

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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June 20, 2024

The Honorable Christopher A. Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Avenue NW  
Washington, DC 20535

Dear Director Wray:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are continuing to investigate allegations of politicization and bias at the Federal Bureau of Investigation (FBI). The Committee and the Select Subcommittee have recently learned that the FBI colluded with a Democrat Member of Congress to attack FBI whistleblowers scheduled to testify at a Select Subcommittee hearing about FBI misconduct. We also learned about the existence of documents showing that the FBI evaluated FBI whistleblowers on the basis of their perceived political ideologies. We write to request documents and information about these events.

### **FBI's Collusion with Democrat Member of Congress to Attack FBI Whistleblowers**

On June 6, 2024, the Department of Justice produced 54 pages of documents to a nonprofit organization as part of the organization's lawsuit against the Department for failing to produce records under the Freedom of Information Act (FOIA).<sup>1</sup> Information included in these documents suggests that the FBI improperly shared nonpublic information about FBI whistleblowers with a Democrat Member of the Select Subcommittee in advance of a Select Subcommittee hearing.<sup>2</sup> This inappropriate disclosure not only violates the FBI's purported nonpartisan approach to Congressional relations, but it may violate the Privacy Act's prohibition on the disclosure of nonpublic information within the FBI's custody.<sup>3</sup>

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<sup>1</sup> Press Release, Judicial Watch, Records Show FBI Provided Democrats with Information on Whistleblowers Who Testified at May 2023 Weaponization Hearing (June 6, 2024).

<sup>2</sup> *See id.*; Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 11:08 AM), <https://x.com/tristanleavitt/status/1798733599224615009>.

<sup>3</sup> The Privacy Act authorizes the Chairman of a committee of relevant jurisdiction to receive nonpublic information within the custody of a federal agency; however, there is no similar authorization for a rank and file member. *See* 5 U.S.C. § 552a(b)(9); *see also* Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 2:57 PM),

On May 8, 2023, the Committee conducted a transcribed interview with FBI whistleblower Marcus Allen about the FBI retaliating against him for making protected disclosures by improperly revoking his security clearance, which it has since restored.<sup>4</sup> Consistent with longstanding congressional practice, Mr. Allen consented to speak only with the Committee majority because of the minority's pattern of leaking cherry-picked and misleading information about FBI whistleblowers. For example, weeks before Mr. Allen's interview, the Committee's minority released a report attacking FBI whistleblowers with debunked allegations and selectively released portions of transcripts of other interviews conducted by the Committee.<sup>5</sup>

The day after Mr. Allen's interview, May 9, 2023, an unidentified supervisory special agent in the FBI's Office of Congressional Affairs (OCA) emailed the office of Representative Dan Goldman, inquiring about "what issues Rep. Goldman and your office are interested in to see if there is any way I can assist in those areas" and offering "to provide insight or answer some questions about issues that do not require senior FBI leadership briefings or hearings."<sup>6</sup> The following week, on May 16, 2023, a staff member for Rep. Goldman responded, informing OCA that he had "a few questions about some of the witnesses" scheduled to testify at a May 18, 2023 hearing before the Select Subcommittee—including Mr. Allen.<sup>7</sup> The emails obtained by Judicial Watch through its FOIA litigation suggest that Rep. Goldman's office spoke with OCA about the hearing witnesses on May 17, the day before the hearing.<sup>8</sup>

The evening before the May 18 hearing, the FBI's Acting Assistant Director for Congressional Affairs, Christopher Dunham, sent a letter to the Committee that attempted to attack and slander the whistleblowers who were scheduled to testify the following day.<sup>9</sup> The letter included allegations about the whistleblowers that were "outright false and made up out of whole cloth[.]"<sup>10</sup> The FBI's letter was leaked to the media almost immediately, allowing the

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<https://x.com/tristanleavitt/status/1798791262549758356> (stating that the Privacy Act "require[s] that the FBI produce to the Majority any information it produces to the Minority").

<sup>4</sup> See Transcribed Interview of Marcus Allen, Staff Operations Specialist, FBI Charlotte Field Off., by H. Comm. on the Judiciary (May 8, 2023).

<sup>5</sup> Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 2:44 PM),

<https://x.com/tristanleavitt/status/1798788115961680186>.

<sup>6</sup> Email from [Redacted], Supervisory Special Agent, FBI Off. of Cong. Affs., to Off. of Rep. Dan Goldman (May 9, 2023, 11:52 AM).

