

EMPOWER OVERSIGHT

Whistleblowers & Research



September 19, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
United States House of Representatives

Dear Chairman Jordan:

Thank you for the invitation to testify before the Subcommittee on the Weaponization of the Federal Government on September 25, 2024 alongside Empower Oversight’s client, former Federal Bureau of Investigation (“FBI”) Staff Operations Specialist Marcus Allen.

Over the last several months Empower Oversight has disclosed several new facts about how FBI leadership improperly targeted individuals with conservative viewpoints.¹ According to new witnesses, that targeting led to a retaliation investigation into then-acting Deputy Assistant Director (“DAD”) Jeffrey Veltri—now the Miami Field Office Special Agent in Charge (“SAC”) leading the FBI’s investigation into the second assassination attempt on former President Donald Trump.

¹ Letter from Tristan Leavitt to Inspector General Michael Horowitz, Department of Justice (June 8, 2024), <https://empowr.us/wp-content/uploads/2024/06/2024-06-08-TL-to-DOJ-OIG-Protected-Disclosure-FINAL-REDACTED.pdf> (“June 8 OIG Disclosure”); Letter from Tristan Leavitt to Inspector General Michael Horowitz, Department of Justice (June 28, 2024), <https://empowr.us/wp-content/uploads/2024/09/2024-06-28-TL-to-DOJ-OIG-OPR-Retaliation-Complaint-Redacted.pdf> (“SSA Retaliation Complaint”); Letter from Tristan Leavitt to Chairman Jim Jordan, House Judiciary Committee, et al. (July 2, 2024), <https://empowr.us/wp-content/uploads/2024/07/2024-07-02-TL-to-Congress-FBI-SecD-WB-Retaliation-Complaint.pdf>; Letter from Tristan Leavitt to Chairman Jim Jordan, House Judiciary Committee (July 23, 2024), <https://empowr.us/wp-content/uploads/2024/07/2024-07-23-TL-to-JJ-HJC-SecD-SSA-supplementary-disclosure.pdf> (“O’Boyle Disclosure”).

Under then-acting DAD Veltri, the FBI’s Security Division (“SecD”) probed the political beliefs and personal medical decisions of FBI employees as part of its security clearance investigations. Additional whistleblowers from inside SecD have provided us information that SecD leadership *improperly* encouraged using those factors when considering suspending and revoking FBI employee security clearances to remove them from the FBI—without *properly* documenting those factors in FBI files.

Contrary to Director Christopher Wray’s recent testimony before your committee, the so-called “Trump questionnaire” was *not* the only time FBI’s SecD interrogated employees about co-workers’ support for Donald Trump and views on personal medical decisions, such as whether to take the experimental COVID-19 vaccine. The evidence clearly contradicts the FBI’s recent false claim that it “has not . . . retaliate[d] against individuals who make protected whistleblower disclosures.”² In fact, the FBI took reprisals against employees it absolutely knew had made protected whistleblower disclosures—including to Congress.

Yesterday, Empower Oversight submitted to the Department of Justice (“DOJ”) Inspector General (“OIG”) a detailed 29-page complaint with evidence that the FBI retaliated against at least four of its own SecD employees after they made internal protected disclosures. These SecD whistleblowers reported FBI abuses of the security clearance process involving Mr. Allen, as well as several other cases, some of which remain non-public.

When Mr. Allen and I previously testified on May 18, 2023 alongside Special Agent (“SA”) O’Boyle and former SA Steve Friend, we had significantly less insight into what had happened behind the scenes in SecD than we do now—thanks to these whistleblowers from inside SecD itself. Empower Oversight is now representing several of the SecD employees who worked on the Allen case, and has spoken to a number of other witnesses from inside the FBI.³ Through their disclosures, as well as the documents provided by the FBI, we have uncovered a more complete picture of the disturbing scope and breadth of the FBI’s illegal retaliation.

POLITICIZATION OF THE FBI SECURITY DIVISION

Although concerns about FBI politicization have grown steadily across multiple Administrations, the FBI’s response to the events of January 6, 2021—particularly by contrast to

² See Kerry Pickett, *FBI official leading Trump assassination probe accused of anti-Trump bias*, Wash. Times (Sept. 17, 2024), <https://www.washingtontimes.com/news/2024/sep/17/fbi-official-accused-of-anti-trump-social-media-po>.

³ One is the SecD SSA we wrote to you about on July 2, 2024. Letter from Tristan Leavitt to Chairman Jim Jordan, House Judiciary Committee, et al. (July 2, 2024), <https://empowr.us/wp-content/uploads/2024/07/2024-07-02-TL-to-Congress-FBI-SecD-WB-Retaliation-Complaint.pdf>. The other is the former SecD adjudicator assigned to consider the reconsideration request Empower Oversight filed regarding Mr. Allen’s clearance revocation.

its lack of response to widespread rioting in the summer of 2020—has marked a shift in how many FBI employees view their agency.⁴

As we have previously disclosed, FBI Deputy Director Paul Abbate, newly appointed in February 2021, said on a secure videoconference of field and headquarters leadership that he had heard these questions about the FBI’s investigative response to January 6.⁵ Deputy Director Abbate told the group of all senior FBI officials that anyone who questioned the FBI’s response, or his decisions regarding it, did not belong in the FBI and should find a different job. Deputy Director Abbate also told the assembled leadership that if they had an employee who did not agree with the FBI’s response, they could have that employee call Abbate directly and he would “set them straight.”

As one FBI employee wrote in an affidavit we provided to the DOJ OIG: “I have witnessed hundreds of Director [secure video teleconferences] and have never seen a direct threat like that any other time. It was chilling and personal, communicating clearly that there would be consequences for anyone that questioned his direction.”⁶

As Assistant Special Agent in Charge (“ASAC”) of the New Orleans Field Office, Jeffrey Veltri likely sat in on the weekly headquarters videoconferences. Only two months after Deputy Director Abbate’s threat, Veltri became the Section Chief (“SC”) of Security Integrity and Investigations Section (“SIIS”), which oversaw all personnel investigations for SecD. His Assistant Section Chief (“ASC”) was Dena Perkins, who had been in that role since 2018.

Prior to serving as Deputy Director, Abbate served as the FBI’s Associate Deputy Director. With Abbate’s promotion in February 2021, Jeffrey Sallet—Executive Assistant Director (“EAD”) over the Human Resources Branch (“HRB”)—became the agency’s new Associate Deputy Director. This led to a series of individuals serving in acting capacities.

In July 2021, Deputy Director Abbate selected Jennifer Leigh Moore as the new AD over SecD. As SAC of the Washington Field Office’s Intelligence and Incident Response Division, Jennifer Leigh Moore would also have been a required attendee for the videoconference where

⁴ See, e.g., <https://vault.fbi.gov/united-states-capitol-violence-and-related-events-of-january-6-2021/united-states-capitol-violence-and-related-events-of-january-6-2021-part-16/view>.

Three and a half years after that day, concerns about privacy and overreach still remain regarding the FBI’s targeting of individuals who never entered the U.S. Capitol or engaged in any violence outside of it.

For example, the FBI added the wife of an Air Marshal to the Terrorist Screening Database as a “domestic terrorist,” claiming she “entered [the] U.S. Capitol.” However, although she engaged in First Amendment-protected activity at the Ellipse, she never got closer to the Capitol than 4th Street NW. See Letter from Tristan Leavitt to Inspector General Joseph V. Cuffari, Department of Homeland Security (Aug. 5, 2024), <https://empowr.us/wp-content/uploads/2024/08/2024-08-05-TL-to-DHS-OIG-re-FAMS-surveillance-with-attachments.pdf>;

⁵ Affidavit of FBI Employee, June 21, 2023, at 2 (Attachment to Letter from Tristan Leavitt to Inspector General Michael Horowitz, Department of Justice (June 21, 2023), <https://empowr.us/wp-content/uploads/2023/06/2023-06-21-TL-to-DOJ-IG-FBI-WB-affidavit-Final-w-Aff.pdf>).

