not limited to Republican staff. Democrats in Congress have called for investigations into the targeting of their communications as well, which reportedly included subpoenas to Apple for information about HPSCI aides and their families, including one account belonging to a child.⁵ According to its website, the Justice Department's Office of Inspector General is "reviewing the DOJ's use of subpoenas and other legal authorities to obtain communication records of Members of Congress and affiliated persons, and the news media in connection with recent investigations of alleged unauthorized disclosures of information to the media[.]"⁶

There appears to have been an extensive and far-reaching effort to use grand jury subpoenas and perhaps other means to gather the personal communications records of innocent congressional attorneys and their families with little or no legitimate predicate. For example, the number listed in the subpoena that Google disclosed to Mr. Foster was actually used by his wife, who never communicated with the media on that phone number or any other.

On October 24, 2023, Empower Oversight submitted a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, to shed light on DOJ's use of grand jury subpoenas to investigate congressional staff members. Since submitting that request, Empower Oversight has obtained additional information that may relate to the basis for DOJ's subpoena of Mr. Foster's records. According to court records, DOJ filed a motion to unseal search warrant

¹ For privacy purposes, Empower Oversight has redacted the specific phone number from the attached subpoena. Should any DOJ component need that number in order to process this FOIA request, Empower Oversight is willing to provide it upon request.

² Emphasis added. For privacy purposes, Empower Oversight has redacted the domain name in the notice.

³ Patel filed suit in the U.S. District Court for the District of Columbia against current and former federal officials, after receiving a similar notice from Google. *See Patel v. Liu*, No. 23-02699-APM (D.D.C. Sept. 14, 2023) (Complaint) [ECF Doc. 1]. The subpoena for Mr. Patel's records was issued by the U.S. District Court for the District of Columbia on November 20, 2017, about two months after the subpoena for Mr. Foster's records. The Patel subpoena number was GJ2017112043546, with USAO #2017R01887.

⁴ Catherine Herridge, *Rosenstein threatened to 'subpoena' GOP-led committee in 'chilling' clash over records, emails show*, FOX NEWS (Jun. 12, 2018), available at <https://www.foxnews.com/politics/rosenstein-threatened-to-subpoena-gop-led-committee-in-chilling-clash-over-records-emails-show> (last visited Oct. 23, 2023).

⁵ Myah Ward, *Adam Schiff calls for investigation after report of his phone records being seized by Trump DOJ*, POLITICO (Jun. 10, 2021), available at <https://www.politico.com/news/2021/06/10/adam-schiff-investigation-trump-doj-493343> (last visited Oct. 23, 2023).

⁶ *Ongoing Work*, Justice Department Inspector General, available at <https://oig.justice.gov/ongoing-work> (last visited Oct. 23, 2023).

materials related to Mr. James Wolfe, former Security Director for the U.S. Senate Select Committee on Intelligence. Assistant U.S. Attorney (“AUSA”) Tejpal S. Chawla signed the motion, and Channing D. Phillips was Acting United States Attorney for the District of Columbia at the time.⁷ On June 7, 2018, Wolfe was indicted for making false statements to federal officials.⁸ According to the indictment, the investigation into Mr. Wolfe began during 2017, and Federal Bureau of Investigation agents met with Wolfe about the investigation on or about October 30, 2017.⁹ Based upon the timing of the Wolfe investigation, AUSA Chawla and then-Acting U.S. Attorney Phillips were likely involved in the decision to issue a subpoena for House and Senate attorneys’ communications records during September 2017, with no notice to Legislative Branch authorities.

The subpoena for Mr. Foster’s records raises serious public interest questions about the basis for such intrusion into the personal communications of attorneys advising congressional committees conducting oversight of the Department. Constitutional separation of powers and privilege issues raised by the Speech or Debate Clause (U.S. CONST. art. I, § 6) and attorney-client communications of those targeted with these subpoenas should have triggered requirements for enhanced procedural protections and approvals.

If the only reason the Justice Department targeted the communications of these Democrat and Republican congressional attorneys was their access to classified information that was later published by the media, it raises the question of whether the Department also subpoenaed the personal phone and email records of every Executive Branch and Judicial Branch official who also had access to the same information. If not, then the entire exercise looks more like a pretext to gather intelligence on those conducting oversight of the Department rather than a legitimate classified leak inquiry.

Further, because these records belonged to attorneys providing legal advice to Congress at the time, it begs the question of whether DOJ followed its own procedures for seeking the communication records of attorneys.

RECORDS REQUEST

In order to shed light on possible DOJ wrongdoing as well as law enforcement policy, specifically DOJ’s use of grand jury subpoenas to obtain personal communications records of congressional staffers investigating DOJ, Empower Oversight requests the following records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

1. Any and all court orders prohibiting Google from notifying Mr. Foster, or any Legislative Branch authorities, of the subpoena at Exhibit A.
2. Any and all filings seeking to obtain or extend any such order identified in request #1 and all communications about any such filings.

For the period September 1, 2017 through October 3, 2017:

3. All of AUSA Chawla’s communications, calendar entries, and notes of meetings, phone calls, or messages.

⁷ See *In the Matter of the Search of: Samsung Galaxy S5 with IMEI No. Beginning with [Redacted]*, No. 17-mj-793 (BAH) (D.D.C.) (Motion to Unseal with Redactions), *available at* <https://www.dcd.uscourts.gov/sites/dcd/files/17-mj-793%20Redacted%20Motion%20to%20Unseal.pdf> (last visited Oct. 26, 2023).

⁸ U.S. Attorney’s Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Indicted on False Statements Charges* (June 7, 2018) *available at* <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges> (last visited Oct. 26, 2023).

⁹ *United States v. Wolfe*, No. 18-00170-KBJ (D.D.C. June 7, 2018) (Indictment) [ECF Doc. 1] ¶¶ 3, 5.

For the period October 16, 2023 through November 3, 2023:

4. All of AUSA Chawla's communications, calendar entries, and notes of meetings, phone calls, or messages.

For the period December 1, 2016 through December 31, 2017:

5. All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with the FBI regarding the following topics:

- a. Senator Grassley,
- b. the Senate Judiciary Committee,
- c. Jason Foster,
- d. Jason Foster's communications records,
- e. other Senate Judiciary staff (names to facilitate searches upon request), or
- f. other Senate Judiciary staff's communications records.

6. All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with the FBI regarding the following topics:

- a. other Senators or Members of the House of Representatives,
- b. other Senate or House committees,
- c. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or
- d. the communications records of Senators, Members, committees, or their attorneys or staff.

7. All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with Google, Apple, Verizon, AT&T, or Microsoft regarding the following topics:

- a. Senator Grassley,
- b. the Senate Judiciary Committee,
- c. Jason Foster,
- d. Jason Foster's communications records,
- e. other Senate Judiciary staff (names to facilitate searches upon request), or
- f. other Senate Judiciary staff's communications records.

8. All of AUSA Chawla's communications and notes of meetings, phone calls, or messages with Google, Apple, Verizon, AT&T, or Microsoft regarding the following topics:

- a. other Senators or Members of the House of Representatives,
- b. other Senate or House committees,
- c. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or
- d. the communications records of Senators, Members, committees, or their attorneys or staff.

9. All of Acting U.S. Attorney Phillips's communications discussing any of the following topics:

- a. Senator Grassley,
- b. the Senate Judiciary Committee,
- c. Jason Foster,
- d. Jason Foster's communications records,
- e. other Senate Judiciary staff (names to facilitate searches upon request), or
- f. other Senate Judiciary staff's communications records.
- g. other Senators or Members of the House of Representatives,
- h. other Senate or House committees,
- i. attorneys or staff for Senators, Members, or committees (names to facilitate searches upon request), or
- j. the communications records of Senators, Members, committees, or their attorneys or staff.

10. All communications between then-Acting U.S. Attorney Phillips and the press or DOJ public affairs personnel.

11. All communications between AUSA Chawla and the press or DOJ public affairs personnel.

12. All calendar entries for then-Acting U.S. Attorney Phillips.

Mr. Foster has executed a Form DOJ-361 authorizing the release of information to Empower Oversight, which is attached as Exhibit C. The requests are listed in order of priority and should be processed accordingly.

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, 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 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

UNITED STATES DISTRICT COURT
for the
District of Columbia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Custodian Of Records
Google
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.


Place: U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA U.S. Courthouse, 3 rd Floor Grand Jury # 16-3 333 Constitution Avenue, N.W. Washington, D.C. 20001	Date and Time: Tuesday, September 26, 2017 at 9:00 AM
--	--

You must also bring with you the following documents, electronically stored information, or objects:

PLEASE SEE ATTACHMENT

Date: September 12, 2017

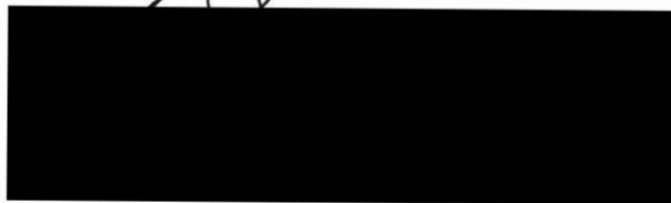
CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, telephone number and email of the Assistant United States Attorney, who requests this subpoena, are:



Subpoena #GJ2017091241939
USAO #2017R01896



ATTACHMENT
Google/ Google Voice

All customer or subscriber account information for any and all accounts associated with the following identifiers listed below from: **December 1, 2016 to May 1, 2017**:

[REDACTED]

- [REDACTED] This phone number redacted by Empower Oversight, all other redactions by Google.