<sup>7</sup> Email from Senior Counsel, Off. of Rep. Dan Goldman, to [Redacted], FBI Off. of Cong. Affs. (May 16, 2023, 1:00 PM).

<sup>8</sup> See, e.g., Email from [Redacted], FBI Off. of Cong. Affs., to Off. of Rep. Dan Goldman (May 17, 2023, 10:49 AM) (requesting that Rep. Goldman's staff "give me a call when you can" to discuss the hearing witnesses); see also Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 2:46 PM),

<https://x.com/tristanleavitt/status/1798788499937824991> ("Apparently [Rep. Goldman's staff] talked to the FBI official on May 17, the day before our hearing." (citing several emails)).

<sup>9</sup> See Letter from Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (May 17, 2023).

<sup>10</sup> Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 2:58 PM), <https://x.com/tristanleavitt/status/1798791547246289344>.

unfounded and slanderous attacks on the FBI whistleblowers to spread.<sup>11</sup> It appears that the FBI or Justice Department shared this letter with Rep. Goldman’s office at the same time as the leak to the media— an inference that is strengthened by an email sent days later by Rep. Goldman’s staff to OCA thanking the FBI “for sending over those documents” which they noted “were very helpful to the Congressman.”<sup>12</sup>

On May 31, 2024, the FBI exonerated Allen and reinstated his security clearance.<sup>13</sup> On June 3, 2024, Allen resigned from the FBI pursuant to a settlement agreement that awarded him back pay.<sup>14</sup> Additionally, new evidence has shown that Allen’s whistleblower disclosures were well-founded.<sup>15</sup> The FBI’s treatment of Allen was not only disgraceful, but also illegal. On May 19, 2024, the DOJ Office of the Inspector General (OIG) sent a Management Advisory Memorandum to Deputy Attorney General Lisa Monaco stating that the Justice Department violated federal law by not providing “an OIG appeal process for employees whose security clearance has been suspended for more than 1 year and who allege retaliation,” such as Allen.<sup>16</sup>

### **Retaliation Against a Former FBI Employee for Expressing Disfavored Political Opinions**

On June 8, 2024, Empower Oversight, a nonpartisan whistleblower protection organization, sent a letter to Justice Department Inspector General Michael Horowitz disclosing evidence that the FBI’s Security Division, which is responsible for “protecting the FBI’s people, information and facilities,”<sup>17</sup> displayed overt political bias against FBI employees who expressed support for President Donald Trump or opposed COVID-19 vaccine mandates.<sup>18</sup> Empower Oversight represents a former FBI employee whose security clearance was improperly revoked after ■ “self-reported in good faith to the appropriate FBI security official having been among the crowds in the vicinity of the Capitol, peacefully observing,” on January 6, 2021, while on personal leave.<sup>19</sup> Shortly after the former employee’s security clearance was indefinitely suspended pending investigation in March 2022, but before it was fully revoked in April 2023, the former employee made protected whistleblower disclosures to the Committee “alleging politicization and abuses of the security clearance process in this case and others.”<sup>20</sup>

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<sup>11</sup> Tristan Leavitt (@tristanleavitt), X (June 6, 2024, 2:59 PM),

<https://x.com/tristanleavitt/status/1798791943788564886>.

<sup>12</sup> Email from Senior Counsel, Off. of Rep. Dan Goldman, to [Redacted], FBI Off. of Cong. Affs. (May 23, 2023, 2:22 PM).

<sup>13</sup> Letter from Timothy M. Dunham, Exec. Assistant Dir., FBI Hum. Res. Branch, to Marcus Allen, Staff Operations Specialist, FBI Charlotte Field Off. (May 31, 2024).

<sup>14</sup> Letter from Tristan Leavitt, President, Empower Oversight, to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (June 4, 2024).

<sup>15</sup> See, e.g., Miranda Devine, *FBI lost count of how many paid informants were at Capitol on Jan. 6, and later performed audit to figure out exact number: ex-official*, N.Y. POST (Sept. 19, 2023).

<sup>16</sup> Memorandum from Michael Horowitz, Inspector Gen., U.S. Dep’t of Just., to Lisa Monaco, Deputy Att’y Gen., U.S. Dep’t of Just. (May 9, 2024).

<sup>17</sup> Douglas Beidler *named Assistant Director of FBI Security Division*, SEC. MAG. (Aug. 23, 2022).