⁶ *Id.*

Deputy Director Abbate made his threat against any FBI employee who dared to contrast the FBI's reaction to the 2020 riots with its reaction to the Capitol riot. Because of her position, Moore was also intimately familiar with the steps the Washington Field Office took surrounding the events of January 6, 2021—steps for which AD Moore was partially responsible.⁷

Although appointed as SecD AD, Moore was essentially selected to serve as the acting HRB EAD. In November 2021, SecD DAD Douglas Beidler became the acting AD of SecD. SIIS SC Jeffrey Veltri became the acting DAD of SecD, and SIIS ASC Dena Perkins became the acting SIIS SC.

As we have brought to the attention of the DOJ OIG, SecD whistleblowers tell Empower Oversight they participated in many discussions in which it became clear that Veltri's and Perkins's perspectives were that if an FBI employee fit a certain profile as a political conservative, they were viewed as a security concern and unworthy to work at the FBI.⁸ Witnesses also heard Veltri openly state that while FBI employees might have First Amendment rights, they had no right to a security clearance. It's hard to imagine a clearer signal from a SecD leader that he approved, if not encouraged, leveraging security clearances as pretext to purge employees in a way that could not otherwise be done constitutionally.

WEAPONIZATION OF THE SECURITY CLEARANCE PROCESS

According to whistleblowers, one of the first politicized security clearance actions during the Biden Administration came after two FBI Intelligence Analysts had a discussion on an FBI IT system where one of the employees wrote he believed the 2020 election was possibly stolen and would like to see the outcome of voter fraud investigations. Veltri ordered that the Intelligence Analyst's clearance be revoked, and made comments suggesting to witnesses that he thought this employee was not entitled to a security clearance because the employee did not believe in the Constitution.

We have documented extensively the different case of our client, Mr. Allen. As you know, Mr. Allen served honorably in the United States Marine Corps, deploying to Kuwait and Iraq and being exposed to live enemy fire on multiple occasions despite being there to serve in intelligence and analytical roles. The Marine Corps awarded 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. After joining the FBI's Charlotte Field Office to work on its Joint Terrorism Task Force (JTTF), it recognized him with its Employee of the Year Award in 2019.

On September 29, 2021, Mr. Allen made a protected whistleblower disclosure to his supervisors and colleagues when he emailed regarding reports which originated with *The New*

⁷ See House Select Committee to Investigate the January 6th Attack on the U.S. Capitol, Transcript, Interview of Jennifer Moore (July 26, 2022), <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000916069/pdf/GPO-J6-TRANSCRIPT-CTRL0000916069.pdf>.

⁸ *Id.* at 5.

York Times that confidential FBI informants were present at the Capitol on January 6, 2021.⁹ Mr. Allen’s email cautioned his colleagues about the testimony Director Wray had provided to Congress and expressed his concerns about its accuracy based on personal knowledge of cases Allen had supported in his field office.

The FBI appears to have completed a Tier 5 security clearance reinvestigation into Mr. Allen *the very day he emailed his protected disclosure*.¹⁰ That reinvestigation concluded: “Based on this review, it is recommended that captioned subject’s reinvestigation be closed ***favorably***. Subject remains eligible for a Top Secret security clearance and continued access to FBI space.”¹¹ This document was approved within SecD on September 30, 2021.¹²

Yet that very same day, Charlotte Field Office personnel forwarded Mr. Allen’s emails to Tasha Gibbs, an Assistant General Counsel (“AGC”) in the FBI Office of General Counsel (“OGC”) embedded in HRB’s Human Resources Division. In that role, AGC Gibbs provided general employment law advice to field office SACs, ASACs, and their Chief Division Counsels. According to the Charlotte Field Office ASAC, AGC Gibbs reportedly advised the Charlotte Field Office not to reassign Mr. Allen, as it might appear retaliatory.¹³

Yet AGC Gibbs also forwarded Mr. Allen’s emails to SC Veltri, apparently seeking to engineer a security clearance investigation instead.¹⁴ SC Veltri responded to AGC Gibbs that SIIS would open a new clearance investigation into Mr. Allen.¹⁵

SIIS’s standard process is to refer concerns about eligibility for security clearances to its Clearance Referral Evaluations Unit (“CREU”). As part of its review, CREU contacts the relevant office to inquire what actions they’ve taken to resolve security concerns with an employee. If the concerns are deemed to require investigation, they are referred to SIIS’s Clearance Investigations Unit (“CIU”). Once CIU completes its investigation, it sends the file to the Clearance Adjudications Unit (“CAU”) for the file to be adjudicated by an independent decisionmaker. Rather than sending the information about Mr. Allen to be assessed by CREU, SC Veltri cut the normal process short and directed that it go directly to CIU to have an investigation opened. As SC Veltri’s successor would later note, this was an “abortion of the process.”

⁹ Alan Feur and Adam Goldman, *Among Those Who Marched Into the Capitol on Jan. 6: An F.B.I. Informant*, N.Y. Times (Sept. 25, 2021), <https://www.nytimes.com/2021/09/25/us/politics/capitol-riot-fbi-informant.html>.

¹⁰ September 20, 2023 Marcus Allen Clearance File (“Clearance File”), at 550.

¹¹ *Id.* (emphasis added).

¹² *Id.* at 549.

¹³ *Id.* at 99–100.

¹⁴ *Id.* at 70–71; January 25, 2024 Supplement to Clearance File (“Supplemental Clearance File”) at 3.

¹⁵ Supplemental Clearance File at 3.

The CIU investigation was formally opened on October 19, 2021 under security clearance Adjudicative Guideline A – Allegiance to the United States.¹⁶ It was assigned to the team of CIU Supervisory Special Agent (“SSA”) Sean Clark, who had also come to SecD from the Washington Field Office after January 6, 2021. The opening electronic communication (“EC”) in the case claimed it was a referral from the Charlotte Field Office’s Chief Security Officer—which was false.¹⁷ The EC omitted AGC Gibbs’s and DAD Veltri’s involvement.

Meanwhile, the FBI set November 1, 2021 as its deadline for implementation of the Biden Administration’s government-wide federal employee vaccine mandate.¹⁸ The morning of November 2, 2021, a Charlotte Field Office ASAC emailed SC Veltri: “[W]e have some added concerns about the employee, particularly since he is one of only two employees in Charlotte who is refusing to follow policy and attest to his current vaccination status[.]”¹⁹ About three and a half hours after the ASAC’s email, ASC Perkins twisted the Charlotte Field Office’s message, writing to the FBI’s Insider Threat Office: “[Charlotte] is a bit concerned he is escalating”²⁰

The Insider Threat Office completed an initial assessment of Mr. Allen’s communications on November 10, 2021, recording it in a draft EC. The draft assessment read:

Given the email ALLEN sent to several FBI UNet official addresses from the initial complaint, and the additional disparaging comments made by ALLEN within his FBINet Skype messages, ALLEN believes the FBI and U.S. government are wrongfully prosecuting the individuals involved in the 1/6/2021 U.S. Capitol incident. Moreover, ALLEN’s comments concerning vaccine hesitancy and hostility toward U.S. government vaccine mandates, open-minded views towards conspiracy theories, and hostile views towards the U.S. government give concern that ALLEN may pose an insider threat to the FBI.²¹

The assessment continued: “[The Insider Threat Office] recommends AIU and [the Internal Affairs Section] consider looking into [a Charlotte Intelligence Analyst] as a potential threat as nearly all of the conversations involving the information presented are between ALLEN and [the Intelligence Analyst] with [the Intelligence Analyst] holding many of the same views.”