[REDACTED]

In addition, for each such account, the information shall include the subscriber's:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Text message logs;
5. Records of session times and durations;
6. Length of service (including start date) and types of service utilized;

Date: October 19, 2023 at 1:02:19 AM EDT

To: usernotice-noreply@google.com

Subject: [6-0465000035288] Notification from Google



Hello,

You are receiving this email because you are listed as an administrator of the Google Workspace domain [redacted].com. Google received and responded to a legal process issued by the United States Department of Justice compelling the release of information for an account associated with that Google Workspace domain. A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you.

For more information about how Google handles legal processes, please see <https://policies.google.com/terms/information-requests> or view our transparency report at <https://transparencyreport.google.com/user-data/overview>.

Please reply directly to this email in any further communications regarding this matter. Any communications not sent as a direct reply to this email must contain the subject line "Attention Google Legal Investigations Support," reference the case identification number, and be sent to usernotice@google.com in order to ensure the appropriate routing and processing.

Google is not in a position to provide you with legal advice or discuss the substance of the legal process. If you have such questions regarding this matter, you may wish to contact an attorney. We require an emailed statement sent from your account authorizing us to communicate with your attorney about the Google Workspace domain for which you are listed as an administrator.

Regards,
Legal Investigations Support
Google LLC

Exhibit B

EXHIBIT F

U.S. Department of Justice



Washington, D.C. 20530

November 2, 2023

Mike Zummer
11166 Fairfax Blvd
Ste 500 1076,
Fairfax, VA 22030

Dear Sir/Madam:

This is in response to your request for records, Tracking Number, EMRUFOIA103123-2. Your Freedom of Information Act and/or Privacy Act (FOIA/PA) request was received by this office which serves as the receipt and referral unit for FOIA/PA requests addressed to the Department of Justice (DOJ). Federal agencies are required to respond to a FOIA request within 20 business days. This period does not begin until the request is actually received by the component within the DOJ that maintains the records sought, or ten business days after the request is received in this office, whichever is earlier.

We have referred your request to the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records. All future inquiries concerning the status of your request should be addressed to the office(s) listed below:

FOIA/PA
Executive Office for U.S. Attorneys
Department of Justice
Suite 5.400
175 N. Street N.E.
Washington, DC 20530-0001
(202) 252-6020

Sincerely,

MRUFOIA
Logistics Management
Facilities and Administrative Services Staff
Justice Management Division

EXHIBIT G

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

November 30, 2023

Via Electronic Transmission: MRUFOIA.Requests@USDOJ.Gov

U.S. Attorney's Office for the District of Columbia
Executive Office of U.S. Attorneys
601 D Street, NW
Washington, DC 20579
Phone: (202) 252-7566

RE: FOIA Request for Records Regarding Subpoena of U.S. Senate and U.S. House Attorney's Communication Records

Dear FOIA Officer:

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 October 19, 2023, Jason Foster, Founder of Empower Oversight, received a notification that the U.S. Department of Justice ("DOJ") had served legal process on Google in 2017 for records of a Google Voice telephone number that connected to his family's telephones. In 2017, Mr. Foster was Chief Investigative Counsel to U.S. Senate Judiciary Committee Chairman Chuck Grassley, directing congressional oversight investigations into waste, fraud, abuse, and misconduct at DOJ pursuant to the Senate's authorities under the U.S. Constitution.

Google provided a redacted copy of the subpoena issued on September 12, 2017 by the U.S. District Court for the District of Columbia, which compelled the release of records related to other customers' Google accounts (redacted in the copy produced by Google). Empower Oversight has information indicating that the other accounts listed in the subpoena belonged to other attorneys, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight investigations of DOJ at the time, pursuant to their authorities under the U.S. Constitution.

For each of the listed telephone and email accounts, the subpoena compelled Google to release customer or subscriber information, as well as subscribers' names, addresses, local and long-distance telephone connection records, text message logs, records of session times and durations, length of service, and types of service utilized for the period from December 1, 2016 to May 1, 2017. So, not only did the subpoena compel the release of identifying information of the subscriber to each account, but it also compelled the release of records indicating with whom the user was communicating.

The subpoena number was GJ2017091241939, with USAO #2017R01896. *See* Exhibit A.¹ Also attached to this letter is a copy of one of the Google notices Mr. Foster received, which states: "A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you." *See* Exhibit B.²

Other attorneys have publicly referenced receiving similar notices, including former U.S. House of Representatives Permanent Select Committee on Intelligence ("HPSCI") staffer Kashyap Patel.³ Deputy Attorney General Rod Rosenstein had threatened to subpoena HPSCI staffers' personal records during a confrontation over the Justice Department's failure to comply with that committee's compulsory process.⁴ But the targets were not limited to Republican staff. Democrats in Congress have called for investigations into the targeting of their communications as well, which reportedly included subpoenas to Apple for information about HPSCI aides and their families, including one account belonging to a child.⁵ According to its website, the Justice Department's Office of Inspector General is "reviewing the DOJ's use of subpoenas and other legal authorities to obtain communication records of Members of Congress and affiliated persons, and the news media in connection with recent investigations of alleged unauthorized disclosures of information to the media[.]"⁶

There appears to have been an extensive and far-reaching effort to use grand jury subpoenas and perhaps other means to gather the personal communications records of innocent congressional attorneys and their families with little or no legitimate predicate. For example, the number listed in the subpoena that Google disclosed to Mr. Foster was actually used by his wife, who never communicated with the media on that phone number or any other.

On October 24, 2023, Empower Oversight submitted a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, to shed light on DOJ's use of grand jury subpoenas to investigate congressional staff members. After submitting that request, Empower Oversight obtained additional information that may relate to the basis for DOJ's subpoena of Mr. Foster's records. According to court records, DOJ filed a motion to unseal search warrant materials related to Mr. James Wolfe, former Security Director for the U.S. Senate Select Committee on Intelligence. Assistant U.S. Attorney ("AUSA") Tejpal S. Chawla signed the

¹ For privacy purposes, Empower Oversight has redacted the specific phone number from the attached subpoena. Should any DOJ component need that number in order to process this FOIA request, Empower Oversight is willing to provide it upon request.

² Emphasis in exhibit added. For privacy purposes, Empower Oversight has redacted the domain name in the notice.

³ Patel filed suit in the U.S. District Court for the District of Columbia against current and former federal officials, after receiving a similar notice from Google. *See Patel v. Liu*, No. 23-02699-APM (D.D.C. Sept. 14, 2023) (Complaint) [ECF Doc. 1]. The subpoena for Mr. Patel's records was issued by the U.S. District Court for the District of Columbia on November 20, 2017, about two months after the subpoena for Mr. Foster's records. The Patel subpoena number was GJ2017112043546, with USAO #2017R01887.

⁴ Catherine Herridge, *Rosenstein threatened to 'subpoena' GOP-led committee in 'chilling' clash over records, emails show*, FOX NEWS (Jun. 12, 2018), available at <https://www.foxnews.com/politics/rosenstein-threatened-to-subpoena-gop-led-committee-in-chilling-clash-over-records-emails-show> (last visited Oct. 23, 2023).

⁵ Myah Ward, *Adam Schiff calls for investigation after report of his phone records being seized by Trump DOJ*, POLITICO (Jun. 10, 2021), available at <https://www.politico.com/news/2021/06/10/adam-schiff-investigation-trump-doj-493343> (last visited Oct. 23, 2023).

⁶ *Ongoing Work*, Justice Department Inspector General, available at <https://oig.justice.gov/ongoing-work> (last visited Oct. 23, 2023).

motion, and Channing D. Phillips was Acting United States Attorney for the District of Columbia at the time.⁷ On June 7, 2018, Wolfe was indicted for making false statements to federal officials.⁸ According to the indictment, the investigation into Mr. Wolfe began during 2017, and Federal Bureau of Investigation agents met with Wolfe about the investigation on or about October 30, 2017.⁹ Based upon the timing of the Wolfe investigation, AUSA Chawla and then-Acting U.S. Attorney Phillips were likely involved in the decision to issue a subpoena for House and Senate attorneys' communications records during September 2017, with no notice to Legislative Branch authorities.

Because the subpoena for Mr. Foster's records raises serious public interest questions about the basis for such intrusion into the personal communications of attorneys advising congressional committees conducting oversight of DOJ, Empower Oversight submitted a second FOIA request on October 30, 2023, to obtain information about the circumstances of the issuance of the subpoena.

On November 10, 2023, Google provided Mr. Foster with copies of the nondisclosure orders it received regarding the subpoena for his records. *See* Exhibit C. Nondisclosure orders were filed in the U.S. District Court for the District of Columbia on September 14, 2017; August 23, 2018; August 16, 2019; September 3, 2020; and August 26, 2021. All of the orders were issued pursuant to applications from DOJ under 18 U.S.C. § 2705(b). That statute allows a governmental entity to obtain an order commanding a communications provider not to notify any other person of the existence of a warrant, subpoena, or court order if the court determines that there is reason to believe that notification will result in: "(1) endangering the life or physical safety of an individual; (2) flight from prosecution; (3) destruction of or tampering with evidence; (4) intimidation of potential witnesses; or (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial."