<sup>18</sup> Letter from Tristan Leavitt, President, Empower Oversight, to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (June 8, 2024).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

In January 2024, Empower Oversight received “some (but not all)” of the Security Division’s investigative file concerning the former employee, which it had requested to appeal the FBI’s decision to revoke ■ security clearance.<sup>21</sup> The investigative file included “a pre-printed interview outline” that Security Division investigators used in April 2022 to interview FBI employees about the former employee, including about ■ political views.<sup>22</sup> Some of the questions listed on the pre-printed interview outline included whether the former employee:

- “Vocalize[d] support for President Trump?”
- “Vocalize[d] objection to Covid-19 vaccination?”
- “Vocalize[d] intent to attend 01/06/2021?”
- “[A]ttended the Richmond Lobby Day event on 01/18/2021?”<sup>23</sup>

As the FBI ought to well know, the First Amendment protects political expression and retaliating against employees for expressing disfavored political views is a cut and dried violation of the First Amendment.<sup>24</sup> While the FBI may have a legitimate reason to determine whether its employees commit or advocate for illegal acts, the questions included in the interview outline are “completely irrelevant to any legitimate security risk determination,” and relying on information produced in response to such questions to revoke the former employee’s security clearance “obviously violates the First Amendment.”<sup>25</sup> By tying an employee’s security clearance to their political views, the FBI appears to be purging itself of employees who do not share its preferred political views.

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Both of these events are deeply concerning, particularly for an agency that has already assembled a lengthy track record in recent years of political bias and blatant misconduct.<sup>26</sup> To further the Committee’s ongoing oversight, please provide the following documents and information:

1. All documents the FBI provided to Congressman Dan Goldman’s office between May 9, 2023, and May 18, 2023;

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* The Richmond Lobby Day event “is an annual Second Amendment rally in Virginia.” Margot Cleveland, *FBI Interrogates Co-Workers About Whistleblower’s Views On Covid Vax, Trump, And Second Amendment*, THE FEDERALIST (June 11, 2024).

<sup>24</sup> See Letter from Tristan Leavitt, President, Empower Oversight, to Michael Horowitz, Inspector Gen., U.S. Dep’t of Just. (June 8, 2024) (citing cases).

<sup>25</sup> *Id.*

<sup>26</sup> See, e.g., REPUBLICAN STAFF OF H. COMM. ON THE JUDICIARY, 117TH CONG., FBI WHISTLEBLOWERS: WHAT THEIR DISCLOSURES INDICATE ABOUT THE POLITICIZATION OF THE FBI AND JUSTICE DEPARTMENT (2022).

2. All documents and communications sent or received by the FBI's Office of Congressional Affairs concerning the FBI whistleblowers who testified at the Select Subcommittee's hearing on May 18, 2023;
3. All documents and communications sent or received by the FBI's Office of Public Affairs concerning the FBI whistleblowers who testified at the Select Subcommittee's hearing on May 18, 2023;
4. All documents and communications sent or received by the FBI's Office of the Director or the Office of the Deputy Director concerning the FBI whistleblowers who testified at the Select Subcommittee's hearing on May 18, 2023;
5. Documents sufficient to show all FBI officials who were involved in the creation or approval of, or who were otherwise aware of, the pre-printed interview outline prepared for the former employee who self-reported to peaceful First Amendment activities on January 6, 2021; and
6. All documents and communications referring or relating to the FBI's Security Division's use of political views or ideology, including but not limited to references to President Trump or the Covid-19 vaccine, in the evaluation of whether to suspend an employee's security clearances.

Please provide this material as soon as possible but no later than July 5, 2024. In addition, the Committee and Select Subcommittee require transcribed interviews with the following FBI employees: (1) Christopher Dunham, former Acting Director of the Office of Congressional Affairs; (2) the Supervisory Special Agent who disclosed nonpublic information about Marcus Allen in May 2023; (3) the head of the FBI's Office of Public Affairs in May 2023; and (4) the head of the FBI's Security Division in April 2022.

The Judiciary Committee has legislative and oversight jurisdiction over the FBI pursuant to Rule X of the Rules of the House of Representatives.<sup>27</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan  
Chairman

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<sup>27</sup> Rules of the House of Representatives, R. X, 118th Cong. (2023).

The Honorable Christopher A. Wray

June 20, 2024

Page 6

cc: The Honorable Jerrold L. Nadler, Ranking Member

The Honorable Michael E. Horowitz, Inspector General  
U.S. Department of Justice, Office of the Inspector General