On November 15, 2021, the Insider Threat Office sent the draft EC to ASC Perkins. She forwarded it to the CIU investigator assigned to Mr. Allen’s case, a highly-respected former SAC and former Inspection Division executive. Perkins also forwarded it to CREU, which per SIIS

¹⁶ Clearance File at 2–3.

¹⁷ *Id.* at 3.

¹⁸ *See also* <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees>.

¹⁹ Clearance File at 119.

²⁰ Supplemental Clearance File at 7.

²¹ *Id.* at 22.

process was required to assess whether to open an investigation into the Intelligence Analyst referenced in the EC.²²

Two days later, on November 17, the CIU investigator on Mr. Allen's case began calling his coworkers to interview them. Every one of the individuals interviewed stated Allen had "never given . . . cause to question his allegiance to the US."²³ Yet, the investigator's FD-302 interview report of the Charlotte ASAC interview states:

[The ASAC] considered the matter to have been addressed once he had counseled Allen; however, a week or two later [he] learned Allen was the only [Charlotte] employee who had refused to attest to his vaccination status. [He] felt Allen's refusal to comply with the vaccine attestation, combined with his September 29, 2021 email, warranted an independent review by Security Division.²⁴

Still, according to the FD-302, the ASAC stated he was "hopeful Allen can avoid a negative clearance action by SecD, unless SecD discovers additional information not known to [Charlotte] which would warrant such a clearance action."²⁵

The next day, on November 18, 2021, the CIU investigator submitted an Enterprise Security Operation Center ("ESOC") request seeking a more complete review of Mr. Allen's communications. While awaiting the more fulsome communication review, CIU recorded in a November 24, 2021 FD-302 that Allen had received a counseling memo the previous day for failing to attest to his vaccination status. The 302 stated that "Allen advised . . . he does not intend to obtain the vaccine . . ."²⁶

Sometime between November 15 and December 7, 2021, the Insider Threat Office baseline assessment was altered. The December 7 version took a much tougher tone against Mr. Allen:

As demonstrated in the 'Communications' paragraph below, ALLEN and [an Intelligence Analyst coworker in Charlotte] exchange increasingly hostile views towards the FBI and current administration. Although the comments individually may demonstrate a matter of opinion, the combination and escalation of the collective comments present a linear pattern of increased hostility, which may ultimately result in a direct influence or manipulation of information that could directly interfere with FBI mission objectives. This pattern of increased hostility culminates with ALLEN's email, inclusive of links from questionable sources, which is overtly sympathetic to the individuals who participated in the 1/6/2021

²² *Id.* at 10-12.

²³ Clearance File at 82, 89, 94.

²⁴ *Id.* at 99.

²⁵ *Id.* at 100.

²⁶ *Id.* at 106.

U.S. Capitol incident. [Insider Threat Office] assessed this action to be in direct conflict with the FBI's mission and an effort by ALLEN to persuade co-workers and supervisory agents to reject legal precedents and protocols in favor of extremist propaganda. Given these concerns, [Insider Threat Office] assesses ALLEN may pose an insider threat to the FBI.²⁷

It is not clear whether SecD played any role in editing the language from the draft to the final baseline assessment, or otherwise influenced the Insider Threat Office.

Over the next two days, after receiving the updated Insider Threat assessment, the CIU investigator added three EC "serials" to the Allen clearance file that clearly undermined the baseline assessment's conclusions.²⁸ The Insider Threat assessment highlighted a series of April 2021 Skype messages Mr. Allen exchanged with his Intelligence Analyst coworker about the potential for increased civil unrest in coming months as supposed evidence of Mr. Allen's alleged extremism.²⁹ But the CIU investigator recorded in a December 8, 2021 EC that the potential for such unrest was also highlighted in two analytical reports FBI headquarters sent out in April 2021—precisely when Mr. Allen and his colleague were commenting on those issues.³⁰

The Insider Threat assessment recorded that Mr. Allen's September 29, 2021 email was "inclusive of links from questionable sources." Some of the allegedly questionable sources include RealClearInvestigations.com and RealClearPolitics.com, which the FBI assessment claimed "takes legitimate information and adds specific language to spin the opinion of the information more favorably to right-leaning readers[.]"³¹ Yet in another December 8 EC, the CIU investigator recorded that all of the news outlets Mr. Allen shared with his colleagues, including RealClearPolitics, were also contained in FBI Daily News Bulletins for September 12, 23, or 29.³² In another addition to the earlier draft version, the December 7 Insider Threat assessment included Mr. Allen's Skype messages with the Intelligence Analyst about shortages of firearms and ammunition, generators and gasoline, and alcohol.³³ But the CIU investigator recorded in a December 9 EC that news outlets in the Charlotte, North Carolina area had been reporting on the same shortages over a period of many months.³⁴

²⁷ Clearance File at 124-25. The revised Insider Threat assessment removed a recommendation from the draft that SecD investigate the Intelligence Analyst. CREU never reviewed Mr. Allen's case because DAD Veltri bypassed that unit in directing that CIU open an investigation into Mr. Allen. CREU decided on February 16, 2022 not to forward the Intelligence Analyst referral to CIU for an investigation. The chief difference between Mr. Allen and the Intelligence Analyst was Mr. Allen's September 29, 2021 email questioning the testimony of Director Wray and Mr. Allen's decision not to receive the COVID-19 vaccine.

²⁸ *Id.* at 135–229.

²⁹ *Id.* at 127–28.

³⁰ *Id.* at 135–37.

³¹ *Id.* at 3.

³² *Id.* at 138–221.

³³ *Id.* at 129.

³⁴ *Id.* at 222–29.

The CIU investigator had all three of the serials approved by an acting supervisor rather than SSA Clark, suggesting he either anticipated Clark's negative response or had already broached the subject with Clark.³⁵ At some point the CIU investigator disclosed to his supervisory chain his concerns that applying the Adjudicative Guidelines, particularly "Guideline A – Allegiance to the United States," did not justify suspending Mr. Allen's security clearance. Regardless, Veltri and Perkins, by then serving as acting DAD and acting SC respectively, directed that Mr. Allen's clearance be suspended anyway, contradicting the investigator's conclusion that it was unwarranted. It was rumored in SecD that DAD Veltri and SC Perkins waited until a legal advisor to SecD management was away on leave before issuing the suspension because that advisor, AGC Adreanna Orlang, also opposed suspending Mr. Allen's clearance.

Just as Mr. Allen's protected whistleblower disclosure was the sole predication for opening the clearance investigation, it was also the central basis for the January 10, 2022 suspension EC. Every substantive page of the suspension EC references Mr. Allen's September 29, 2021 email.³⁶ The EC cited Mr. Allen's "questioning of the honesty of FBI leadership" and expanded on Mr. Allen's raising the issue of whether Director Wray might have perjured himself in his testimony before Congress.³⁷ The suspension EC also referenced Mr. Allen's "continued refusal to comply with the mandatory vaccine," a factor that would be omitted from the FBI's January 10, 2022 letter to Mr. Allen suspending his clearance.³⁸ Eleven days later, a federal court issued a preliminary injunction prohibiting the enforcement of the federal employee vaccine mandate.³⁹

As mentioned above, the CIU investigator on Mr. Allen's case was a highly-respected former SAC and former Inspection Division executive. But in retaliation for the CIU investigator's protected whistleblower disclosure regarding the Allen case, DAD Veltri and SC Perkins removed the CIU investigator as the Allen case manager and transferred him to CREU. According to witnesses, the CREU UC said the investigator had been transferred because SC Perkins and DAD Veltri were "not about the pushback they were getting on the Marcus Allen case."