The limited circumstances under which a court may issue an order under § 2705(b) raises the question of whether the claims DOJ made to the court were true and whether those claims actually support the orders. Furthermore, the subpoena for Mr. Foster's records appears to have been issued as part of the same investigation that resulted in the prosecution of Mr. Wolfe. The case against Mr. Wolfe ended on December 20, 2018, when he was sentenced to two months imprisonment after he was prosecuted by AUSA Chawla, AUSA Jocelyn Ballantine, and Special AUSA Laura Ingersoll. Mr. Wolfe admitted to disclosing only *unclassified* information to reporters and lying to the Federal Bureau of Investigation about his contacts with reporters.¹⁰ However, he did not admit to, and the government did not charge him with, leaking classified information.

There are serious questions about how DOJ justified its application for orders under § 2705(b) to mandate the nondisclosure of the subpoena for Mr. Foster's records in 2019, 2020, and 2021. It would have been impossible on the dates of the renewal requests for Mr. Foster to destroy the records initially sought because Google had already produced them to the government years earlier. It raises the question of whether DOJ was forthright to the court when seeking the orders, and whether DOJ, as a matter of law enforcement policy, routinely applies for extensions to conceal such orders regardless of whether it has any legitimate basis to do so—

⁷ See *In the Matter of the Search of: Samsung Galaxy S5 with IMEI No. Beginning with [Redacted]*, No. 17-mj-793 (BAH) (D.D.C.) (Motion to Unseal with Redactions), *available at* <https://www.dcd.uscourts.gov/sites/dcd/files/17-mj-793%20Redacted%20Motion%20to%20Unseal.pdf> (last visited Oct. 26, 2023).

⁸ U.S. Attorney's Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Indicted on False Statements Charges* (June 7, 2018) *available at* <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges> (last visited Oct. 26, 2023).

⁹ *United States v. Wolfe*, No. 18-00170-KBJ (D.D.C. June 7, 2018) (Indictment) [ECF Doc. 1] ¶¶ 3, 5.

¹⁰ U.S. Attorney's Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Sentenced to Prison Term on False Statements Charge* (Dec. 20, 2018) *available at* <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-sentenced-prison-term-false-statements-charge> (last visited Nov. 13, 2023).

or whether it did so in this instance merely to conceal its broad, unsupported dragnet approach for the personal communications of Congressional Members and staff for as long as possible to the avoid the very controversy now arising, with multiple letters from Capitol Hill oversight authorities¹¹ and an active Inspector General investigation ongoing.

RECORDS REQUEST

In order to shed light on possible DOJ wrongdoing as well as law enforcement policy, specifically DOJ's application for nondisclosure orders under 18 U.S.C. § 2705(b), Empower Oversight requests the following records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

1. Any and all applications for court orders under 18 U.S.C. § 2705(b) prohibiting Google from notifying anyone of the subpoena at Exhibit A. For reference, the orders DOJ obtained are included as Exhibit C.
2. All communications, calendar entries, and notes of meetings, phone calls, or messages of AUSA Tejpal Chawla, AUSA Jocelyn Ballantine, and/or Special AUSA Laura Ingersoll discussing subpoena number GJ2017091241939, USAO investigation number 2017R01896, congressional Members or staff whose accounts were targeted in the subpoena, Jason Foster, and/or the investigation for which subpoena number GJ2017091241939 was issued for the following periods:
 - a. August 31, 2017 through September 17, 2017;
 - b. August 9, 2018 through August 28, 2018;
 - c. August 2, 2019 through August 22, 2019;
 - d. August 20, 2020 through September 8, 2020; and
 - e. August 12, 2021 through September 1, 2021.

Mr. Foster has executed a Form DOJ-361 authorizing the release of information to Empower Oversight, which is attached as Exhibit D. The requests are listed in order of priority and should be processed accordingly.

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,

¹¹ See Letter from Rep. Jordan to Attorney General Merrick Garland (Oct. 31, 2023) available at https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-10-31-jdj-to-doj-re-congressional-staff-subpoenas.pdf?gl=1%2A1a1hzi3%2A_ga%2AMTgzMjgzMzg3My4xNjc5NjgONTkz%2A_ga_1818ZEQW81%2AMTY5ODg3MjUxOC4yMS4xLjE2OTg4NzI4NjkuMC4wLjA. (last visited Nov. 29, 2023); Letter from Sen. Grassley to DOJ Inspector General Michael Horowitz (Nov. 2, 2023) available at [https://www.grassley.senate.gov/imo/media/doc/grassley to doj oig - congressional subpoena.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20doj%20oig%20-%20congressional%20subpoena.pdf) (last visited Nov. 29, 2023).

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, 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 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

UNITED STATES DISTRICT COURT
for the
District of Columbia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Custodian Of Records
Google
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.


Place: U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA U.S. Courthouse, 3 rd Floor Grand Jury # 16-3 333 Constitution Avenue, N.W. Washington, D.C. 20001	Date and Time: Tuesday, September 26, 2017 at 9:00 AM
--	--

You must also bring with you the following documents, electronically stored information, or objects:

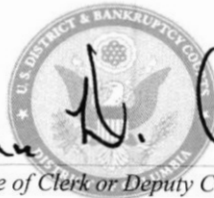
PLEASE SEE ATTACHMENT

Date: September 12, 2017

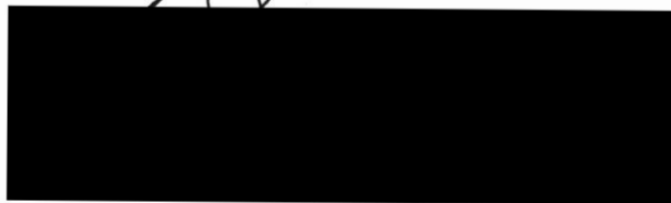
CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, telephone number and email of the Assistant United States Attorney, who requests this subpoena, are:



Subpoena #GJ2017091241939
USAO #2017R01896



ATTACHMENT
Google/ Google Voice

All customer or subscriber account information for any and all accounts associated with the following identifiers listed below from: **December 1, 2016 to May 1, 2017**:

[REDACTED]

- [REDACTED] This phone number redacted by Empower Oversight, all other redactions by Google.

[REDACTED]

In addition, for each such account, the information shall include the subscriber's:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Text message logs;
5. Records of session times and durations;
6. Length of service (including start date) and types of service utilized;

Date: October 19, 2023 at 1:02:19 AM EDT

To: usernotice-noreply@google.com

Subject: [6-0465000035288] Notification from Google



Hello,

You are receiving this email because you are listed as an administrator of the Google Workspace domain [redacted].com. Google received and responded to a legal process issued by the United States Department of Justice compelling the release of information for an account associated with that Google Workspace domain. A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you.

For more information about how Google handles legal processes, please see <https://policies.google.com/terms/information-requests> or view our transparency report at <https://transparencyreport.google.com/user-data/overview>.

Please reply directly to this email in any further communications regarding this matter. Any communications not sent as a direct reply to this email must contain the subject line "Attention Google Legal Investigations Support," reference the case identification number, and be sent to usernotice@google.com in order to ensure the appropriate routing and processing.

Google is not in a position to provide you with legal advice or discuss the substance of the legal process. If you have such questions regarding this matter, you may wish to contact an attorney. We require an emailed statement sent from your account authorizing us to communicate with your attorney about the Google Workspace domain for which you are listed as an administrator.

Regards,
Legal Investigations Support
Google LLC

Exhibit B

FILED

SEP 14 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)**

Case: 1:17-mc-02272
Assigned To : Meriweather, Robin M.
Assign. Date : 9/13/2017
Description: Misc.

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google, Inc. , an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of subpoena number GJ2017091241939 issued by the United States on behalf of a federal Grand Jury empanelled in the United States District Court for the District of Columbia (the "Subpoena"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Subpoena to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

9/13/17
Date


UNITED STATES MAGISTRATE JUDGE

Robin M. Meriweather
U.S. Magistrate Judge

**U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY**

By 
Deputy Clerk

Exhibit C

(M)

FILED

AUG 23 2018

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)
CONCERNING LEGAL PROCESS
DIRECTED AT GOOGLE FOR
INVESTIGATION 2017R01896**

Case: 17-mc-02272

Filed Under Seal

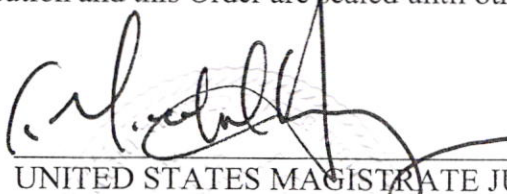
ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google LLC., an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of legal process previously issued pursuant to 18 U.S.C. §§ 2703 and 2705(b) having tracking and subpoena number GJ2017091241939 (the "Legal Request"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Legal Request to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

8/22/18
Date


UNITED STATES MAGISTRATE JUDGE

U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY

By: 
Deputy Clerk

Exhibit C

(N)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



A handwritten signature in black ink, appearing to read "Richard A. Lloret".

Digitally signed by Richard A. Lloret

Date: 2019.08.16 10:41:42

~~04'00'~~

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



Elizabeth D. Hey

2020.09.02

19:48:11

UNITED STATES MAGISTRATE JUDGE

0400

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



Richard A. Lloret

2021.08.26 13:12:49

04'00'

UNITED STATES MAGISTRATE JUDGE

EXHIBIT H

U.S. Department of Justice



Washington, D.C. 20530

December 1, 2023

Mike Zummer
11166 Fairax Blvd
Ste 500 1076,
Fairfax, VA 22030

Dear Sir/Madam:

This is in response to your request for records, Tracking Number, EMRUFOIA113023-2. Your Freedom of Information Act and/or Privacy Act (FOIA/PA) request was received by this office which serves as the receipt and referral unit for FOIA/PA requests addressed to the Department of Justice (DOJ). Federal agencies are required to respond to a FOIA request within 20 business days. This period does not begin until the request is actually received by the component within the DOJ that maintains the records sought, or ten business days after the request is received in this office, whichever is earlier.

