

# EMPOWER OVERSIGHT

Whistleblowers & Research



June 20, 2024

## VIA ONLINE PORTAL

Director Bobak Talebian  
Office of Information Policy  
U.S. Department of Justice  
441 G Street, NW, Sixth Floor  
Washington, DC 20530

Section Chief Michael Seidel  
Record/Information Dissemination Section  
Information Management Division  
Federal Bureau of Investigation  
200 Constitution Drive  
Winchester, VA 22602

## RE: FOIA REQUEST FOR RECORDS RELATING TO THE FBI'S LEAKING OF WHISTLEBLOWER INFORMATION

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. It works to help 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.

### BACKGROUND

Beginning in the spring of 2022, House Judiciary Committee Ranking Member Jim Jordan wrote a series of letters to Federal Bureau of Investigation (“FBI”) Director Christopher Wray and Attorney General Merrick Garland regarding whistleblower allegations that the FBI had become increasingly politicized and was improperly suspending the security clearances of its employees either because of their whistleblower disclosures or simply because their views deviated from those of FBI leadership.<sup>1</sup> Empower Oversight represents several of the whistleblowers cited in Jordan’s letters.

<sup>1</sup> See, e.g., letter from Jim Jordan to Christopher A. Wray, May 6, 2022, available at [https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy\\_files/wp-content/uploads/2022/05/2022-05-06-JDJ-Letter-to-Wray-re-WB-disclosures\\_Redacted.pdf](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2022/05/2022-05-06-JDJ-Letter-to-Wray-re-WB-disclosures_Redacted.pdf); letter from Jim Jordan to Christopher A. Wray, June 7, 2022, available at [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](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); letter from Jim Jordan to Christopher A. Wray, Sept. 19, 2022, available at

Based on the public record, it appears the FBI and Department of Justice (“DOJ”) provided limited responses at best to Ranking Member Jordan’s letters. On November 2, 2022, Jordan wrote in a letter to Director Wray: “Committee Republicans have sent you letters requesting documents and information on several matters . . . . To date, the FBI has not sufficiently responded to any of our specific requests for documents or information.”<sup>2</sup>

As Ranking Member, Jordan obviously could not issue a subpoena to compel a response from the FBI. Yet one additional reason the FBI and DOJ presumably failed to respond to Ranking Member Jordan’s requests is that DOJ has long maintained the Privacy Act prohibits it from providing information to individual congressional offices or minority staff on congressional committees.<sup>3</sup> While we disagree that anything at all in the Privacy Act prohibits an agency from unilaterally providing information to both majority and minority staff on a committee, we agree that it certainly requires that if information is provided to the minority staff it must also be provided to the majority.

On June 6, 2024, oversight nonprofit Judicial Watch announced DOJ had produced 54 pages of records in a Freedom of Information Act (“FOIA”) lawsuit that showed the FBI Office of Congressional Affairs provided a staffer in an individual congressional office with information on the FBI whistleblowers who testified alongside me at a May 18, 2023, hearing of the House Select Subcommittee on the Weaponization of the Federal Government.<sup>4</sup>

The records show that on May 9, 2023, a supervisory special agent in the FBI’s Office of Congressional Affairs emailed a senior staffer to Representative Daniel Goldman, a member of the Judiciary Committee: “I was disappointed I didn’t get the opportunity to meet you during our trip to Quantico . . . . I would like to know what issues Rep. Goldman and your office are interested in to see if there is any way I can assist in those areas. Additionally, based on my

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<https://x.com/JudiciaryGOP/status/1572020677087236096>; letter from Jim Jordan to Jennifer Leigh Moore, Sept. 29, 2022, available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-01-27-jdj-to-moore-re-follow-up.pdf>

<sup>2</sup> Letter from Jim Jordan to Christopher A. Wray, Nov. 2, 2022, available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-01-17-jdj-to-wray-fbi-outstanding-requests.pdf>.

<sup>3</sup> U.S. Department of Justice, Office of Legal Counsel, *Application of Privacy Act Congressional-Disclosure Exception to Disclosures to Ranking Minority Members*, Dec. 5, 2001, available at <https://www.justice.gov/file/146001-0/dl?inline>.

Notwithstanding the Office of Legal Counsel’s flawed interpretation, the Privacy Act’s congressional exception (5 U.S.C. § 552a(b)) clearly only bases its restrictions on who the information is *provided to* rather than who it is *requested by*:

Conditions of Disclosure.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

\* \* \*

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee[.]

<sup>4</sup> Press Release, Judicial Watch, Records Show FBI Provided Democrats with Information on Whistleblowers Who Testified at May 2023 Weaponization Hearing (June 6, 2024), <https://www.judicialwatch.org/information-on-whistleblowers>; see also *Hearing on the Weaponization of the Federal Government: Hearing Before the H. Sel. Comm. on the Weaponization of the Fed. Gov’t*, 118th Cong., <https://judiciary.house.gov/committee-activity/hearings/hearing-weaponization-federal-government-2>.

background, I think I may be able to provide insight or answer some questions about issues that do not require senior FBI leadership briefings or hearings.”

One week later, on May 16, 2023, a staff member for Representative Goldman emailed the FBI’s Office of Congressional Affairs with the subject line, “Weaponization Hearing on Thursday”: “I have a few questions about some of the witnesses.” Records show the staff member coordinated to speak with the FBI OCA official on May 17. Additionally, on May 23, the staff member emailed the OCA official: “We spoke last week before the Weaponization hearing on Thursday. Thanks again for sending over those documents. They were very helpful to the Congressman.”