IMPROPER CONSIDERATION OF 1ST AMENDMENT-PROTECTED VIEWS AND ACTIVITY

We have previously recounted that when one of Empower Oversight's SecD whistleblower clients, an SSA, arrived in CIU in April 2022, Mr. Allen's case had been transferred to another investigator who our client began to supervise. Given the obvious

³⁵ *See id.* at 135, 138, and 222.

³⁶ *Id.* at 321–28.

³⁷ *Id.* at 325–26.

³⁸ *Id.* at 327.

³⁹ *Feds for Med. Freedom v. Biden*, 581 F. Supp. 3d 826 (S.D. Tex. 2022).

irregularities in the clearance suspension, our SSA client instructed the CIU investigator to ensure she thoroughly documented the case moving forward.⁴⁰

Meanwhile, SSA Sean Clark, who had supervised the suspension of Mr. Allen's clearance despite there being no basis for it, supervised the investigation involving the so-called "Trump questionnaire." In it, CIU investigators conducting a security clearance investigation into one of our clients asked his FBI colleagues in April 2022 whether they had "[s]ocialize[d]" with him, and then whether they had ever heard him "Vocalize support for President Trump?" or "Vocalize objection to Covid-19 vaccination?" The contractors also asked whether they were aware he attended a Second Amendment advocacy day at the Virginia State Capitol.⁴¹

Director Wray testified to the Committee that these questions were asked by an "outside contractor" rather than an FBI employee. However, contrary to the impression created by Director Wray's testimony, *all* CIU investigators are either contractors or Reserve Service Program participants (former full-time FBI employees reemployed as annuitants). Because these staff are often in SecD for relatively short periods of time, they follow the lead of the permanent staff who supervise them—and the leadership of SecD.

For example, according to multiple witnesses within SecD, the two CIU contractors who used the so-called "Trump questionnaire" often said they were fearful of being fired by SC Perkins and talked about the "Kelly Cart" coming for them. The "Kelly Cart" was a reference to a female contractor in SIIS who, after reportedly pushing back against SC Perkins' wishes, had an unknown FBI employee show up with a cart at her desk and box up her personal belongings. The female contractor was walked out of the building, and her employment was terminated. According to whistleblowers, this fear of consequences for displeasing SecD and FBI leadership was widespread.

⁴⁰ SSA Retaliation Complaint, *supra* note 1, at 6.

⁴¹ In the Committee's July 24, 2024 hearing with FBI Director Christopher Wray, Representative Tom Tiffany asked Director Wray: "Who approved what [has been] termed the 'Trump questionnaire' within the FBI that was done by SIIS? Dena Perkins, Jeffrey [Veltri] were behind it. Who was responsible for that, and did you know that there was a 'Trump questionnaire' out there?" Director Wray responded:

The document you're asking about is an interview outline that we only recently learned about, and in my view is completely inappropriate. I asked my team to get to the bottom of what happened and to ensure it doesn't happen again, and I've learned that it's not an FBI form; that its use was isolated; that it was created, not by an FBI employee, but by an outside contractor; and that individual is no longer affiliated with the FBI.

Oversight of the Federal Bureau of Investigation: Hearing Before the H. Comm. on the Jud., 118th Cong. (July 23, 2024), <https://judiciary.house.gov/committee-activity/hearings/oversight-federal-bureau-investigation-7>.

CAU gathered the documents sometime between our June 9, 2023 request for the investigative file of our client and January 12, 2024, when CAU notified us the file was ready to produce.

On May 6, 2022, you wrote Director Wray a letter which read: “We have serious concerns that the FBI appears to be retaliating against employees for engaging in political speech disfavored by FBI leadership.”⁴²

Because of the retaliatory removal of the first CIU investigator, Mr. Allen wasn’t interviewed until May 26, 2022, four months after his clearance and pay had been suspended. The second CIU investigator wrote in her FD-302 summarizing the interview: “Allen confirmed he had sent the [September 29, 2021] email and the Holy Spirit compelled him to do so. Allen believed he had a moral imperative to share the information[.]”

According to our SecD SSA client, DAD Veltri made comments suggesting Mr. Allen was delusional for referring to his religious belief instead of secular, moral or ethical reasons for disclosing wrongdoing. The implication to others in SecD was that DAD Veltri believed Mr. Allen’s Christian beliefs as a devout Catholic were a reason to revoke his access to classified information. Again, it is difficult to imagine a clearer signal from a SecD leader that improper considerations about an FBI employee’s protected First Amendment religious beliefs unconstitutionally infected the security clearance process.

On June 7, 2022, you sent a letter to the FBI describing Mr. Allen’s case.⁴³ This led to the DOJ OIG on June 27, 2022 sending the FBI a request for all documents related to the case.⁴⁴ According to whistleblowers, both of these developments increased pressure within CIU to send the case to CAU for Mr. Allen’s clearance to be revoked, particularly when AGC Orlang left the FBI around July 2022 and AGC Gibbs—who originally referred Mr. Allen’s protected September 20, 2021 disclosure to SC Veltri—became the new OGC advisor to SecD management. Around this time, acting DAD Veltri approved AGC Gibbs working remotely from the Miami Field Office.

Sometime in the summer of 2022, SIIS opened its investigation into SA O’Boyle. According to new whistleblower information, the CIU investigator assigned to SA O’Boyle’s case, who reported to SSA Clark, disclosed to his chain of command that he believed the timeline of events suggested that rather than leaking to Project Veritas, SA O’Boyle may have been a whistleblower to this Committee. The CIU investigator reportedly clarified to acting SC Perkins that *there was no evidence SA O’Boyle had leaked to the media*. SC Perkins responded that she had already briefed the FBI’s 7th floor that SA O’Boyle was a media leaker, and did not want to correct this misunderstanding.

⁴² Letter from Ranking Member Jim Jordan, House Judiciary Committee, to Director Christopher Wray, Federal Bureau of Investigation (May 6, 2022), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2024-05-06%20JDJ%20to%20Wray%20re%20hiring%20issues%5B31%5D.pdf>.

⁴³ Letter from Ranking Member Jim Jordan, House Judiciary Committee, to Director Christopher Wray, Federal Bureau of Investigation (June 7, 2022), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2022-06/2022-06-07-JDJ-follow-up-letter-to-Wray-re-WB-disclosures_Redacted.pdf.

⁴⁴ Clearance File at 452.