We have referred your request to the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records. All future inquiries concerning the status of your request should be addressed to the office(s) listed below:

FOIA/PA
Executive Office for U.S. Attorneys
Department of Justice
Suite 5.400
175 N. Street N.E.
Washington, DC 20530-0001
(202) 252-6020

Sincerely,

MRUFOIA
Logistics Management
Facilities and Administrative Services Staff
Justice Management Division

EXHIBIT I

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

December 7, 2023

Via Electronic Transmission: MRUFOIA.Requests@USDOJ.Gov

U.S. Attorney's Office for the District of Columbia
Executive Office of U.S. Attorneys
601 D Street, NW
Washington, DC 20579
Phone: (202) 252-7566

**RE: FOIA Request for Records Regarding Nondisclosure Orders under 5
U.S.C. § 2705(b)**

Dear FOIA Officer:

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 October 19, 2023, Jason Foster, Founder of Empower Oversight, received a notification that the U.S. Department of Justice (“DOJ”) had served legal process on Google in 2017 for records of a Google Voice telephone number that connected to his family’s telephones. In 2017, Mr. Foster was Chief Investigative Counsel to U.S. Senate Judiciary Committee Chairman Chuck Grassley, directing congressional oversight investigations into waste, fraud, abuse, and misconduct at DOJ pursuant to the Senate’s authorities under the U.S. Constitution.

Google provided a redacted copy of the subpoena issued on September 12, 2017 by the U.S. District Court for the District of Columbia, which compelled the release of records related to other customers’ Google accounts (redacted in the copy produced by Google). Empower Oversight has information indicating that the other accounts listed in the subpoena belonged to other attorneys, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight investigations of DOJ at the time, pursuant to their authorities under the U.S. Constitution.

For each of the listed telephone and email accounts, the subpoena compelled Google to release customer or subscriber information, as well as subscribers' names, addresses, local and long-distance telephone connection records, text message logs, records of session times and durations, length of service, and types of service utilized for the period from December 1, 2016 to May 1, 2017. So, not only did the subpoena compel the release of identifying information of the subscriber to each account, but it also compelled the release of records indicating with whom the user was communicating.

The subpoena number was GJ2017091241939, with USAO #2017R01896. *See* Exhibit A.¹ Also attached to this letter is a copy of one of the Google notices Mr. Foster received, which states: "A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you." *See* Exhibit B.²

On October 24, 2023, Empower Oversight submitted a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, to shed light on DOJ's use of grand jury subpoenas to investigate congressional staff members. After submitting that request, Empower Oversight obtained additional information that may relate to the basis for DOJ's subpoena of Mr. Foster's records. According to court records, DOJ filed a motion to unseal search warrant materials related to Mr. James Wolfe, former Security Director for the U.S. Senate Select Committee on Intelligence. On June 7, 2018, Wolfe was indicted for making false statements to federal officials.³ According to the indictment, the investigation into Mr. Wolfe began during 2017, and Federal Bureau of Investigation agents met with Wolfe about the investigation on or about October 30, 2017.⁴ The case against Mr. Wolfe ended on December 20, 2018, when he was sentenced to two months imprisonment. Mr. Wolfe admitted to disclosing only *unclassified* information to reporters and lying to the Federal Bureau of Investigation about his contacts with reporters.⁵

Because the subpoena for Mr. Foster's records raises serious public interest questions about the basis for such intrusion into the personal communications of attorneys advising congressional committees conducting oversight of DOJ, Empower Oversight submitted a second FOIA request on October 30, 2023, to obtain information about the circumstances of the issuance of the subpoena.

On November 10, 2023, Google provided Mr. Foster with copies of the nondisclosure orders it received regarding the subpoena for his records. *See* Exhibit C. The nondisclosure orders were filed in the U.S. District Court for the District of Columbia on September 14, 2017; August 23, 2018; August 16, 2019; September 3, 2020; and August 26, 2021. All of the orders were issued pursuant to applications from DOJ under 18 U.S.C. § 2705(b). That statute allows a governmental entity to obtain an order commanding a communications provider not to notify any other person of the existence of a warrant, subpoena, or court order if the court determines that there is reason to believe that notification will result in: "(1) endangering the life or physical safety of an individual; (2) flight from prosecution; (3) destruction of or tampering with evidence; (4) intimidation of potential witnesses; or (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial."

¹ For privacy purposes, Empower Oversight has redacted the specific phone number from the attached subpoena. Should any DOJ component need that number in order to process this FOIA request, Empower Oversight is willing to provide it upon request.

² Emphasis in exhibit added. For privacy purposes, Empower Oversight has redacted the domain name in the notice.

³ U.S. Attorney's Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Indicted on False Statements Charges* (June 7, 2018) available at <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges> (last visited Oct. 26, 2023).

⁴ *United States v. Wolfe*, No. 18-00170-KBJ (D.D.C. June 7, 2018) (Indictment) [ECF Doc. 1] ¶¶ 3, 5.

⁵ U.S. Attorney's Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Sentenced to Prison Term on False Statements Charge* (Dec. 20, 2018) available at <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-sentenced-prison-term-false-statements-charge> (last visited Nov. 13, 2023).

Since the limited circumstances under which a court may issue an order under § 2705(b) raise the question of whether the claims DOJ made to the court regarding the subpoena for Mr. Foster's records were true and whether those claims actually support the orders, Empower Oversight submitted a third FOIA request to DOJ on November 30, 2023, requesting records related to the issuance of those orders regarding the subpoena for Mr. Foster's records.

There is an additional public interest in determining whether DOJ routinely requests orders under § 2705(b) without a proper basis for them. Since DOJ requested one-year nondisclosure orders related to a subpoena three times after the investigation that ostensibly served as the basis for the subpoena had ended, it appears that DOJ may be requesting nondisclosure orders for several years after the issuance of a subpoena regardless of whether there is basis to do so. Considering there is a five-year statute of limitations for most federal crimes, it appears that DOJ is routinely requesting § 2705(b) orders to cover the five-year statute of limitations even when there is no legitimate basis for nondisclosure, such as when an investigation is completed or dormant.

RECORDS REQUEST

In order to shed light on possible DOJ wrongdoing as well as law enforcement policy, specifically DOJ's application for nondisclosure orders under 18 U.S.C. § 2705(b), pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, Empower Oversight requests the following records:

1. All legal process issued by the U.S. Attorney's Office for the District of Columbia pursuant to 5 U.S.C. § 2703 for the period from September 1, 2017 through September 30, 2017.
2. The following records associated with all nondisclosure orders issued under 5 U.S.C. § 2705(b) for the period from September 1, 2017 through September 30, 2017, pursuant to an application by the U.S. Attorney's Office for the District of Columbia:
 - a. The underlying legal process (warrant, subpoena, or court order) whose nondisclosure was ordered,
 - b. All prior and/or subsequent nondisclosure orders issued under 5 U.S.C. § 2705(b) ordering the nondisclosure of the same legal process,
 - c. All applications for the nondisclosure orders issued during the requested period and all applications for prior and/or subsequent nondisclosure orders ordering the nondisclosure of the same legal process,

In order to protect the privacy of individuals who are not DOJ employees, request that DOJ redact all names, identifying numbers, telephone numbers, email addresses, and physical addresses of any individuals who were not employed by DOJ at the time the record was produced.

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, 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 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

UNITED STATES DISTRICT COURT
for the
District of Columbia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Custodian Of Records
Google
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.


Place: U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA U.S. Courthouse, 3 rd Floor Grand Jury # 16-3 333 Constitution Avenue, N.W. Washington, D.C. 20001	Date and Time: Tuesday, September 26, 2017 at 9:00 AM
--	--

You must also bring with you the following documents, electronically stored information, or objects:

PLEASE SEE ATTACHMENT

Date: September 12, 2017

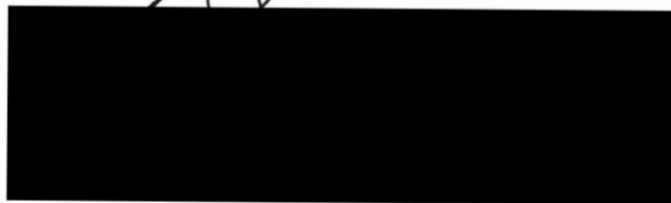
CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, telephone number and email of the Assistant United States Attorney, who requests this subpoena, are:



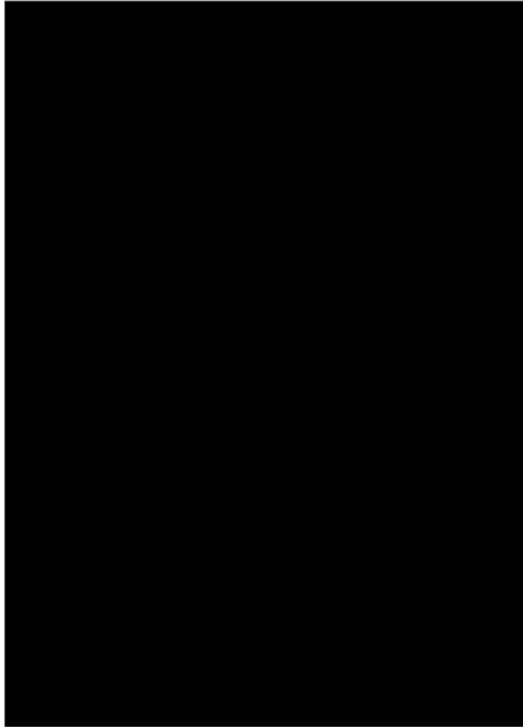
Subpoena #GJ2017091241939
USAO #2017R01896



ATTACHMENT
Google/ Google Voice

All customer or subscriber account information for any and all accounts associated with the following identifiers listed below from: **December 1, 2016 to May 1, 2017**:

- [REDACTED] This phone number redacted by Empower Oversight, all other redactions by Google.