DOJ failed to produce the documents the FBI OCA official “sen[t] over” to Representative Goldman’s staffer. However, if the documents included Privacy Act-protected information about any of the FBI whistleblowers and were not also produced to the majority staff, the FBI’s disclosure to Representative Goldman’s office would clearly constitute a violation of the Privacy Act.

### **RECORDS REQUEST**

On May 18, 2023, Empower Oversight submitted its own FOIA request to DOJ for records related to Ranking Member Nadler’s chief oversight counsel, including any communications she may have had about our clients while at DOJ—or with DOJ while at the House Judiciary Committee. To date, the FBI has neither produced responsive records nor certified that none exist.

The public has a strong interest in learning about any attempts to retaliate against FBI whistleblowers by smearing them or releasing their Privacy Act-protected information. Thus, Empower Oversight requests the following records pursuant to FOIA, 5 U.S.C. § 552, listed in order of priority:

- 1) The records the FBI provided to Representative Goldman counsel Damon Marx on May 17 or 18.
- 2) All records of communications between any DOJ official or employee, including any employees with the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, Office of Legislative Affairs, or Office of Public Affairs, and any of the following congressional staff members between January 1, 2023, and June 7, 2023:
  - a. Christina Calce;
  - b. Jacqueline (Jacqui) Kappler;
  - c. Agbeko Petty;
  - d. Roma Venkateswaran;
  - e. Joshua Breisblatt;
  - f. John Doty;
  - g. Mauri Gray;
  - h. David Greengrass;
  - i. Aaron Hiller;
  - j. Keenan Keller;
  - k. Yasser Killawi;
  - l. Natalie Knight;
  - m. Katherine McInnis;
  - n. Matthew Morgan;
  - o. James Park;

- p. Abbie Petty;
  - q. Julie Rheinstrom;
  - r. Amy Rutkin;
  - s. Angeline Jabbar;
  - t. Paige Clarke;
  - u. Kevin Ryan;
  - v. Bruce Fernandez;
  - w. Ricky Le;
  - x. Chandler Mason;
  - y. Tracie Pough;
  - z. Samantha Price;
  - aa. Jamie Smith;
  - bb. Collin Davenport;
  - cc. Bradley Bottoms;
  - dd. Iain Hart;
  - ee. Chris McCarthy;
  - ff. Robert Julien;
  - gg. Haley Scott;
  - hh. Meera Dheer;
  - ii. Jacob Hochberg; and
  - jj. Caitlin-Jean Juricic.
- 3) All records of communications between any DOJ official or employee, including any employees with the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, Office of Legislative Affairs, or Office of Public Affairs, and any of the following congressional staff members between January 1, 2023, and June 7, 2023:
- a. Christina Calce;
  - b. Jacqueline (Jacqui) Kappler;
  - c. Agbeko Petty;
  - d. Roma Venkateswaran;
  - e. Joshua Breisblatt;
  - f. John Doty;
  - g. Mauri Gray;
  - h. David Greengrass;
  - i. Aaron Hiller;
  - j. Keenan Keller;
  - k. Yasser Killawi;
  - l. Natalie Knight;
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  - r. Amy Rutkin;
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  - t. Paige Clarke;
  - u. Kevin Ryan;
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  - w. Ricky Le;
  - x. Chandler Mason;
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  - z. Samantha Price;

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  - bb. Collin Davenport;
  - cc. Bradley Bottoms;
  - dd. Iain Hart;
  - ee. Chris McCarthy;
  - ff. Robert Julien;
  - gg. Haley Scott;
  - hh. Meera Dheer;
  - ii. Jacob Hochberg; and
  - jj. Caitlin-Jean Juricic.
- 4) All records of communications by or with any FBI personnel between April 26, 2022, and June 7, 2023, with any of the following key words or phrases:
- a. “Gloss”;
  - b. “O’Boyle”;
  - c. “Marcus” within two words of “Allen”;
  - d. “Friend” within two words of “Steve”;
  - e. “politicization”;
  - f. “weaponization”;
  - g. “security clearance” within 25 words of “FBI”;
  - h. “Jennifer” within three words of “Moore”; and
  - i. “Jordan” within two words of “Jim.”
- 5) All records of communications by or with any DOJ official or employee, including any employees with the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, Office of Legislative Affairs, or Office of Public Affairs, between April 26, 2022, and June 7, 2023, with any of the following key words or phrases:
- a. “Gloss”;
  - b. “O’Boyle”;
  - c. “Marcus” within two words of “Allen”;
  - d. “Friend” within two words of “Steve”;
  - e. “politicization”;
  - f. “weaponization”;
  - g. “security clearance” within 25 words of “FBI”;
  - h. “Jennifer” within three words of “Moore”; and
  - i. “Jordan” within two words of “Jim.”
- 6) All records of communications between any FBI personnel, including any employees with the Office of Congressional Affairs, and any member of the House Select Subcommittee on the Weaponization of the Federal Government, any staff member for the Subcommittee, or any staff member for any Subcommittee member between January 1, 2023, and June 7, 2023.
- 7) All records of communications between any DOJ official or employee, including any employees with the Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, Office of Legislative Affairs, or Office of Public Affairs, and any member of the House Select Subcommittee on the Weaponization of the Federal Government, any staff member for the Subcommittee, or any staff member for any Subcommittee member between January 1, 2023, and June 7, 2023.



If you have any questions about this request, please contact Rachael Soloway by e-mail at [REDACTED]

### **FEE WAIVER REQUEST**

Empower Oversight agrees to pay up to \$25.00 in applicable fees but notes that it qualifies as a “representative of the news media” and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public’s understanding of the Department’s handling of allegations that it or its employees was negligent or engaged in wrongdoing.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please do not hesitate to contact me with any questions.

Cordially,

/Tristan Leavitt/  
Tristan Leavitt  
President