As we have previously disclosed, our CIU SSA client raised objections to fellow SSA Clark about the vindictiveness of waiting until SA O’Boyle moved across the country before suspending his clearance.⁴⁵ As recently reported, SSA Clark responded with derogatory expletives.⁴⁶ New whistleblower information makes clear that acting DAD Veltri and acting SC Perkins reportedly discussed in meetings well in advance of SA O’Boyle’s move that he had an upcoming transfer scheduled in September. It appeared to observers that DAD Veltri and SC Perkins wanted time to gather more evidence about SA O’Boyle and interview him on his first day in the new assignment as a means to surprise him into some sort of confession. This demonstrates even further the falsity of EAD Moore’s later claim to you that suspending SA O’Boyle’s clearance the first day on his new assignment “absolutely was not” “intentional, to cause him some sort of pain or punishment,” and that “[t]hat is when it came through, when the signature was executed, and it was sent down.”⁴⁷

As previously described, when the FBI carried out its plan of confronting SA O’Boyle in his new assignment and questioning him about allegedly improper disclosures to the press, he confirmed what the CIU investigator already believed: that he had disclosed nothing to the press but had made numerous protected whistleblower disclosures to Congress. SIIS suspended his clearance anyway. Further, according to news reports, shortly after SA O’Boyle’s clearance suspension former SA Kyle Seraphin—the actual source of the information provided to Project Veritas—sent an affidavit to the FBI making clear that SA O’Boyle provided no information to Project Veritas.⁴⁸

The same day SA O’Boyle’s clearance was suspended, the second CIU investigator on the Allen case concluded her summary EC and disclosed to her supervisor, our SSA client, that she didn’t believe there was a basis to revoke Mr. Allen’s clearance.⁴⁹

According to whistleblowers, Director Wray and Deputy Director Abbate selected acting DAD Veltri in September 2022 to become the new SAC of the Miami Field Office, the FBI’s fifth largest field office (and the office where AGC Gibbs was working remotely). But on September 29, 2022, you and Subcommittee Ranking Members Mike Johnson and Darrell Issa sent a letter to EAD Moore which read: “[W]e have received protected whistleblower disclosures that the FBI is engaging in a ‘purge’ of employees with conservative views by revoking their security

⁴⁵ O’Boyle Disclosure, *supra* note 1, at 5.

⁴⁶ Joseph Hanneman, *‘The FBI will crush you’: Suspended Special Agent Garret O’Boyle risks it all to warn Americans about politicized agency*, Blaze Media (Sept. 14, 2024), <https://www.theblaze.com/news/the-fbi-will-crush-you-suspended-special-agent-garret-oboyale-risks-it-all-to-warn-americans-about-politicized-agency>.

⁴⁷ House Committee on the Judiciary, Transcript, Interview of Jennifer Leigh Moore 123 (Apr. 24, 2023), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023_04_24_Moore%20Transcript_Redacted.pdf; *see also* O’Boyle Disclosure, *supra* note 1.

⁴⁸ Steven Richards and John Solomon, *FBI suffers a new black eye, accusing the wrong agent of leaking*, Just the News (July 23, 2023), <https://justthenews.com/accountability/whistleblowers/fbi-withheld-evidence-about-whistleblower-congress-leading-erroneous>.

⁴⁹ SSA Retaliation Complaint, *supra* note 1, at 6.

clearances and indefinitely suspending these employees.”⁵⁰ As EAD Moore’s second-level subordinate over the Security Division, Veltri was directly at the heart of those allegations. Additionally, FBI leadership reportedly learned of an investigation into Veltri for his role in the retaliation against the CIU investigator on Mr. Allen’s case. Accordingly, FBI leadership delayed announcing Veltri’s appointment.

Around this exact time period, our CAU SSA client briefed acting DAD Veltri regarding an FBI SSA under investigation for his texts with FBI employees who were on the Capitol grounds on January 6, 2021, but not near the violence or breaking any laws. When CAU staff disclosed in the meeting that there was no basis to suspend the SSA’s clearance, Veltri ordered that the SSA’s clearance nevertheless be revoked.⁵¹ DAD Veltri went on an extended rant to the CAU staff that he didn’t even know why the case was being briefed. Multiple witnesses to the meeting reportedly commented that they had never seen such rude and unprofessional behavior by an executive in their entire careers.

QUEST TO JUSTIFY IMPROPER ALLEN CLEARANCE REVOCATION

According to whistleblowers, as the CAU adjudicator assigned to Mr. Allen’s case reviewed it in October and November 2022, he reportedly agreed with the CIU investigator that the facts did not merit revoking Mr. Allen’s clearance. However, the aforementioned interaction with DAD Veltri reportedly created significant apprehension within CAU about making a recommendation contrary to the outcome FBI leadership wanted.

In mid-November 2022 it became clear that control of the House of Representatives would change in the 118th Congress. On December 1, 2022, you, then-Ranking Member Johnson, and then-Ranking Member Issa again wrote to EAD Moore. The letter reiterated the request for EAD Moore’s testimony to discuss allegations that FBI security clearance actions were targeting employees with conservative views. Then on December 15, 2022, Mr. Allen filed a lawsuit against the FBI in the U.S. District Court for the District of South Carolina for violating his constitutional rights, falsely accusing him of holding “conspiratorial views” to suspend his security clearance and pay.⁵²

These developments reportedly resulted in AD Beidler subsequently receiving a call about the case from OGC Chief of Staff Miriam Coakley, who helps advise Deputy Director Abbate. AD Beidler scheduled a briefing with CAU on the case for January 24, 2023. Because CAU reportedly perceived there was pressure from FBI leadership to revoke Mr. Allen’s

⁵⁰ Letter from Ranking Member Jim Jordan, House Judiciary Committee, et al., to Executive Assistant Director Jennifer Moore, Federal Bureau of Investigation (Sept. 29, 2022), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2022/09/2022-09-29-JDJ-DEI-MJ-to-Moore-re-wb.pdf.

⁵¹ DAD Veltri’s decision to revoke the clearance was ultimately overturned when it became clear it was not based on the facts of the case.

⁵² See Press Release, Judicial Watch, Decorated Veteran and FBI Analyst Sues FBI after Being Falsely Accused of Disloyalty to the United States (Dec. 15, 2022), <https://www.judicialwatch.org/decorated-vet-and-fbi-analyst-sues>.

clearance but there was not sufficient basis do so, CAU decided to send the case back to the CIU investigator to see if any additional facts could be located before the executive briefing.

On January 17, 2023, the CIU investigator interviewed an SSA on the Charlotte JTTF who did not supervise Mr. Allen. The FD-302 of the interview states: “[Redacted] described Allen as a good [Staff Operations Specialist] who performed the responsibilities of his job role well. [Redacted] described Allen as ‘over the top’ with respect to his strong opinions on politics, religion, and Covid-19.” The former SSA claimed that former Charlotte SAC Robert Wells was “very frustrated” with Mr. Allen’s emails, and that someone asked in a leadership meeting if they could assist with counseling Allen over his emails, to which someone said they would “deal with it.” (Mr. Allen, in fact, was not ever counseled by anyone regarding his emails.) Still, the former SSA said that out of over 600 leads the Charlotte JTTF handled related to January 6, 2021, Mr. Allen only “pushed back” on one—because he “was concerned [the subject’s] constitutional rights were being impeded[.]”⁵³

On January 20, 2023, the CIU investigator contacted a former SSA in the Charlotte Field Office regarding Mr. Allen.⁵⁴ The CIU investigator interviewed the SA by phone on January 23, 2023—the day before the CAU briefing with AD Beidler. In the interview, the SA stated she first met Mr. Allen in November 2020 on the JTTF, and that other JTTF personnel told her Allen was “super helpful” and “very smart.” However, she alleged for the first time that in two of her cases, Mr. Allen was unable to find information about a suspect that another FBI employee subsequently did find. The SA implied to the CIU investigator that Mr. Allen omitted the information to sabotage the case because of a sympathy with the events of January 6, 2021.⁵⁵ The SA did *not* share that in response to the January 6-related request, Mr. Allen had been able to identify that the subject was an associate of someone about whom he could identify derogatory January 6-related information, which clearly undercut the ridiculous notion that Mr. Allen excluded information out of sympathy for the events of that day. Nevertheless, the CIU investigator communicated this new allegation to CAU, despite not yet having had any opportunity to follow up on it.