In addition, for each such account, the information shall include the subscriber's:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Text message logs;
5. Records of session times and durations;
6. Length of service (including start date) and types of service utilized;

From: usnotice@googlegroups.com - 02462 Document 1-9 Filed 08/27/24 Page 9 of 17

Date: October 19, 2023 at 1:02:19 AM EDT

To: usnotice-noreply@google.com

Subject: [6-0465000035288] Notification from Google



Hello,

You are receiving this email because you are listed as an administrator of the Google Workspace domain [\[REDACTED\].com](#). Google received and responded to a legal process issued by the United States Department of Justice compelling the release of information for an account associated with that Google Workspace domain. A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you.

For more information about how Google handles legal processes, please see <https://policies.google.com/terms/information-requests> or view our transparency report at <https://transparencyreport.google.com/user-data/overview>.

Please reply directly to this email in any further communications regarding this matter. Any communications not sent as a direct reply to this email must contain the subject line "Attention Google Legal Investigations Support," reference the case identification number, and be sent to usnotice@google.com in order to ensure the appropriate routing and processing.

Google is not in a position to provide you with legal advice or discuss the substance of the legal process. If you have such questions regarding this matter, you may wish to contact an attorney. We require an emailed statement sent from your account authorizing us to communicate with your attorney about the Google Workspace domain for which you are listed as an administrator.

Regards,
Legal Investigations Support
Google LLC

Exhibit B

FILED

SEP 14 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)**

Case: 1:17-mc-02272
Assigned To : Meriweather, Robin M.
Assign. Date : 9/13/2017
Description: Misc.

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google, Inc. , an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of subpoena number GJ2017091241939 issued by the United States on behalf of a federal Grand Jury empanelled in the United States District Court for the District of Columbia (the "Subpoena"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Subpoena to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

9/13/17
Date


UNITED STATES MAGISTRATE JUDGE

Robin M. Meriweather
U.S. Magistrate Judge

**U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY**

By 
Deputy Clerk

Exhibit C

(M)

FILED

AUG 23 2018

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)
CONCERNING LEGAL PROCESS
DIRECTED AT GOOGLE FOR
INVESTIGATION 2017R01896**

Case: 17-mc-02272

Filed Under Seal

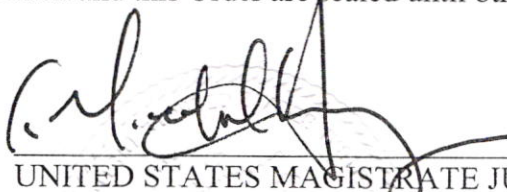
ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google LLC., an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of legal process previously issued pursuant to 18 U.S.C. §§ 2703 and 2705(b) having tracking and subpoena number GJ2017091241939 (the "Legal Request"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Legal Request to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

8/22/18
Date


UNITED STATES MAGISTRATE JUDGE

U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY

By: 
Deputy Clerk

Exhibit C

(N)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



A handwritten signature in black ink, appearing to read "Richard A. Lloret".

Digitally signed by Richard A. Lloret

Date: 2019.08.16 10:41:42

~~04'00'~~

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER


This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

2020.09.02
19:48:11
0400



Elizabeth D. Hey
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



Richard A. Lloret
2021.08.26 13:12:49
-04'00'

UNITED STATES MAGISTRATE JUDGE

EXHIBIT J

U.S. Department of Justice



Washington, D.C. 20530

December 7, 2023

Mike Zummer
11166 Fairax Blvd
Ste 500 1076,
Fairfax, VA 22030

Dear Sir/Madam:

This is in response to your request for records, Tracking Number, EMRUFOIA120723. Your Freedom of Information Act and/or Privacy Act (FOIA/PA) request was received by this office which serves as the receipt and referral unit for FOIA/PA requests addressed to the Department of Justice (DOJ). Federal agencies are required to respond to a FOIA request within 20 business days. This period does not begin until the request is actually received by the component within the DOJ that maintains the records sought, or ten business days after the request is received in this office, whichever is earlier.

We have referred your request to the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records. All future inquiries concerning the status of your request should be addressed to the office(s) listed below:

FOIA/PA
Executive Office for U.S. Attorneys
Department of Justice
Suite 5.400
175 N. Street N.E.
Washington, DC 20530-0001
(202) 252-6020

Sincerely,

MRUFOIA
Logistics Management
Facilities and Administrative Services Staff
Justice Management Division

EXHIBIT K

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

June 20, 2024

Via Electronic Transmission: MRUFOIA.Requests@USDOJ.Gov

U.S. Attorney's Office for the District of Columbia
Executive Office of U.S. Attorneys
601 D Street, NW
Washington, DC 20579

Arnetta Mallory, FOIA Initiatives Coordinator
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 6150
Washington, D.C. 20530-0001

RE: FOIA Request for Records Regarding Subpoena of U.S. Senate and U.S. House Attorneys' Communication Records

Dear FOIA Officer:

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 October 19, 2023, Jason Foster, Founder of Empower Oversight, received a notification that the U.S. Department of Justice ("DOJ") had served legal process on Google in 2017 for records of a Google Voice telephone number that connected to his family's telephones. In 2017, Mr. Foster was Chief Investigative Counsel to U.S. Senate Judiciary Committee Chairman Chuck Grassley, directing congressional oversight investigations into waste, fraud, abuse, and misconduct at DOJ pursuant to the Senate's authorities under the U.S. Constitution.

Google provided a redacted copy of the subpoena issued on September 12, 2017, by the U.S. District Court for the District of Columbia, which compelled the release of records related to other customers' Google accounts (redacted in the copy produced by Google). Empower Oversight has information indicating that the other accounts listed in the subpoena belonged to other attorneys, both Republicans and Democrats, for U.S. House and Senate committees also engaged in oversight investigations of DOJ at the time, pursuant to their authorities under the U.S. Constitution.

For each of the listed telephone and email accounts, the subpoena compelled Google to release customer or subscriber information, as well as subscribers' names, addresses, local and long-distance telephone connection records, text message logs, records of session times and durations, length of service, and types of service utilized for the period from December 1, 2016, to May 1, 2017. So, not only did the subpoena compel the release of identifying information of the subscriber to each account, but it also compelled the release of records indicating with whom the user was communicating.

The subpoena number was GJ2017091241939, with USAO #2017R01896. *See* Exhibit A.¹ Also attached to this letter is a copy of one of the Google notices Mr. Foster received, which states: "A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you." *See* Exhibit B.²

Other attorneys have publicly referenced receiving similar notices, including former U.S. House of Representatives Permanent Select Committee on Intelligence ("HPSCI") staffer Kashyap Patel.³ Deputy Attorney General Rod Rosenstein had threatened to subpoena HPSCI staffers' personal records during a confrontation over the Justice Department's failure to comply with that committee's compulsory process.⁴ But the targets were not limited to Republican staff. Democrats in Congress have called for investigations into the targeting of their communications as well, which reportedly included subpoenas to Apple for information about HPSCI aides and their families, including one account belonging to a child.⁵ According to its website, the Justice Department's Office of Inspector General is "reviewing the DOJ's use of subpoenas and other legal authorities to obtain communication records of Members of Congress and affiliated persons, and the news media in connection with recent investigations of alleged unauthorized disclosures of information to the media[.]"⁶

There appears to have been an extensive and far-reaching effort to use grand jury subpoenas and perhaps other means to gather the personal communications records of innocent

¹ For privacy purposes, Empower Oversight has redacted the specific phone number from the attached subpoena. Should any DOJ component need that number in order to process this FOIA request, Empower Oversight is willing to provide it upon request.

² Emphasis in exhibit added. For privacy purposes, Empower Oversight has redacted the domain name in the notice.

³ Patel filed suit in the U.S. District Court for the District of Columbia against current and former federal officials, after receiving a similar notice from Google. *See Patel v. Liu*, No. 23-02699-APM (D.D.C. Sept. 14, 2023) (Complaint) [ECF Doc. 1]. The subpoena for Mr. Patel's records was issued by the U.S. District Court for the District of Columbia on November 20, 2017, about two months after the subpoena for Mr. Foster's records. The Patel subpoena number was GJ2017112043546, with USAO #2017R01887.

⁴ Catherine Herridge, *Rosenstein threatened to 'subpoena' GOP-led committee in 'chilling' clash over records, emails show*, FOX NEWS (Jun. 12, 2018), <https://www.foxnews.com/politics/rosenstein-threatened-to-subpoena-gop-led-committee-in-chilling-clash-over-records-emails-show> (last visited Oct. 23, 2023).

⁵ Myah Ward, *Adam Schiff calls for investigation after report of his phone records being seized by Trump DOJ*, POLITICO (Jun. 10, 2021), <https://www.politico.com/news/2021/06/10/adam-schiff-investigation-trump-doj-493343> (last visited Oct. 23, 2023).

