

# EMPOWER OVERSIGHT

*Whistleblowers & Research*



September 26, 2024

**VIA ELECTRONIC TRANSMISSION: OIGFOIA@USDOJ.GOV**

Office of Inspector General  
U.S. Department of Justice  
441 G Street, N.W.  
6th Floor  
Washington, DC 20530

**RE: FOIA REQUEST FOR RECORDS CONCERNING DOJ OIG'S INVESTIGATION  
INTO THE FBI'S RETALIATION AGAINST MARCUS ALLEN**

Dear FOIA Officer:

## **INTRODUCTION**

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization, which is 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**

Empower Oversight represents Mr. Marcus Allen, a formerly suspended FBI employee. Mr. Allen served honorably in the United States Marine Corps from 2000 to 2005 as an intelligence analyst and rifleman. He received a Top Secret security clearance in 2001. Mr. Allen was deployed to Kuwait and served two tours in Iraq, contributing to Operation Iraqi Freedom. The Marine Corps recognized his outstanding military service by awarding him the Navy and Marine Corps Commendation Medal and the Navy and Marine Corps Achievement Medal. In 2004, he was the Marine Corps Intelligence Activity Runner-Up for Intelligence Non-Commissioned Officer of the year.

Mr. Allen was hired by the FBI in 2015 as a Staff Operations Specialist in the FBI's Charlotte Field Office. He consistently received an “Exceeds Fully Successful” rating on his performance evaluations. In 2019, the Charlotte Field Office recognized him with its Employee of the Year Award. From 2015 to 2021, Mr. Allen was never disciplined or counseled in any form by the FBI.

As the FBI's investigations surrounding the January 6, 2021 riot progressed throughout 2021, Mr. Allen periodically shared with his colleagues open source news articles regarding the topic. On September 29, 2021, Allen sent two internal emails to several colleagues expressing concern that FBI Director Christopher Wray had misled Congress and the public concerning whether the FBI had assets on the ground at the Capitol during the January 6, 2021 riot. For disclosing in good faith to supervisors in his direct chain of command his reasonable belief that Director Wray may have misled Congress, the FBI not only initiated an investigation into his security clearance and suspended his clearance, in violation of 50 U.S.C. § 3341(j)(1) and Presidential Policy Directive/PPD-19 ("PPD-19") § B, it also suspended him from duty indefinitely without pay—a "personnel action" as defined by 5 U.S.C. § 2302(a)(2)(A)(ix), in violation of 5 U.S.C. § 2303, 50 U.S.C. § 3341(j)(1), 28 C.F.R. § 27.2, and PPD-19.

While not paying Mr. Allen, the FBI also claimed that he was subject to its "outside employment" rules and restricted him from getting another job. Specifically, when he requested permission to apply for a job, the FBI delayed responding to his request, forcing him to lose that opportunity and causing him and his family further financial distress.

The FBI reinstated Mr. Allen's clearance on May 31, 2024, after his clearance had been suspended or revoked for approximately 27 months, putting his career and employment income on hold.

## **RECORDS REQUEST**

The public has a strong interest in learning about any misconduct committed by the FBI in this matter and by whom such misconduct was committed. Thus, pursuant to the Freedom of Information Act ("FOIA") (5 U.S.C. § 552) and Privacy Act (5 U.S.C. § 552a), Empower Oversight requests:

1. All the Department of Justice ("DOJ") Office of Inspector General's ("OIG") records regarding its investigation into Marcus Allen's whistleblower retaliation complaint; and
2. Any records containing disciplinary recommendations or other recommendations DOJ OIG sent to DOJ or the FBI as a result of investigations related to Marcus Allen.

## **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](mailto: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