The January 24, 2023 briefing of AD Beidler was attended by the new SIIS DAD, Lawrence Buckley; AGC Gibbs; acting SC Perkins; and staff from CAU. According to whistleblowers, the CAU adjudicator repeated the allegation it received from the CIU investigator the day before, but did not make a recommendation one way or the other on revoking Mr. Allen’s clearance, believing SecD management did not want to reinstate the clearance. The CAU UC advised SecD leadership of the exculpatory information from Charlotte management and contradictory analyses between reviews of Mr. Allen’s internal electronic communications. However, ASC Perkins and AGC Gibbs reportedly convinced AD Beidler to sign off on revoking the clearance, relying in part on the unverified allegation from the Charlotte SA. AGC Gibbs reportedly told AD Beidler that she could defend the case at the DOJ Access

⁵³ Clearance File at 1609-10.

⁵⁴ *Id.* at 1658.

⁵⁵ *Id.* at 1647.

Review Committee (“ARC”), which hears appeals of DOJ employees whose clearances had been revoked.

As the CIU investigator tried to substantiate the allegation that Mr. Allen had intentionally withheld information, she interviewed another Charlotte JTTF Task Force Officer on January 26, 2023. He told her Mr. Allen was “extremely helpful and well versed in current events” and “was one of the best analysts on the JTTF[.]” The Task Force Officer said he’d had a “great experience” working with Mr. Allen, and did not think Allen would let any political views impact his job performance.⁵⁶

Further, the allegation that Mr. Allen might have sabotaged a case raised the question as to why the Charlotte SA now coming forward with the allegation didn’t report it at the time—an allegation that, if as serious as she alleged, should have been reported to the FBI’s Inspection Division. The whole matter was apparently referred to the DOJ OIG in late January or early February 2023, but the Allen clearance file indicates that on February 8, 2023, DOJ OIG “declin[ed] taking investigative action in this matter.”⁵⁷

FALSE FBI STATEMENTS TO CONGRESS

When Buckley began as permanent SIIS DAD in late January 2023, Veltri not only ended his service as acting DAD, he was removed from his permanent responsibilities as SIIS SC, instead being directed to work in another part of FBI headquarters. On March 27, 2023, the FBI finally announced his appointment as Miami Field Office SAC—notwithstanding the whistleblower retaliation allegations against him.⁵⁸

Meanwhile, despite AD Beidler’s January 24, 2023 decision on Mr. Allen’s case and CAU finalizing a revocation EC as directed, AGC Gibbs sat on the draft revocation EC for nearly two months. Only once the Committee was preparing in early April 2023 to interview EAD Moore about Mr. Allen’s and others’ cases did Gibbs approve the EC to be entered into Sentinel.⁵⁹ The EC ultimately included in Sentinel repeated in the third line the false claim he had never been asked about: “Allen was previously admonished by his supervisor not to send emails on FBI systems which relied on dubious news sources.”⁶⁰ It did not include the information noted by the initial CIU investigator—that FBI Daily News Bulletins sent to all Charlotte Field Office employees also referenced those same sources. The remaining three paragraphs of the revocation EC cited only the false allegation that Mr. Allen had failed to provide relevant information on a

⁵⁶ *Id.* at 1645.

⁵⁷ *Id.* at 1666.

⁵⁸ See Press Release, Federal Bureau of Investigation, Jeffrey B. Veltri Named Special Agent in Charge of the Miami Field Office (Mar. 27, 2023), <https://www.fbi.gov/news/press-releases/jeffrey-b-veltri-named-special-agent-in-charge-of-the-miami-field-office>.

⁵⁹ The formal approvals in Sentinel were recorded from ASC Perkins on April 13, 2023 and AGC Gibbs on April 29, 2023.

⁶⁰ Clearance File at 1678.

subject—an allegation Mr. Allen had never been interviewed about or given an opportunity to respond to.⁶¹

When the Committee interviewed EAD Moore on April 24, 2023, she had AGC Gibbs present in the interview as counsel. Moore indicated she couldn't speak to the Committee about Mr. Allen's, SA O'Boyle's, or SA Friend's cases until their adjudications were complete.⁶² Despite AGC Gibbs' role arguing for revocations in those cases, Gibbs told the Committee: "[A]t this point, these employees have pending investigations, and they should be allowed a fair and impartial process and allow that to proceed to its logical conclusion, both pending before the FBI Security Division and administrative forums."⁶³ And despite SecD preparing to revoke Mr. Allen's clearance on an entirely different basis than it suspended it for, EAD Moore elaborated on the phrase "conspiratorial views" used in the suspension letter: "Conspiratorial views would be views opposite the United States Constitution." When asked who defines what is a "conspiratorial view," she said: "It would be what is in conflict to the United States Constitution and law. . . . The United States Constitution defines what's conspiratorial."⁶⁴

When Representative Matt Gaetz asked EAD Moore at one point about the adjudication of SA O'Boyle's case, Moore responded: "It's ongoing. . . . It should be soon that that one should be finished."⁶⁵ However, SecD whistleblowers have disclosed to Empower Oversight that at the time of EAD Moore's interview, SA O'Boyle's case was actually still in CIU for investigation, not in CAU for adjudication. Further, EAD Moore proceeded in the interview to falsely claim it was mere coincidence SA O'Boyle's clearance happened to be suspended on his first day in a new assignment following his cross country transfer.⁶⁶ Despite SSA Clark's comments to our SSA client indicating clear personal animus against SA O'Boyle, Moore falsely claimed: "You asked me . . . if [O'Boyle] was targeted and if that was intentional, to cause him some sort of pain or punishment, and it was absolutely not."⁶⁷

We have previously disclosed that ASC Perkins pushed to complete the revocations of the Committee's hearing witnesses before they testified,⁶⁸ and AGC Gibbs did the same. The revocations became final on May 9, 2023 for Mr. Allen's clearance, and May 17, 2023—the day

⁶¹ *Id.* at 1678-79.

⁶² House Committee on the Judiciary, Transcript, Interview of Jennifer Leigh Moore 51-52 (Apr. 24, 2023), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023_04_24_Moore%20Transcript_Redacted.pdf.

⁶³ *Id.* at 95.

⁶⁴ *Id.* at 99.

⁶⁵ *Id.* at 51. When asked whether the investigation into Mr. Allen was "complex," given that it had been 15 months since his suspension, EAD Moore answered: "I would say that any investigation that takes a year would be complex. Criminal investigations can take up to 5 years at times. Some take 6 months." *Id.* at 111.

⁶⁶ *See id.* at 121, 123.

⁶⁷ *Id.* at 123.

⁶⁸ SSA Retaliation Complaint, *supra* note 1, at 9.

before the Committee’s hearing—for SA Friend’s clearance. Mr. Allen’s clearance revocation letter revealed to him for the first time the two false allegations: “Your mindset resulted in your failure to provide relevant information to a case agent investigating a Domestic Terrorism threat among other actions. You also failed to heed the admonishment of your supervisor to stop sending emails on FBI computer systems relying on dubious news sources.”