⁶ *Ongoing Work*, Justice Department Inspector General, <https://oig.justice.gov/ongoing-work> (last visited May 9, 2024).

congressional attorneys and their families with little or no legitimate predicate. For example, the number listed in the subpoena that Google disclosed to Mr. Foster was actually used by his wife, who never communicated with the media on that phone number or any other.

On October 24, 2023, Empower Oversight submitted a request for records under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to shed light on DOJ’s use of grand jury subpoenas to investigate congressional staff members. After submitting that request, Empower Oversight obtained additional information that may relate to the basis for DOJ’s subpoena of Mr. Foster’s records. According to court records, DOJ filed a motion to unseal search warrant materials related to Mr. James Wolfe, former Security Director for the U.S. Senate Select Committee on Intelligence. Assistant U.S. Attorney (“AUSA”) Tejpal S. Chawla signed the motion, and Channing D. Phillips was Acting United States Attorney for the District of Columbia at the time.⁷ On June 7, 2018, Wolfe was indicted for making false statements to federal officials.⁸ According to the indictment, the investigation into Mr. Wolfe began during 2017, and Federal Bureau of Investigation agents met with Wolfe about the investigation on or about October 30, 2017.⁹ Based upon the timing of the Wolfe investigation, AUSA Chawla and then-Acting U.S. Attorney Phillips were likely involved in the decision to issue a subpoena for House and Senate attorneys’ communications records during September 2017, with no notice to Legislative Branch authorities.

Because the subpoena for Mr. Foster’s records raises serious public interest questions about the basis for such intrusion into the personal communications of attorneys advising congressional committees conducting oversight of DOJ, Empower Oversight submitted a second FOIA request on October 30, 2023, to obtain information about the circumstances of the issuance of the subpoena.

On November 10, 2023, Google provided Mr. Foster with copies of the nondisclosure orders it received regarding the subpoena for his records. *See* Exhibit C. Nondisclosure orders were filed in the U.S. District Court for the District of Columbia on September 14, 2017; August 23, 2018; August 16, 2019; September 3, 2020; and August 26, 2021. All of the orders were issued pursuant to applications from DOJ under 18 U.S.C. § 2705(b). That statute allows a governmental entity to obtain an order commanding a communications provider not to notify any other person of the existence of a warrant, subpoena, or court order if the court determines that there is reason to believe that notification will result in: “(1) endangering the life or physical safety of an individual; (2) flight from prosecution; (3) destruction of or tampering with evidence; (4) intimidation of potential witnesses; or (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.”

The limited circumstances under which a court may issue an order under § 2705(b) raises the question of whether the claims DOJ made to the court were true and whether those claims actually support the orders. Furthermore, the subpoena for Mr. Foster’s records appears to have been issued as part of the same investigation that resulted in the prosecution of Mr. Wolfe. The case against Mr. Wolfe ended on December 20, 2018, when he was sentenced to two months imprisonment after he was prosecuted by AUSA Chawla, AUSA Jocelyn Ballantine, and Special AUSA Laura Ingersoll. Mr. Wolfe admitted to disclosing only *unclassified* information to

⁷ See *In the Matter of the Search of: Samsung Galaxy S5 with IMEI No. Beginning with [Redacted]*, No. 17-mj-793 (BAH) (D.D.C.) (Motion to Unseal with Redactions), <https://www.dcd.uscourts.gov/sites/dcd/files/17-mj-793%20Redacted%20Motion%20to%20Unseal.pdf> (last visited Oct. 26, 2023).

⁸ U.S. Attorney’s Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Indicted on False Statements Charges* (June 7, 2018) available at <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges> (last visited Oct. 26, 2023).

⁹ *United States v. Wolfe*, No. 18-00170-KBJ (D.D.C. June 7, 2018) (Indictment) [ECF Doc. 1] ¶¶ 3, 5.

reporters and lying to the Federal Bureau of Investigation about his contacts with reporters.¹⁰ However, he did not admit to, and the government did not charge him with, leaking classified information.

There are serious questions about how DOJ justified its application for orders under § 2705(b) to mandate the nondisclosure of the subpoena for Mr. Foster's records in 2019, 2020, and 2021. It would have been impossible on the dates of the renewal requests for Mr. Foster to destroy the records initially sought because Google had already produced them to the government years earlier. It raises the question of whether DOJ was forthright to the court when seeking the orders, and whether DOJ, as a matter of law enforcement policy, routinely applies for extensions to conceal such orders regardless of whether it has any legitimate basis to do so—or whether it did so in this instance merely to conceal its broad, unsupported dragnet approach for the personal communications of congressional Members and staff for as long as possible to avoid the very controversy now arising, with multiple letters from Capitol Hill oversight authorities¹¹ and an active Inspector General investigation ongoing. Thus, on November 30, 2023, Empower Oversight submitted a third FOIA request to DOJ, requesting records related to the issuance of those orders regarding the subpoena for Mr. Foster's records, limited to relevant date ranges.

There is an additional public interest in determining whether DOJ routinely requests orders under § 2705(b) without a proper basis for them. Since DOJ requested one-year nondisclosure orders related to a subpoena three times after the investigation that ostensibly served as the basis for the subpoena had ended, it appears that DOJ may be requesting nondisclosure orders for several years after the issuance of a subpoena regardless of whether there is basis to do so. Considering there is a five-year statute of limitations for most federal crimes, it appears that DOJ is routinely requesting § 2705(b) orders to cover the five-year statute of limitations even when there is no legitimate basis for nondisclosure, such as when an investigation is completed or dormant. Accordingly, Empower Oversight sent a fourth FOIA request on December 7, 2023, on this issue.

On May 2, 2024, Empower Oversight filed a motion to intervene and for unsealing (Misc. Case No.: 17-2272-RMM) seeking to unseal the motions that DOJ filed requesting non-disclosure orders related to subpoena number GJ2017091241939. Empower Oversight's counsel communicated about the motion with DOJ attorneys Gregg Maisel of the U.S. Attorney's Office for the District of Columbia and Jennifer Gellie of DOJ's National Security Division beginning on May 15, 2024.

Empower Oversight continues to investigate DOJ's handling of these matters, past and present. Relevant to this Request, the public has an interest in learning about DOJ's reaction to being confronted about its possible misconduct.

¹⁰ U.S. Attorney's Office for the District of Columbia, Press Release, *Former U.S. Senate Employee Sentenced to Prison Term on False Statements Charge* (Dec. 20, 2018), <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-sentenced-prison-term-false-statements-charge> (last visited Nov. 13, 2023).

¹¹ See Letter from Rep. Jordan to Attorney General Merrick Garland (Oct. 31, 2023) https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-10-31-jdj-to-doj-re-congressional-staff-subpoenas.pdf?_gl=1%2A1a1hzi3%2A_ga%2AMTgzMjkzMzg3My4xNjc5Njg0NTkz%2A_ga_1818ZEQW81%2AMTY5ODg3MjUxOC4yMS4xLjE2OTg4NzI4NjkuMC4wLjA. (last visited Nov. 29, 2023); Letter from Sen. Grassley to DOJ Inspector General Michael Horowitz (Nov. 2, 2023) <https://www.grassley.senate.gov/imo/media/doc/grassley-to-doj-oig-congressional-subpoena.pdf> (last visited Nov. 29, 2023).

RECORDS REQUEST

In order to shed light on possible DOJ wrongdoing as well as law enforcement policy, Empower Oversight requests the following records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552:

1. All communications, notes of meetings, and messages of AUSA Tejpai Chawla, from March 4, 2024 through March 5, 2024;

2. All communications, notes of meetings, and messages of AUSA Tejpai Chawla from March 6, 2024, to the present, discussing:

- a. Empower Oversight;
- b. Empower Oversight’s referenced May 2, 2024, Motion to Unseal and Intervene;
- c. Subpoena number GJ2017091241939;
- d. USAO investigation number 2017R01896;
- e. Any member of Congress;
- f. Any staffer of a member of Congress;
- g. Jason Foster;
- h. Any of the four other referenced Empower Oversight FOIA requests; and/or
- i. The investigation for which subpoena number GJ2017091241939 was issued.

3. All communications, notes of meetings, and messages of Gregg Maisel of the U.S. Attorney’s Office for the District of Columbia on May 15, 2024.

4. All communications, notes of meetings, and messages of Gregg Maisel of the U.S. Attorney’s Office for the District of Columbia from May 16, 2024, to the present, discussing:

- a. Empower Oversight;
- b. Empower Oversight’s referenced May 2, 2024, Motion to Unseal and Intervene;
- c. Subpoena number GJ2017091241939;
- d. USAO investigation number 2017R01896;
- e. Any member of Congress;
- f. Any staffer of a member of Congress;
- g. Jason Foster;
- h. Any of the four other referenced Empower Oversight FOIA requests; and/or
- i. The investigation for which subpoena number GJ2017091241939 was issued.

5. All communications, notes of meetings, and messages of Jennifer Gellie of DOJ’s National Security Division on May 15, 2024.

6. All communications, notes of meetings, and messages of Jennifer Gellie of DOJ’s National Security Division from May 16, 2024, to the present, discussing:

- a. Empower Oversight;

- b. Empower Oversight's referenced May 2, 2024, Motion to Unseal and Intervene;
- c. Subpoena number GJ2017091241939;
- d. USAO investigation number 2017R01896;
- e. Any member of Congress;
- f. Any staffer of a member of Congress;
- g. Jason Foster;
- h. Any of the four other referenced Empower Oversight FOIA requests; and/or
- i. The investigation for which subpoena number GJ2017091241939 was issued.

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

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, 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 Rachael Soloway by e-mail at rs@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 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

UNITED STATES DISTRICT COURT
for the
District of Columbia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Custodian Of Records
Google
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.


Place: U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA U.S. Courthouse, 3 rd Floor Grand Jury # 16-3 333 Constitution Avenue, N.W. Washington, D.C. 20001	Date and Time: Tuesday, September 26, 2017 at 9:00 AM
--	--

You must also bring with you the following documents, electronically stored information, or objects:

PLEASE SEE ATTACHMENT

Date: September 12, 2017

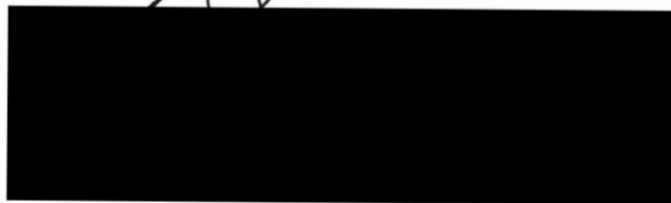
CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, telephone number and email of the Assistant United States Attorney, who requests this subpoena, are:



Subpoena #GJ2017091241939
USAO #2017R01896



ATTACHMENT
Google/ Google Voice

All customer or subscriber account information for any and all accounts associated with the following identifiers listed below from: **December 1, 2016 to May 1, 2017**:

[REDACTED]

- [REDACTED] This phone number redacted by Empower Oversight, all other redactions by Google.

[REDACTED]

In addition, for each such account, the information shall include the subscriber's:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Text message logs;
5. Records of session times and durations;
6. Length of service (including start date) and types of service utilized;

From: usernotice@google.com

Date: October 19, 2023 at 1:02:19 AM EDT

To: usernotice-noreply@google.com

Subject: [6-0465000035288] Notification from Google



Hello,

You are receiving this email because you are listed as an administrator of the Google Workspace domain **[REDACTED].com**. Google received and responded to a legal process issued by the United States Department of Justice compelling the release of information for an account associated with that Google Workspace domain. A court order previously prohibited Google from notifying you of the legal process. We are now permitted to disclose the receipt and provide the attached copy of the legal process to you.

For more information about how Google handles legal processes, please see <https://policies.google.com/terms/information-requests> or view our transparency report at <https://transparencyreport.google.com/user-data/overview>.

Please reply directly to this email in any further communications regarding this matter. Any communications not sent as a direct reply to this email must contain the subject line "Attention Google Legal Investigations Support," reference the case identification number, and be sent to usernotice@google.com in order to ensure the appropriate routing and processing.

Google is not in a position to provide you with legal advice or discuss the substance of the legal process. If you have such questions regarding this matter, you may wish to contact an attorney. We require an emailed statement sent from your account authorizing us to communicate with your attorney about the Google Workspace domain for which you are listed as an administrator.

Regards,
Legal Investigations Support
Google LLC

Exhibit B

FILED

SEP 14 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)**

Case: 1:17-mc-02272
Assigned To : Meriweather, Robin M.
Assign. Date : 9/13/2017
Description: Misc.

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google, Inc. , an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of subpoena number GJ2017091241939 issued by the United States on behalf of a federal Grand Jury empanelled in the United States District Court for the District of Columbia (the "Subpoena"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Subpoena to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

UNITED STATES MAGISTRATE JUDGE

Robin M. Meriweather
U.S. Magistrate Judge

**U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY**

9/13/17
Date

By  Deputy Clerk

Exhibit C

(M)

FILED

AUG 23 2018

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)
CONCERNING LEGAL PROCESS
DIRECTED AT GOOGLE FOR
INVESTIGATION 2017R01896**

Case: 17-mc-02272

Filed Under Seal

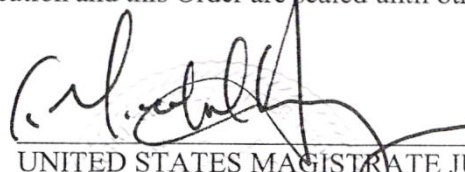
ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting an order directing Google LLC., an electronic communication and/or remote computing service provider located in Mountain View, CA, not to notify any other person of the existence of legal process previously issued pursuant to 18 U.S.C. §§ 2703 and 2705(b) having tracking and subpoena number GJ2017091241939 (the "Legal Request"), the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, intimidation of potential witnesses, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED that, pursuant to 18 U.S.C. § 2705(b), Google and its employees shall not disclose the existence of the Legal Request to any other person (except attorneys for Google for the purpose of receiving legal advice) for a period of one year (commencing on the date of this Order) or until further court order, whichever is sooner.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

8/22/18
Date


UNITED STATES MAGISTRATE JUDGE

U.S. District and Bankruptcy Courts
for the District of Columbia
A TRUE COPY

By 
Deputy Clerk

Exhibit C

(N)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)
CONCERNING LEGAL PROCESS
DIRECTED AT GOOGLE LLC FOR
INVESTIGATION 2017R01896**

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



A handwritten signature in black ink, appearing to read "Richard A. Lloret".

Digitally signed by Richard
A. Lloret
Date: 2019.08.16 10:41:42

~~-04'00'~~
UNITED STATES MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER PURSUANT TO 18 U.S.C. § 2705(b) CONCERNING LEGAL PROCESS DIRECTED AT GOOGLE LLC FOR INVESTIGATION 2017R01896

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.

2020.09.02
19:48:11
 Elizabeth D. Key
UNITED STATES MAGISTRATE JUDGE
0400

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN RE APPLICATION OF THE UNITED
STATES OF AMERICA FOR AN ORDER
PURSUANT TO 18 U.S.C. § 2705(b)
CONCERNING LEGAL PROCESS
DIRECTED AT GOOGLE LLC FOR
INVESTIGATION 2017R01896**

Misc. No. 17-mc-02272

Under Seal

ORDER

This matter having come before the Court pursuant to an application under 18 U.S.C. § 2705(b) requesting the extension of an order directing Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, not to notify any other person of the existence of legal process previously issued under the following case numbers pursuant to 18 U.S.C. §§ 2703 and 2705(b), in connection with an ongoing investigation: subpoena number GJ2017091241939 and case number 17-mc-02272, collectively the “Legal Request,” the Court finds reasonable grounds to believe that such disclosure will result in flight from prosecution, destruction of or tampering with evidence, and serious jeopardy to the investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2705(b), that PROVIDER and its employees shall not disclose the existence of the Legal Request or any related Order of this Court to any other person (except attorneys for PROVIDER for the purpose of receiving legal

advice) for an additional period of one year (commencing on the date of this Order), unless the period of nondisclosure is later modified by the Court

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court.



Richard A. Lloret

2021.08.26 13:12:49

~~04'00'~~

UNITED STATES MAGISTRATE JUDGE

EXHIBIT L

U.S. Department of Justice



Washington, D.C. 20530

June 21, 2024

Michael Zummer
11166 Fairfax Blvd
Ste 500 #1076
Fairfax, VA 22030

Dear Sir/Madam:

This is in response to your request for records, Tracking Number, EMRUFOIA062024. Your Freedom of Information Act and/or Privacy Act (FOIA/PA) request was received by this office which serves as the receipt and referral unit for FOIA/PA requests addressed to the Department of Justice (DOJ). Federal agencies are required to respond to a FOIA request within 20 business days. This period does not begin until the request is actually received by the component within the DOJ that maintains the records sought, or ten business days after the request is received in this office, whichever is earlier.

We have referred your request to the DOJ component(s) you have designated or, based on descriptive information you have provided, to the component(s) most likely to have the records. All future inquiries concerning the status of your request should be addressed to the office(s) listed below:

FOIA/PA
Executive Office for U.S. Attorneys
Department of Justice
Suite 5.400
175 N. Street N.E.
Washington, DC 20530-0001
(202) 252-6020

FOIA/PA
National Security Division
Department of Justice
Room 10702
175 N Street N.E., 12th Floor
Washington, DC 20530-0001
(202) 307-0754

Sincerely,

MRUFOIA
Logistics Management
Facilities and Administrative Services Staff
Justice Management Division

EXHIBIT M



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

Tristan Leavitt
Empower Oversight
11166 Fairfax Blvd.
Suite 500 #1076
Fairfax, VA 22030

July 5, 2024

Re: FOIA/PA # 24-434

Dear Tristan Leavitt:

This is to acknowledge your letter dated June 20, 2024 requesting, among other things, information pertaining to Jennifer Gellie of DOJ's National Security Division (NSD). NSD received your Freedom of Information Act (FOIA) request on June 21, 2024.

We note that your request was simultaneously sent to NSD and the U.S. Attorney's Office for the District of Columbia, Executive Office of U.S. Attorneys (EOUSA). As item nos. 1 through 4 of your request appear to be specific to members of the U.S. Attorney's Office for the District of Columbia, and this request was simultaneously sent to EOUSA, NSD is limiting its response to your FOIA request to items nos. 5 and 6 of your FOIA request.

Regarding item no. 6 of your request, which requests "[a]ll communications, notes of meetings, and messages of Jennifer Gellie of DOJ's National Security Division from May 16, 2024, to the present, discussing" various topics, NSD requests clarifications/further explanations regarding certain sub-sections of this request item. Specifically, the following are vague and/or would likely result in an unreasonably burdensome search:

- Item no. 6(e), requests all communication discussing "[a]ny member of Congress." As written, this requests all communication, notes of meetings and messages over a two-month period that mentions any member of Congress for any reason. We invite you to make a clearer or less burdensome request regarding this sub-item. If desired, please feel free to contact our office for assistance.
- For item no. 6(f), requests all communication discussing "[a]ny staffer of a member of Congress." As written, this requests all communication, notes of meetings and messages over a two-month period that mentions any staffer of a member of Congress for any reason. We invite you to make a clearer or less burdensome request regarding this sub-item. If desired, please feel free to contact our office for assistance.