As soon as SA Friend’s revocation was finalized, the FBI sent the Committee a letter that relied on these same false claims that Mr. Allen had never been interviewed about. Someone immediately leaked the FBI’s letter to the *Washington Post*, which repeated several of its false claims in a story that evening.⁶⁹

Two weeks after the hearing, and the day before she retired from the FBI, Committee staff conducted a second transcribed interview with EAD Moore.⁷⁰ AGC Gibbs once again accompanied her. We have previously disclosed to you the misleading information EAD Moore provided in that interview.⁷¹ Additionally, EAD Moore again falsely told Committee staff that SA O’Boyle’s security clearance was in adjudication at the time of the June 2 interview, stating it would be completed “within the month, I think,” and adding, “I did ask, because I had hoped it [the adjudication decision] would come out before we came here so we’d be able to fully talk about everything.”⁷² EAD Moore also stated of her conversations with Deputy Director Abbate: “I’ll tell him that, hey, I know that that one is over in adjudication. I really had hoped it would come out so we could talk about it fully.”⁷³

According to SecD whistleblowers, in an attempt to retroactively remedy this falsehood, AGC Gibbs—who attended both of EAD Moore’s interviews—pushed for the CIU investigator assigned to SA O’Boyle’s case to send it to CAU as quickly as possible, where she wanted it to be revoked. However, the CIU investigator reportedly refused because he believed the investigation was not yet complete without an interview of SA O’Boyle.⁷⁴

⁶⁹ Jacqueline Alemany, *FBI: Agents set to testify on alleged abuses had clearances revoked over security concerns*, Wash. Post. (May 17, 2023), <https://web.archive.org/web/20230518010734/https://www.washingtonpost.com/politics/2023/05/17/fbi-agents-testify-security-clearances>. Mr. Allen has written letters to the editor at both the *Washington Post* and NBC News requesting that they share with their readers the information about Mr. Allen’s clearance reinstatement, just as they as they reported on his clearance revocation. Neither outlet has responded.

⁷⁰ Three months later, on September 15, 2023, AD Beidler left the FBI to work for former EAD Moore at General Electric.

⁷¹ O’Boyle Disclosure, *supra* note 1, at 5.

⁷² House Committee on the Judiciary, Transcript, Interview of Jennifer Leigh Moore 142-43 (June 2, 2023), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023_06_02_Moore%20Transcript2_Redacted.pdf.

⁷³ *Id.* at 145.

⁷⁴ The FBI did not ultimately revoke SA O’Boyle’s clearance until July 16, 2024, more than thirteen months after EAD Moore claimed it would be completed “within the month.”

RETALIATION IN CAU

In the summer of 2022, the leadership of CAU—the unit our SSA client was assigned to—was increasingly pushing back more and more on SecD’s improper clearance suspensions and revocations taken without supporting evidence and in violation of the government-wide Adjudicative Guidelines. In retaliation, our SSA client’s security clearance was suspended on September 20, 2023, and the CAU UC was forced out of the FBI at the end of September 2023.⁷⁵ This left CAU with no permanent leadership, and sent a clear and chilling message to all CAU adjudicators.

Meanwhile, as part of the clearance revocation appeal process, CAU provided Mr. Allen and Empower Oversight with the Clearance File on September 20, 2023. The Allen revocation EC appeared to reference documents not included in the file. On October 20, 2023, Empower Oversight submitted a request for reconsideration of the revocation of Mr. Allen’s clearance.⁷⁶ One section of the reconsideration request noted that SecD violated regulations and an executive order by failing to produce all relevant materials on which its revocation decision was based.⁷⁷

The reconsideration request was assigned in November 2023 to an adjudicator who had been in CAU since May 2022. The adjudicator was aware of SecD’s vindictive reputation and had witnessed the retaliatory removal of CAU’s leadership in September 2023. Due to subsequent retaliation against that adjudicator for protected whistleblower disclosures regarding the Allen case, Empower Oversight is now also representing her.⁷⁸

The adjudicator located the missing documents and sent them for processing to OGC’s Discovery Unit, then issued a supplemental disclosure of documents under the direction of AGC Gibbs. As the adjudicator reviewed the case, not only could she not determine why Mr. Allen’s clearance had been suspended and revoked, she couldn’t even determine why CIU had ever opened an investigation into Mr. Allen in the first place. After scouring the Clearance File for this information, she discovered it was missing records surrounding the opening of Mr. Allen’s case and the suspension of his clearance.

The missing records included:

- 1) Veltri’s September 30, 2021 email thanking AGC Gibbs for referring the case to SIIS;
- 2) Perkins’ November 2, 2021 communications with the Insider Threat Office claiming Charlotte Field Office was concerned Mr. Allen was “escalating”; and

⁷⁵ SSA Retaliation Complaint, *supra* note 1, at 10-11.

⁷⁶ Letter from Tristan Leavitt to Executive Assistant Director Timothy M. Dunham, Federal Bureau of Investigation (Oct. 20, 2023), <https://empoweroversig.wpengine.com/wp-content/uploads/2023/10/2023-10-20-TL-to-FBI-re-Marcus-Allen-Revocation-Reconsideration-FINAL-1.pdf>.

⁷⁷ *Id.* at 22.

⁷⁸ Yesterday Empower Oversight submitted a 29-page complaint on her behalf to the DOJ OIG.

- 3) The draft Insider Threat assessment from November 2021, which was less critical of Mr. Allen than the final assessment, while also noting that his Intelligence Analyst coworker had expressed the same views as Mr. Allen.

The adjudicator understood that given AGC Gibbs's legal advice to the Charlotte Field Office regarding Mr. Allen and referral of his communications to SIIS, any further involvement by AGC Gibbs in providing legal advice to SecD about which documents should be produced to Mr. Allen could raise questions about whether she improperly participated in a matter in which she had a personal interest or could be a witness.

Because the adjudicator did not believe she could disclose this information to her immediate chain of command without reprisal from ASC Perkins, she called acting AD Buckley and made a protected disclosure to him that the failure to provide Mr. Allen with all relevant information related to the predication of the investigation into his clearance was a violation of law, rule, or regulation. The adjudicator requested assistance in obtaining the missing communications. She followed up the call with an email to acting AD Buckley, with the subheading "PROTECTED DISCLOSURE," which detailed the specific communications that appeared to be missing from the Allen Clearance File. AD Buckley agreed AGC Gibbs should be recused from the adjudicator's efforts to gather and produce the materials.

Working with AD Buckley and a different OGC contact than AGC Gibbs, the RSP adjudicator succeeded in producing the documents to Mr. Allen and Empower Oversight on January 25, 2024. However, in a video chat later that day, SC Matthew Nagle and UC Giulio Arseni confronted the adjudicator about going around her chain of command and asking so many questions about the Allen case.

On February 1, 2024, the adjudicator emailed UC Arseni and SC Nagle her first draft of a reconsideration EC in the Allen case, the first time they became aware she was recommending the reinstatement of Mr. Allen's clearance. When SC Nagle read the draft, he commented to her that the COVID-19 information in Mr. Allen's suspension was "bullshit."

AD Rivers subsequently asked that the adjudicator brief the case on February 26, 2024. In the meeting, SC Nagle told the group he was struggling with how SecD based its suspension on Mr. Allen's Skype messages. The adjudicator explained that Mr. Allen had only been interviewed about one of the four main bases for the May 3, 2023 revocation of his clearance, and that Empower Oversight's request for reconsideration effectively addressed the other three bases.

On February 29, 2024, SC Nagle told the adjudicator that the process of opening the Allen case, from AGC Gibbs to DAD Veltri directly to CIU, was an "abortion of the process." SC Nagle said ASC Perkins had been trying to convince him that Mr. Allen was "spreading disinformation," and SC Nagle had laughed in her face. SC Nagle also discussed with the adjudicator potential conflicts of interest with FBI OGC handling civil litigation filed by Mr. Allen, as well as responding to OIG and Congressional requests. They agreed OGC could not

handle these without being biased when they simultaneously advised SIIS regarding its security clearance reconsideration.

On March 8, 2024, SC Nagle messaged the adjudicator that he had read through the Insider Threat Office assessment for Mr. Allen, which he called “insane” and said it made him more amazed at the whole situation. SC Nagle commented, “We appear to be conflating a questioning of leadership with a lack of allegiance to the US.” The adjudicator replied that the Insider Threat Office had also recommended opening a case on Mr. Allen’s Charlotte colleague, but CREU had declined to do so on February 16, 2022. SC Nagle noted, “So the same baseline on her was not opened, but we used it as a basis for [Allen’s] suspension?” SC Nagle instructed the adjudicator to add that to her EC. The adjudicator also disclosed to SC Nagle that the assessment had changed significantly in the 27 days between the first draft and final version.

The adjudicator ultimately emailed the reinstatement EC to SC Nagle on March 25, 2024.⁷⁹ That same day, trial attorneys in DOJ’s Federal Programs Branch emailed our legal team that it had had “productive discussions with the FBI” about a potential settlement for Mr. Allen.

On March 27, 2024, SC Nagle messaged the adjudicator that DAD Buckley had given the Allen reinstatement EC a positive review. Almost one week later, on April 2, 2024, DOJ attorneys outlined to our legal team a proposed settlement agreement that would require Mr. Allen to resign in exchange for his 27 months of back pay *if* the FBI reinstated his clearance.

The adjudicator was awaiting approval from her chain of command to finalize the reinstatement EC and submit it in Sentinel for approvals. But on April 5, 2024, UC Arseni added another adjudicator to the Allen case in Sentinel without notifying our now-client adjudicator.

On April 23, 2024, SC Nagle contacted the adjudicator requesting a phone call. SC Nagle indicated he needed an experienced adjudicator in CREU to handle certain cases, and asked the adjudicator to consider transferring to that unit. He also stated AGC Gibbs needed assistance with “file reviews.” As the call was ending, SC Nagle indicated the Allen case had been reassigned to another CAU adjudicator. Our adjudicator client then looked in Sentinel and saw for the first time that another adjudicator had been added on April 5, 2024.

On April 24, 2024, the adjudicator sent an email to SC Nagle declining his request that she transfer to CREU. The next day, she poked with staff from the DOJ OIG and disclosed the retaliation against her for her protected disclosures. She also disclosed to the OIG that the FBI’s May 17, 2023 letter to this Committee was inaccurate.

⁷⁹ On July 10, 2024, Empower Oversight submitted a Freedom of Information Act request for the reinstatement EC and requested expedited processing in order to be able to provide the document to the Committee before any hearing on this issue. Letter from Tristan Leavitt to Director Christopher Wray, Federal Bureau of Investigation, (July 10, 2024), <https://empowr.us/wp-content/uploads/2024/07/2024-07-10-TL-to-FBI-MA-Clearance-Reinstatement-FOIA-Redacted.pdf>. The FBI has yet to produce the EC.

At the end of the day on April 26, 2024, SC Nagle called the adjudicator to inform her he was reassigning her to CREU despite her declination of his “offer.” The reassignment was clearly in retaliation for her protected disclosures. SC Nagle informed the adjudicator that SecD’s front office felt her communications were “not productive.” Although DOJ OIG was able to help find the adjudicator another position within SecD to escape the retaliation against her, continued interference with her work forced the adjudicator to resign on May 8, 2024.

RESOLUTION OF ALLEN’S CASE

On May 9, 2024, the DOJ OIG issued a Management Advisory Memo entitled “Notification of Concerns Regarding the Department of Justice’s Compliance with Whistleblower Protections for Employees with a Security Clearance.”⁸⁰ It concluded “existing DOJ practice is inconsistent with the intent of [50 U.S.C. §] 3341.”⁸¹ It also included an extensive paragraph about Mr. Allen’s case:

The OIG identified these concerns in connection with our work assessing retaliation complaints from DOJ employees whose security clearances had been suspended and who had been placed on leave without pay. For example, in one matter, the OIG initiated a reprisal investigation, consistent with Section 3341, after the employee had been suspended without pay for over 1 year, notwithstanding the absence of a suspension appeal policy in DOJ Order 1700.00.01 for employees claiming retaliation. In that case, the employee was suspended without pay for approximately 15 months before the FBI issued a decision revoking his security clearance and it then took another 4 months for the FBI to provide the employee with the information that the FBI used to support its revocation decision. As provided for in the Department’s appeal process, the employee filed a request for reconsideration of the revocation decision, which remains pending with the FBI. The employee has been suspended without pay for more than 2 years. Had the OIG not decided to move forward with its reprisal investigation as provided for in Section 3341 and SEAD 9, the employee would still not have had the right to file a retaliation complaint with the OIG under the terms of DOJ Instruction 1700.00.01 because the revocation decision is not yet final.⁸²

On May 30, 2024, Mr. Allen concluded a settlement agreement with DOJ, agreeing to resign in exchange for his 27 months of back pay if his clearance was reinstated. SecD reinstated Mr. Allen’s clearance the next day.⁸³ Yet as of today, Mr. Allen still has not received his 27

⁸⁰ Department of Justice, Office of Inspector General, *Management Advisory Memorandum 24-067: Notification of Concerns Regarding the Department of Justice’s Compliance with Whistleblower Protections for Employees with a Security Clearance* (May 9, 2024), <https://oig.justice.gov/sites/default/files/reports/24-067.pdf>.

⁸¹ *Id.* at 3.

⁸² *Id.* at 4.

⁸³ See Press Release, Empower Oversight, FBI Whistleblower’s Security Clearance Reinstated in Full (June 4, 2024), <https://empowr.us/fbi-whistleblowers-security-clearance-reinstated-in-full>.

months of back pay that the government is obligated to provide under the agreement, even though DOJ signed that agreement more than three and a half months ago.

Mr. Allen's protected whistleblower disclosure of September 29, 2021 was made in good faith. But not only was the FBI's political climate such that Mr. Allen's disclosure resulted in retaliation against him, *three different individuals* were reassigned in SecD in retaliation for disclosing the impropriety of SecD's action against Mr. Allen.

Meanwhile, the FBI did not revoke SA O'Boyle's clearance until 22 months after his initial suspension. He has yet to see the documentation on which the revocation was based.

CONCLUSION

You have been investigating the politicization of the FBI for the past three and a half years. Investigating has been no small task given the extent of the problem. You and your staff have issued dozens of oversight letters, conducted a number of depositions and transcribed witness interviews, and released two significant staff reports.⁸⁴ Thank you for your longstanding willingness to investigate these matters and for helping inform the public of FBI abuses.

Unfortunately, as outlined above and based on information from multiple whistleblowers inside the FBI's own Security Division, the deeply ingrained culture of retaliation and abuse is actually even worse than anyone has understood. Worse, the FBI appears to have responded to congressional oversight by rushing improper clearance actions.

Without more vigorous oversight, accountability, and fundamental legislative reform, these types of abuses will no doubt continue. I look forward to discussing these issues in my testimony before the Committee next week.

Cordially,

/Tristan Leavitt/
Tristan Leavitt
President

cc: The Honorable Michael Horowitz
Inspector General, Department of Justice

⁸⁴ House Committee on the Judiciary, Republican Staff Report, *FBI Whistleblowers: What Their Disclosures Indicate About the Politicization of the FBI and Justice Department* (Nov. 4, 2022), https://judiciary.house.gov/sites/evo-subsites/judiciary.house.gov/files/evo-media-document/hjc_staff_fbi_report.pdf; House Committee on the Judiciary and Select Subcommittee on the Weaponization of the Federal Government, Interim Staff Report, *FBI Whistleblower Testimony Highlights Government Abuse, Misallocation of Resources, and Retaliation* (May 18, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-05-17-fbi-whistleblower-testimony-highlights-government-abuse-misallocation-of-resources-and-retaliation-sm.pdf>.