In addition, for item no. 6(h), while not required for us to process your request, if you have the NSD FOIA tracking numbers associated with the "four other referenced Empower Oversight FOIA requests", such information would be useful in readily identifying potentially responsive records for this sub-item.

Re: FOIA/PA # 24-434

Once we receive clarification/further explanation regarding sub-items 6(e) and 6(f) of your request, we will continue to move forward with processing.

Our policy is to process perfected FOIA requests on a first-in, first-out basis. Any searches conducted in response to your request will be limited to the records of the National Security Division. Consistent with this policy, every effort will be made to respond to your request as quickly as possible. The actual processing time will depend upon the complexity of the request, whether it involves sensitive or voluminous records, and whether consultations with other agencies or agency components are appropriate.

You may contact our Government Information Specialist, Arnetta Mallory, for any further assistance and to discuss any aspect of your request at:

U.S. Department of Justice
Records and FOIA Unit
3 Constitution Square
175 N Street N.E. 12th Floor
Washington, DC 20530
(202) 233-2639

Sincerely,

_____/s/_____
D. L. O'Dowd

EXHIBIT N

Brian Field

From: Michael Zummer <mzummer@empowr.us>
Sent: Monday, August 19, 2024 7:01 PM
To: Tiernan, Kevin (NSD); tl@empowr.us
Cc: jf@empowr.us; ax@empowr.us; rs@empowr.us; NSDFOIA (NSD); Brian Field
Subject: Re: 24-434 (Leavitt)

Hey Kevin,

I apologize for the delay, but, upon further reflection, Empower Oversight doesn't believe any narrowing or clarification is necessary.

Thank you for reaching out,

Mike Zummer

From: Michael Zummer <mzummer@empowr.us>
Sent: Tuesday, August 6, 2024 4:11 PM
To: Tiernan, Kevin (NSD) <Kevin.Tiernan@usdoj.gov>; tl@empowr.us <tl@empowr.us>
Cc: jf@empowr.us <jf@empowr.us>; ax@empowr.us <ax@empowr.us>; rs@empowr.us <rs@empowr.us>; NSDFOIA (NSD) <NSDFOIA@usdoj.gov>
Subject: Re: 24-434 (Leavitt)

Hey Kevin,

I apologize for the delay. We are pulling together some additional information and should have that to you by early next week.

Thank you,

Mike Zummer

From: Tiernan, Kevin (NSD) <Kevin.Tiernan@usdoj.gov>
Sent: Tuesday, August 6, 2024 4:30 PM
To: tl@empowr.us <tl@empowr.us>
Cc: mzummer@empowr.us <mzummer@empowr.us>; jf@empowr.us <jf@empowr.us>; ax@empowr.us <ax@empowr.us>; rs@empowr.us <rs@empowr.us>; NSDFOIA (NSD) <NSDFOIA@usdoj.gov>
Subject: 24-434 (Leavitt)

Dear Mr. Leavitt:

In our acknowledgement letter of July 5, 2024, we ask for clarification for three items in your FOIA request, NSD 24-434. From that letter –

"Specifically, the following are vague and/or would likely result in an unreasonably burdensome search:

- *Item no. 6(e), requests all communication discussing "[a]ny member of Congress." As written, this requests all communication, notes of meetings and messages over a two-month period that mentions any member of Congress for*

any reason. We invite you to make a clearer or less burdensome request regarding this sub-item. If desired, please feel free to contact our office for assistance.

• For item no. 6(f), requests all communication discussing "[a]ny staffer of a member of Congress." As written, this requests all communication, notes of meetings and messages over a two-month period that mentions any staffer of a member of Congress for any reason. We invite you to make a clearer or less burdensome request regarding this sub-item. If desired, please feel free to contact our office for assistance.

In addition, for item no. 6(h), while not required for us to process your request, if you have the NSD FOIA tracking numbers associated with the "four other referenced Empower Oversight FOIA requests", such information would be useful in readily identifying potentially responsive records for this sub-item."

I am writing to ask whether you are able to provide any additional information, clarification, or narrowing to assist us in conducting searches for records responsive to these three items.

Please let me know if it would be helpful to discuss this or any other matter relating to your request.

Thank you,
Kevin

Kevin G. Tiernan
Records and FOIA
National Security Division
202-233-0755

EXHIBIT O



U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

*Suite 5.400, 3CON Building
175N Street, NE
Washington, DC 20530*

(202) 252-6020

August 12, 2024

VIA PAL

Alex Xenos
Empower Oversight
11166 FAIRFAX BLVD, STE 500 #1076
Fairfax, VA 22030
ax@empowr.us

Re: Request Number: EOUSA-2024-002840
Subject of Request: Jason Foster GJ Subpoena

Dear Alex Xenos:

This letter acknowledges receipt of your Freedom of Information Act/Privacy Act (FOIA/PA) request in the Executive Office for United States Attorneys (EOUSA). Your request has been assigned tracking number EOUSA-2024-002840. Please refer to this number in any future correspondence with this Office.

The records you seek require a search in one or more field offices and potentially involves voluminous records and/or requires consultation with another agency/component with a substantial interest in the subject-matter and therefore falls within “unusual circumstances.” *See* 5 U.S.C.S § 552(a)(6)(B)(i)-(iii). Accordingly, we are extending the time limit to respond to our request beyond the ten additional days provided by the statute. The time needed to process your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in approximately 30 business days, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track.

Under FOIA and Department of Justice regulations you may be required to pay certain costs associated with processing your request, including, searching for, reviewing, and duplicating requested records. Consequently, you may incur those costs, unless you have requested and been granted a waiver or reduction in fees. If you have requested a fee waiver, we have not yet made a decision on your request. We will do so after we determine whether the processing of your request will result in any assessable fees. In most instances, the first 100 pages to duplicate and the first two hours to search for records responsive to your request, will be

provided to you free of charge. If after making those allowances, we determine that the cost to process your request will amount to more than \$25.00, we will notify you in writing at a later date.¹ Requests that are specific, concrete and of limited scope (in time and/or subject matter) generally enable us to respond to you more quickly and possibly assess lower fees. To avoid delay and reduce any potential fees, we respectfully request that you modify and narrow the scope of your request (*See* Attachment).

You may contact our FOIA Public Liaison at the Executive Office for United States Attorneys (EOUSA) for any further assistance and to discuss any aspect of your request. The contact information for EOUSA is 175 N Street, NE, Suite 5.400, Washington, DC 20530; telephone at 202-252-6020. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Kevin Krebs
Assistant Director

Attachment

¹ Search and review fees by professional personnel are charged at \$40 per hour and duplication fees are assessed at five cents per page.

THIS IS NOT A BILL. DO NOT SEND MONEY

Requester: Alex Xenos

Request No. EOUSA-2024-002840

CHOOSE ONE

I wish to narrow my request in an attempt to obtain a faster response and/or reduce fees as follows:

I understand that I am entitled to the first 100 pages and two hours of search time for free. Please do not search beyond two hours, nor duplicate beyond 100 pages.

I agree to pay up to the following amount for duplication and search time: \$ _____.
I understand that this payment is required even if no documents are located or released to me. In the event that documents are located and released to me, I understand that I may be charged duplication fees in addition to search fees.

I wish to withdraw my request.

Signature

Date

Please return to:
EOUSA
FOIA/PA
175 N Street, NE, 5th Floor, FOIA Suite
Washington, DC 20530

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<p>I. (a) PLAINTIFFS EMPOWER OVERSIGHT WHISTLEBLOWERS & RESEARCH</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Brian J. Field Schaerr Jaffe LLP 1717 K Street NW, Suite 900, Washington, DC 20006 (202) 787-1060</p>	<p>DEFENDANTS UNITED STATES DEPARTMENT OF JUSTICE</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN)</p>
---	--

<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil</p>			
<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p>	<p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Under 5 U.S.C. §552, Def. is required to search for & produce all non-exempt records responsive to Pl.'s FOIA request

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: <u>08/27/2024</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Brian J. Field</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EMPOWER OVERSIGHT WHISTLEBLOWERS
& RESEARCH,

Plaintiff

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant

)
)
)
)
)
)
)
)
)

Civil Action No. 24-2462

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

UNITED STATES DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian J. Field
Schaerr | Jaffe LLP
1717 K Street NW, Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EMPOWER OVERSIGHT WHISTLEBLOWERS
& RESEARCH,

Plaintiff

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant

)
)
)
)
)
)
)
)

Civil Action No. 24-2462

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Merrick B. Garland, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian J. Field
Schaerr | Jaffe LLP
1717 K Street NW, Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EMPOWER OVERSIGHT WHISTLEBLOWERS
& RESEARCH,

Plaintiff

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant

)
)
)
)
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)
)
)

Civil Action No. **24-2462**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Matthew M. Graves, U.S. Attorney for the District of Columbia
U.S. Attorney's Office
Attn: Civil Process Clerk
601 D Street, NW
Washington, DC 20530
USADC.ServiceCivil@usdoj.gov

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian J. Field
Schaerr | Jaffe LLP
1717 K Street NW, Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: