

HEARING ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT

HEARING BEFORE THE SELECT SUBCOMMITTEE ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT OF THE COMMITTEE ON THE JUDICIARY U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTEENTH CONGRESS SECOND SESSION

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HEARING ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT

Wednesday, September 25, 2024

HOUSE OF REPRESENTATIVES

SELECT SUBCOMMITTEE ON THE WEAPONIZATION OF THE
FEDERAL GOVERNMENT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 10:06 a.m., in Room 2141, Rayburn House Office Building, the Hon. Jim Jordan [Chair of the Subcommittee] presiding.

Members present: Representatives Jordan, Issa, Massie, Gaetz, Bishop, Hageman, Davidson, Fry, Plaskett, Lynch, Sanchez, Wasserman Schultz, Connolly, Garamendi, Garcia, Goldman, and Crockett.

Chair JORDAN. The Subcommittee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing. The Chair now recognizes the gentleman from Massachusetts to lead us in the Pledge of Allegiance.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Chair JORDAN. The Chair now recognizes himself for an opening statement. The FBI can't tell us who planted pipe bombs on January 6th. They can't tell us who leaked the *Dobbs* decision. They can't tell us who put cocaine at the White House, but they were able to spy on the Presidential campaign, lied to a FISA Court, investigate parents showing up at a school board meeting, and of course, saying if you are a pro-life Catholic, you are somehow an extremist. All that because I think the FBI is driven by politics today.

In this Congress, this Subcommittee has been investigating the political actions of the FBI and the double standards at the Biden-Harris Justice Department. We have heard from countless witnesses. We have heard from Government officials and experts. We have heard from Americans targeted by their Government, not just conservatives, but also Democrats. In fact, we were in a hearing in this room over a year ago when journalist Matt Taibbi was testifying. While he was testifying, wasn't the FBI for Justice Department, but I think it makes a point, while he was testifying, the IRS

was knocking on his door. Chilling impact, knocking on his door. It turned out they actually owed him money, but they did it the very moment he was testifying to us about the censorship going on in the Biden–Harris Administration.

Most importantly, we have heard from whistleblowers. We have him with us today and we look forward to hearing from Mr. Allen. As we have seen you are not politically correct, you are not in align with what the Government think is the proper position, you become the target.

Just as frightening, if you are one of the good employees in our Government who came forward to talk about the targeting, then you really become the target. If you are one of those good employees driven by your commitment to the Constitution, your conscience, and you come forward, they are coming after you. The FBI has used the security clearance adjudication process to purge its ranks of conservatives and whistleblowers, to unlawfully punish those with views contrary to the FBI leadership.

Mr. Leavitt has brought multiple whistleblower disclosures to this Committee regarding the rampant politics within the FBI's Security Division which is tasked with investigating and adjudicating employees' eligibility for a security clearance. Whistleblowers describe the Security Division of the FBI as "a toxic work environment." Investigators were asking employees about their colleagues, questions like did they support President Trump? Are they opposed to COVID vaccination? We know they asked this because there is a questionnaire that they use, an actual questionnaire that the FBI use to have colleagues snitch on their fellow workers.

According to whistleblowers, the Security Division leadership, under the command of Deputy Assistant Director Jeffrey Veltri, created an environment where,

It was very common for investigators to ask inappropriate questions of an employee's colleagues, the content of which could never have been used to revoke a person's clearance.

By the way, what is Mr. Veltri up to now? The guy who during his time at the Security Division was described to being adamantly anti-Trump? He is leading the investigation into the second assassination attempt on President Trump in Miami. He is the Special Agent-in-Charge in Miami.

Whistleblowers reference specific cases where the FBI circumvented due process and ignored key facts during clearance investigations, including investigations on Marcus Allen, who we will hear from, and Garret O'Boyle, both whistleblowers who came to this Committee. Both men stood up and said this isn't right. What the FBI is doing isn't right and they both had their clearances suspended and then revoked. The FBI isn't going to get away with it. On May 13, 2024, Inspector General Horowitz released a memo finding that the Justice Department and the FBI failed to comply with clear statutory and regulatory whistleblower clearance protection.

On May 31, 2024, the FBI reinstated Mr. Allen's clearance stating that the original security concerns had been investigated and they were mitigated. All this after 27 months where they harassed Mr. Allen. Remember, Mr. Allen came before this Committee on May 18th of last year. The night before the hearing, the FBI sent

this Committee a letter filled with lies about the whistleblowers that were going to testify that next day. The FBI questioned Mr. Allen's allegiance to the United States, a decorated Marine veteran, 20 years of having a security clearance, and employee of the year at his Charlotte Office. They questioned that.

During the hearing, Democrats attacked Mr. Allen, first, by imputing someone else's Tweets to Mr. Allen; second, by comparing him to individuals convicted of sharing classified information with foreign governments, ridiculous; and finally, by saying he wasn't a whistleblower, just had grievances. That is not what the IG concluded, not at all. Mr. Allen was simply doing his job, doing it well, and for that because he questioned the leadership at the FBI, he was harassed, lost his security clearance for 27 months, only to have it reinstated.

Again, I want to thank our witnesses for being here today and with that, I would yield to the Ranking Member for an opening statement.

MS. PLASKETT. Thank you and good morning to everyone here, this Select Subcommittee on the Weaponization of the Federal Government. In 46 days, Americans will go to the polls for one of the most consequential elections of our lifetimes. Americans will decide the composition of Congress, as well as the next President of the United States and then prayerfully, this Select Committee will be over because the purpose of this Committee will no longer be necessary. What was that purpose? Well, it is what I said almost two years ago, to test out conspiracy theories, prop up those stories that the far right wishes to push into the American psyche and to lay the groundwork for a dictatorial government led by Donald Trump.

Now, immediately you will hear moans of disapproval and X, formerly called Twitter, is going to call me a racist. They are going to call me a disrespectful Black bitch, because I have said words against the Chair, my White male counterpart, on this Committee. I am a tool of the woke agenda. I have heard it. I have read it all, as well as so many of my colleagues that are here. Our moderate individuals will say I am being an alarmist and that there is no way America becomes a dictatorship. We are just pointing out how the Federal Government comes after conservatives.

In the two-years that we have been doing this Groundhog Day over and over and over again, there has been no evidence to show that the Federal Government and particularly the Federal Bureau of Investigation, the FBI, or the Department of Justice has been wholly weaponized against the right. The same way my Republican colleagues have not been able to show that Joseph Biden has committed impeachable offenses or that Secretary Mayorkas committed any high crimes and misdemeanors. They knew they never could because as Biggie says, "it was just a dream."

We have had hearings over and over about the Federal Government, again, the FBI and DOJ, in particular, and the White House trying to stop free speech on social media platforms. Other Committees along with this one, have spent millions of taxpayer dollars interviewing senior social media executives and, particularly, those that set the parameters of content moderation to say that the sites unfairly come after conservatives. When what we have learned is that those executives have in the past tried to provide users with

corrections to disinformation and misinformation which may create health risks, put people in danger, or may have placed falsely by the enemies of our country to try to sow election disinformation and false narratives to weaken our democratic election system.

This Committee has been used to weaken that system following the desires of far right conspiracy theorists and in particular, Elon Musk, to allow them free rein on these platforms. America civilians have been harassed, threatened, and doxxed. Mr. Musk, since you think tweeting, X-ing, or whatever it is you call you do on your platform about me is going to scare me to be quiet you obviously don't know what I am made of. Generations of individuals who have fought for me to have the ability to say what I want to say, to speak the truth. You forget that this is not pre-1990s apartheid South Africa, the country of your birth. This is America and there are more of us Americans that love our diversity, our rule of law, than there are of you who would like us all to be sycophants to your ego.

The outcome of hearings of this Committee has supported my claim that from the very beginning of the creation of this Select Subcommittee that his has been the gaslighting to the ninth degree, a tremendous projection of the highest order, that the evidence is the words of their leader, there would-be Fuhrer Donald Trump and Project 2025, a 900-page manifesto of a transformed America. Donald Trump has spoken his intentions out loud, and his followers were so bold as to put it in a document with his knowledge to outline how they would create a State to serve the interests of a few at the expense of the many. Trump, himself a convicted felon, has pledged that on day one, this is a quote,

On day one of my new administration, I will direct the DOJ to investigate every radical DA and attorney general for their illegal, racist enforcement of the law.

He has said that undocumented immigrants are, “poisoning the blood of our country.” Language echoing the rhetoric of Nazi Germany. Has promised to invoke the Alien Enemies Act to “carry out the largest domestic deportation operation in American history.” Who would defend his use of the law for that purpose? The Department of Justice.

He has promised, Trump’s words, “to stop the Federal Government, including the Department of Justice and FBI with appointees loyal to him and only him.” Not to the Constitution which he has separately said could be revoked because it doesn’t do what he wants it to do, who will carry out his every order without question. The how-to of do these threats have been fleshed out by individuals absolutely loyal to Trump. How do we know that? Because the vast majority of individuals who worked on his cabinet have stated they look forward to working with him again and instituting Project 2025.

Russ Vought, former Director of OMB and Policy Director for the Republican National Convention, wrote the details for the consolidation of Executive Power in Project 2025. Stephen Miller, a former advisor to Trump, who has crafted the most sweeping immigration agenda, has been an advisor of Project 2025 through the dark money group, American First Legal.

We remember Stephen Miller, the architect of Donald Trump's most inhumane border policies and the champion of the racist great replacement conspiracy theory. That is Stephen Miller.

In April 2022, Trump spoke with *The Heritage Foundation* after meeting with its head, Kevin Roberts, and said that the group would, "lay the groundwork in detailed plan for exactly what our movement will do." Voila, Project 2025, the conservative blueprint for remaking the Federal Government if Donald Trump is re-elected. Trump's words, in Project 2025, are exactly what the Democratic Members of this Committee said back when this Committee started that their leader, Trump, was trying to do, to mandate a Project 2025 for leadership, direct the Department of Justice, which it seems to be the main focus of so many of our hearings, along with the FBI, to fill the Department with as many political appointees as opposed to career civil servants as possible, especially in the Civil Rights Division, the FBI, and the Executive Office of Immigration Review. Initiate legal action against local officials including district attorneys, who refuse to prosecute criminal offenses in their jurisdiction specifically DAs in liberal jurisdictions. Criminally punish abortion providers who distribute abortion pills through the mail to patients in need of reproductive healthcare. Shift responsibility for prosecuting election-related offenses from DOJ's Civil Rights Division to the Criminal Division, which according to the Leadership Conference on Civil Rights and Human Rights will open to the door to sham investigations and aggressive prosecution of voters and election officials and serve to intimidate State and local election workers already under threat and could criminalize election administration disputes. We could go on.

This is the true weaponization of the Federal Government and this what we should be addressing today, but what are we doing there today in a Subcommittee, 46 days before the most consequential election, we are holding yet another hearing in which my Republican colleagues will try to advance conspiracy theories about the DOJ and the FBI.

Let me state plainly. Contrary to what you will hear from my counterparts today, there is no conspiracy in the whole of the FBI to root out conservatives in that agency. What we do have is sustained campaign pushed forward by a single entity and a group of disgruntled former FBI employees who are known to have committed to attacking, smearing, and degrading career civil servants.

So, why are we having the hearing? Why have we had all these hearings? What is the point of this Subcommittee? Because it is necessary for the public and the media to hear, to try and provide cover for the eradication of the Department of Justice and the FBI. We are having these hearings so that you become immune, you become inured to the notion of removal of the FBI and DOJ, so that those agencies are no longer there to serve as a check against White nationalism, great replacement theorists, Christian nationalists, White fragility, fascists, and the twice impeached convicted felon, former President and would-be dictator Donald Trump. I yield back.

Chair JORDAN. The gentlelady yields back. I agree with one statement she said that this is going to be a consequential election. I agree with that. I would clarify for everyone just in case people

are confused, the election is in 41 days, not 46 days. Democrats may vote in 46 days, but Republicans will be voting in 41 days. Without objection all other opening statements will be included in the record.

We will now introduce today's witnesses. The Honorable Michael Horowitz is the Inspector General of the Department of Justice, a position he has held since April 2012. Mr. Horowitz oversees a staff of more 500 special agents, auditors, attorneys, and support staff tasked with detecting and deterring waste, fraud, and abuse and misconduct in the Department. From 2015–2020, he served as the Chair of the Council of the Inspectors General on Integrity and Efficiency, an oversight body for all 75 Inspectors General across the Federal Government. He has testified many times. We welcome him back to the Committee.

Mr. Tristan Leavitt is an attorney and the President of Empower Oversight, an organization dedicated to enhancing independent oversight of government and corporate wrongdoing. Prior to joining Empower Oversight, Mr. Leavitt was a Senate-confirmed member of the Merit Systems Protection Board, which adjudicates whistleblower retaliation claims. He also previously served as the principal Deputy Special Counsel at the Office of Special Counsel which enforces whistleblower laws, among others. Mr. Leavitt, we welcome you back as well.

Mr. Marcus Allen is a whistleblower and former Staff Operations Specialist with the FBI. He has served more than 20 years as an intelligence professional. Prior to joining the FBI, Mr. Allen served in the United States Marine Corps including in Iraq, Kuwait, and Japan. He received multiple awards for his service and achievement in both the Marine Corps and the FBI. Despite his track record of a commitment to his country, the FBI retaliated against Mr. Allen for making protected disclosures. After having his security clearance suspended for more than two years, his retaliation claims were vindicated, and he reached a settlement with the FBI.

Finally, Mr. Glenn Kirschner is a legal analyst and former Federal prosecutor. He served 24 years as an Assistant U.S. Attorney in the District of Columbia, and he served more than six years as a prosecutor with the United States Army Judge Advocate General.

We welcome our witnesses and thank them for appearing today. We will begin by swearing you in. Would you please rise, raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record reflect that the witnesses have answered in the affirmative. Thank you and you may be seated. Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. Again, you have all been in front of the Committee before and you understand the rules. So, we will start with Mr. Horowitz, go right down the line.

Mr. Horowitz, you are recognized for your opening statement.

STATEMENT OF THE HON. MICHAEL E. HOROWITZ

Mr. HOROWITZ. Thank you, Chair Jordan, Ranking Member Plaskett, and the Members of the Subcommittee, thank you for inviting me to testify today. Whistleblowers perform an important public service, and no employee should suffer reprisal for bringing forward information that they reasonably believe is evidence of waste, fraud, abuse, or a violation of law.

As we have seen, employees with a security clearance are particularly vulnerable to retaliation because of an employee's due process protections and right to appeal his security clearance suspension or revocation are more limited. Moreover, such employees can remain suspended with pay for lengthy periods of time for having an ability to contest the security clearance action.

Federal law requires agencies to have an appeal process that enables employees alleging reprisal due to a security clearance revocation or suspension lasting more than one year to seek an Inspector General review of the reprisal allegation. The law also requires government agencies to establish a review process that to the extent practicable permits individuals with retaliation claims to retain their Government employment status while the security clearance review is pending.

In May 2024, my office issued a management advisory memorandum, or MAM, finding that the Department's then-existing policy didn't include the required IG appeal process for suspensions. As we noted in the MAM, placing an employee who claims retaliation on unpaid suspension while a lengthy security clearance investigation is conducted can make it financially unrealistic for the employee to retain their Government employee status. Moreover, it creates the risk that the security process can be misused as part of an inappropriate effort to encourage an employee to resign. I am pleased that the Department has promptly responded to our MAM's recommendations.

Separately, we have also received complaints about the security clearance suspension and adjudication process that go beyond the issues detailed in our MAM, including allegations of inconsistent compliance with standard operating procedures on the opening of security investigations, highly inappropriate questions being asked of witnesses during the security clearance investigations, inconsistent outcomes on security clearance suspension determinations, the suspension and revocation of an employee's eligibility to hold a clearance based on race, and retaliation against employees for raising concerns to management about security clearance suspensions' investigations and adjudication. These allegations raise serious issues, and I would note do not apply to only a subset of employees with certain political views or ideologies.

During today's hearing for both investigative and privacy reasons, the only whistleblower retaliation matter that I can discuss is the one involving Mr. Allen. I am able to do so because Mr. Allen recently settled his employment claims with the FBI or against the FBI, with the FBI reinstating his security clearance and agreeing to provide him back pay. Following the settlement, Mr. Allen withdrew the retaliation complaint he had filed with my office, resulting in the OIG closing our retaliation investigation. Mr. Allen also waived any privacy rights that might otherwise prohibit me from

discussing our investigation of the claims. As a result, I am able to discuss with you today the factual details we learned during our investigation, which will illustrate many of the systemic issues that we have seen with the security clearance process.

For example, in Mr. Allen's case, his unpaid security clearance began in early 2022 and didn't end until the settlement in June 2024. Most employees in Mr. Allen's situation would find it unrealistic financially to retain their Government employee status for over two years without pay which is intention with the law's requirement that agencies allow individuals claiming retaliation to retain their employment status while the security review is ongoing.

There are a number of other particularly important policy issues relating to protecting whistleblowers from retaliation that I look forward to discussing today including potential legislative issues and potential actions raised in the written testimony and correspondence submitted for today's hearing. As we seek, all of us I think, to ensure that the security clearance investigation and adjudication process is never used to retaliate against whistleblowers and people who bring forward in good faith claims of waste, fraud, misconduct, and abuse.

Thank you again for the Committee's support and I look forward to answering your questions.

[The prepared statement of the Hon. Horowitz follows:]



Office of the Inspector General
United States Department of Justice

Statement of Michael E. Horowitz
Inspector General, U.S. Department of Justice

before the

Committee on the Judiciary
U.S. House of Representatives

Concerning

Oversight of the Department of Justice's
Handling of Security Clearances for Whistleblowers

September 25, 2024

Chairman Jordan, Ranking Member Plaskett, and Members of the Committee:

Thank you for inviting me to testify at today's hearing about the Department of Justice (Department or DOJ) Office of the Inspector General's (OIG) efforts to protect whistleblowers and our oversight of the Department's security clearance processes. Whistleblowers perform an important service when they report evidence of wrongdoing and they make the Department, and the entire U.S. government, better and more accountable to the American public. All DOJ employees, contractors, and grantees are protected from retaliation for making a protected disclosure and no employee should suffer reprisal for bringing forward information that they reasonably believe is evidence of waste, fraud, abuse, or other violations of law.

Employees with a security clearance are particularly vulnerable to retaliation because an employee's due process protections and right to appeal a security clearance suspension or revocation are more limited than the processes that exist for employment actions unrelated to an employee's security clearance. This is by design, as deference is given to an agency to ensure that access to classified information can be promptly restricted when a legitimate security concern arises.

However, given the more limited due process that is available to an employee whose security clearance has been suspended, and the significant amount of time an employee may remain suspended without pay before having any process whatsoever to contest a security clearance action, it is critical that agencies exercise their authority to take security clearance-related actions consistently and based on firm evidence in each instance.

Regrettably, concerns about retaliatory security clearance actions are not new. Congress passed the landmark Whistleblower Protection Act (WPA) in 1989, strengthened it in 1994, and further strengthened that law in 2012, with the Whistleblower Protection Enhancement Act (WPEA) of 2012. In each instance, Congress considered the lack of independent due process rights for employees to challenge retaliatory security clearance actions, but ultimately did not take legislative action. However, in 2012, shortly after the WPEA's passage, Presidential Policy Directive 19 (PPD-19) was issued, which provided for Inspector General reviews and investigations of alleged security clearance reprisals. Prior to PPD-19, employees with a whistleblower retaliation claim were permitted only to appeal security clearance determinations within their component – in effect, asking the agency that took the clearance to change their mind – with no independent review or investigation by an OIG.

In 2014, Congress, for the first time, provided statutory whistleblower protections for employees with a security clearance by amending 50 U.S.C. § 3341. The statute includes a provision requiring the Executive Branch to establish procedures allowing employees to appeal a security clearance revocation or a suspension that lasts longer than one year. The Director of National Intelligence subsequently issued Security Executive Agent Directive (SEAD) 9, which requires agencies to have a security clearance appeal process that enables employees alleging reprisal due to a security clearance revocation or suspension lasting more than one year to seek Inspector General review of the reprisal allegation. Section 3341 also requires government agencies to establish a security clearance review process that, to the extent practicable, "permit[s] ... individuals ... [with a retaliation claim] to retain their government employment status while [the security clearance review] is pending." This is significant because many DOJ law enforcement agencies, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), generally suspend employees without pay for the duration of a security clearance investigation, which can last years.

As we noted in a May 2024 [Management Advisory Memorandum](#) (MAM), the Department's then existing policy did not include a process allowing employees with a reprisal claim to appeal to the OIG if their clearance had been suspended for longer than one year, as required by section 3341. The Department's policy did include the required OIG appeal provision in the case of a revocation. As we further noted in the MAM, placing an employee who claims retaliation on indefinite unpaid suspension while a lengthy security clearance investigation is conducted can make it financially unrealistic for the employee to retain their government employment status, as provided for in Section 3341. Moreover, it creates the risk that the security process can be misused as part of an inappropriate effort to encourage an employee to resign.

I have been encouraged by the Department's prompt response to address our MAM's recommendations. The Department recently revised its security clearance appeals directive to require: 1) that all employees with a suspended clearance are notified of their right to file a retaliation complaint with the OIG if that suspension lasts longer than 1 year; 2) that all components, including the law enforcement components, identify positions that do not require a clearance in which an employee with a suspended clearance may be placed, if practicable, so that they can remain on paid status during a security investigation; and 3) that all components inform DOJ's Justice Management Division of all security clearance investigations that have lasted longer than 6 months, and provide a justification for the continued suspension and investigation. It is our view that this requirement for components to provide an update and justification for clearance suspensions lasting longer than 6 months is a best practice in the federal government and, with effective oversight from the Department and the OIG, will encourage components to more efficiently resolve security investigations and limit the ability to misuse the security process in an effort to encourage an employee to resign.

As detailed in our MAM, the OIG identified these significant due process 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. However, the concerns highlighted in the MAM should not be viewed as a determination on the merit or lack of merit of any individual reprisal claim submitted to the OIG.

Our concerns about the security clearance suspension and adjudication process go beyond the serious procedural issues detailed in the MAM. For example, we have received and are reviewing complaints and/or allegations from FBI employees alleging inconsistent compliance with standard operating procedures on the opening of security investigations; highly inappropriate questions being asked of witnesses during security clearance investigations; inconsistent outcomes on clearance suspension determinations, with potentially serious security issues not prompting a security clearance suspension while seemingly lesser concerns resulting in an immediate suspension; an investigation, suspension, and revocation of an employee's eligibility to hold a clearance based on race; and retaliation against employees for raising concerns to management about security clearance suspensions, investigations, and adjudications.

These allegations raise serious issues and do not apply to only a subset of employees with certain political views or ideologies. As we complete our work on these allegations, the OIG will make further recommendations to the Department and its components to address any additional issues that we identify.

With one exception, I am unable to speak to these matters today, both for investigative and privacy reasons. The one exception is the matter involving now former FBI Staff Operations Specialist Marcus Allen. The details of Mr. Allen's case illustrate many of the concerns and systemic issues that we have seen with the security clearance process. Earlier this year, the FBI reinstated Mr. Allen's security clearance and Mr. Allen entered into

a settlement agreement with the FBI to resolve employment claims he asserted against the FBI following the suspension of his security clearance in 2022. Pursuant to the terms of the settlement agreement between Mr. Allen and the FBI, Mr. Allen withdrew a retaliation complaint that he filed with the OIG in 2023. In response to that agreement and Mr. Allen's withdrawal of his retaliation complaint, the OIG closed its investigation into his retaliation allegation. Mr. Allen's counsel has advised the OIG that his client waived any Privacy Act rights or restrictions that might otherwise prohibit the OIG from discussing our now closed investigation of his claims, and that his client supported our publicly discussing the factual circumstances of his case. Based on this correspondence from Mr. Allen's counsel, and the fact that our investigation is now closed, I am able to provide the Committee with factual details we learned during our reprisal investigation. However, because Mr. Allen withdrew his complaint and entered into a settlement agreement with the FBI, we did not complete our investigation and therefore did not make a finding regarding his retaliation claim.

We fully support Mr. Allen's right to settle his claims against the FBI and to withdraw his retaliation complaint as part of that settlement. Based on my office's extensive experience working with whistleblowers, settlement can be the best and most expedient route to resolve retaliation claims in a manner that allows the employee to secure appropriate corrective action or other relief they may seek and to move forward with their careers without the delays arising from an investigation, adjudication, and potential litigation. For example, pursuant to DOJ policy, even where the OIG finds that the suspension or revocation of an employee's security clearance is the result of reprisal for whistleblowing and recommends reinstatement of the employee's security clearance, if the Department Security Officer or Security Program Manager determines "that it is not practicable and reasonable to approve or reinstate the individual's eligibility for access to classified information or to hold a sensitive position because the individual is a threat to the national security interests of the United States," then the final determination is made by the Attorney General or their designee after reviewing all relevant information.

Before Mr. Allen withdrew his retaliation complaint, the OIG had conducted extensive investigative work and was nearing completion of its investigation. We identified many systemic issues as part of this investigation that we believe are relevant to a discussion of the security clearance process and Congress's decades-long deliberations on the appropriate level of protections for employees with a security clearance.

Overview: The FBI's Security Clearance Suspension and Revocation Process

In general, if a security concern is raised about a Department employee, the allegation is referred to the relevant component's security division, which has the authority to immediately suspend the employee's clearance and initiate a security investigation to determine whether the employee's clearance should be revoked or reinstated. It is important to note that security concerns are different from misconduct allegations and that they are handled differently and separately. For example, an employee can have a security concern arise without having been alleged to have engaged in misconduct. Similarly, an employee alleged to have engaged in misconduct does not necessarily present a security concern.

For FBI employees, the FBI's Security Division (SecD) handles the investigation and adjudication of an employee's ability to hold and maintain a national security clearance, while the FBI's Inspection Division handles allegations of misconduct. When SecD receives a security allegation against an FBI employee, it initially determines whether to suspend the employee's security clearance pending the outcome of SecD's security investigation. Upon completion of the security investigation, if SecD revokes or denies an employee's

clearance, the employee may request the documents and information supporting that decision. The employee may then submit a written request for reconsideration to SecD, asking SecD to reverse its revocation decision. In practice, the process from suspension to subsequent security investigation, to a decision to revoke or deny, to a request for reconsideration, and to a final decision on the request for reconsideration can take several years to complete. In Mr. Allen's case, this started with his clearance suspension notice in January 2022, and did not end until the reinstatement of his clearance and settlement with the FBI in June 2024.

The significant amount of time this process takes to complete can be especially problematic at DOJ components that, at least until the recent revised DOJ policy was issued in response to the OIG's MAM, regularly suspend employees without pay for the duration of the security review process. For example, FBI employees are routinely informed at the time their clearances are suspended that, "It has been a longstanding, essential condition of employment that employees of the FBI be able to obtain and maintain a Top Secret security clearance." Accordingly, pursuant to the practice at most DOJ law enforcement components, a suspended clearance results in the employee being notified that they will also be subject to an indefinite employment suspension without pay and the loss of access to Department facilities until the security review process adjudicates the suspension decision.

Under the prior Department policy, DOJ employees had no process for challenging a clearance suspension.¹ In Mr. Allen's case, this unpaid suspension lasted over two years, and during that time he remained subject to the Department and FBI's rules on outside employment and the acceptance of gifts, which limited his ability to engage in outside employment and to accept monetary donations contributed through an online platform. As our MAM indicated, most employees in Mr. Allen's situation—on unpaid suspension for over 2 years and limited in their ability to obtain outside employment—would find it financially unrealistic to retain their government employment status, which is in tension with Section 3341's requirement that agencies "permit...individuals...[with a retaliation claim] to retain their government employment status while [the security clearance review] is pending."

Mr. Allen's FBI Employment

The FBI hired Mr. Allen as a Staff Operations Specialist in the Charlotte Field Office (Charlotte FO) in 2015. Mr. Allen consistently received strong performance appraisals and was named the Charlotte FO's 2019 "Employee of the Year." Mr. Allen is a Marine Corps veteran who served two tours in Iraq. He held a Top Secret security clearance from 2001 to 2021 without incident prior to the issues we present below.

Mr. Allen worked with the Charlotte FO's Joint Terrorism Task Force (JTTF), where he gathered news articles, police reports, social media, and other open-source information to assist in ongoing investigations and intelligence requests. He successfully supported numerous JTTF investigations, including investigations of individuals who engaged in criminal conduct on January 6, 2021, at the U.S. Capitol, and was specifically credited in his 2021 performance appraisal for producing intelligence products to assist investigations of a Boogaloo ideology and weapons concerns related to a U.S. Capitol riot subject. As part of this work, Mr. Allen

¹ As discussed, under the revised policy, and consistent with 50 U.S.C. § 3341, an employee with a suspended clearance may file a complaint with the OIG after one year, if the employee alleges the clearance was taken in retaliation for whistleblowing. Employees not alleging retaliation still have no avenue for contesting a suspended clearance during the suspension phase but, as noted, the Department has taken steps to require agencies to provide greater justification when any clearance suspension exceeds six months.

frequently sent emails to co-workers and supervisors with links to what Mr. Allen referred to as “mainstream news sources” as well as material that he referred to as “independent sources.”

Mr. Allen's September 29, 2021 Emails

On September 29, 2021, Mr. Allen sent an email to his JTTF colleagues, including his direct supervisors that stated in part: “There is a significant counter-story to the events of 6 January 2021 at the US Capitol. There is a good possibility the DC elements of our organization are not being forthright about the events of the day or the influence of government assets (e.g. Russia collusion investigation, Larry Nassar debacle, COINTELPRO).” (underline in original). The email provided a link to a video and referenced an article from four days earlier in *The New York Times*, which alleged that FBI Confidential Human Sources (CHSs) were at the U.S. Capitol on January 6, 2021, including CHSs within groups such as the Proud Boys. The email also referenced stories by *revolver.news*, *thegatewaypundit.com*, *Real Clear Investigations*, and *American Gulag*. Allen also added the following statement: “Recommendation: Exercise extreme caution and discretion in pursuit of any investigative inquires or leads pertaining to the events of the day.”

Several minutes later, Mr. Allen forwarded the same recipients an email with a link to a video segment from a podcast, where a guest discussed the September 25, 2021 *New York Times* article. The video then critiqued the March 2021 congressional testimony by FBI Director Christopher Wray for not acknowledging, in response to questioning by Senator Amy Klobuchar, that the FBI had sources within groups such as the Proud Boys and that some of these sources were at the Capitol on January 6. According to Mr. Allen, he sent the emails because he did not believe that the FBI Director answered Sen. Klobuchar’s questions as truthfully as he could have. It is important to note that, in order for a disclosure to be protected under whistleblower laws, an employee need not be correct in their assertions; they need only demonstrate a reasonable belief the information they disclosed was evidence of misconduct or a violation of law, rule, or regulation.

Charlotte FO management officials discussed Allen's September 29 emails and were concerned that Mr. Allen called into question the truthfulness of the FBI Director's testimony. Shortly thereafter, Mr. Allen was called into a counseling session with his direct supervisor and a senior Charlotte FO management official. During the session, Mr. Allen further explained his concerns about the FBI Director's testimony, which the senior management official described as “reasonable.” Nevertheless, Mr. Allen was cautioned not to send any further emails like his September 29 emails. Mr. Allen complied with this direction.

SecD Management Directs the Opening of a Security Investigation of Mr. Allen

Mr. Allen did not hear anything more about the matter until January 2022, when he was informed that his Top Secret security clearance had been suspended. Unknown to Mr. Allen, on September 29, 2021, a Charlotte FO official forwarded Mr. Allen's two September 29 emails to an FBI Office of General Counsel (OGC) attorney. The following day, the FBI OGC attorney forwarded these emails to SecD management. A SecD management official reviewed the emails, advised FBI OGC that SecD would be opening a security investigation of Mr. Allen, and then directed SecD subordinates to open a security investigation.

The basis for the January 2022 opening of the SecD security investigation of Mr. Allen, according to SecD's Opening Electronic Communication (Opening EC), was Mr. Allen's September 29 emails. The Opening EC noted that Mr. Allen's Top Secret security clearance had been favorably re-adjudicated by the FBI on October 1, 2021, the day after Mr. Allen sent the emails to his JTTF coworkers. This meant that Mr. Allen had recently

undergone an FBI background investigation (conducted by SecD) to determine his continued eligibility to hold a Top Secret security clearance, and that the investigation identified no derogatory information or any basis to question Mr. Allen's ability to hold a Top Secret clearance prior to his September 29, 2021 emails.

A SecD employee (referred to below as Adjudicator 2) told the OIG that it was their view that the opening of the Allen security investigation was a departure from SecD "best practices" because SecD management issued a directive to open the investigation, rather than allowing the allegation to follow the normal SecD referral and assessment standard operation procedures. A SecD management official told the OIG that management had the discretion to direct the opening of a security investigation, notwithstanding SecD's standard operating procedures that call for derogatory information to be referred and assessed by SecD's case intake unit.

Following the opening of the security investigation, SecD management reached out to the FBI's Insider Threat Office (InTO) to request an assessment of Mr. Allen's electronic communications. The SecD management official sought InTO's assessment after a discussion with a Charlotte FO management official, during which the officials discussed Mr. Allen's September 29 emails and concerns about the FBI Director's testimony, and the fact that Mr. Allen did not attest to his COVID vaccination status. The SecD management official told the OIG that the Charlotte FO management official also expressed concerns about Mr. Allen's ongoing access to Charlotte FO domestic terrorism case files.

The InTO draft assessment of Mr. Allen's communications and other information determined that Mr. Allen "may pose" an insider threat to the FBI. Among the messages cited in the InTO assessment were those in which Mr. Allen expressed hesitation about taking the COVID-19 vaccine. For example, in a Skype message InTO cited, a colleague of Mr. Allen asked him if he had taken the vaccine yet. Mr. Allen responded that he was "waiting until the opening rounds are finished and more data is available." After reviewing these and other messages cited in the draft InTO assessment, the SecD investigator (Investigator 1) assigned to handle the security investigation of Mr. Allen raised concerns about the lack of analytical rigor in the draft InTO assessment. In an effort to consider a more complete set of Mr. Allen's communications, Investigator 1 requested a review of Mr. Allen's electronic communications by the FBI's Electronic Security Operations Center (ESOC). The subsequently issued ESOC report analyzed Mr. Allen's messages and other communications and concluded there was "no information validating" the security predicate SecD used to open the investigation of Mr. Allen. The ESOC report further stated that Mr. Allen's communications relating to January 6 "did not appear to be hostile or inflammatory in nature."

Following receipt of the ESOC report, Investigator 1 interviewed four Charlotte FO management officials, including the Charlotte FO official who referred the September 29 emails to FBI OGC that resulted in SecD opening its investigation. An email summary of the interviews prepared by Investigator 1 stated:

None of the interviewees have witnessed any behavior which would cause them to believe:

- Allen is disloyal to the United States
- Allen advocates violence against the US, advocates overthrowing the current system of government, or sympathizes/supports those who do; Allen was involved with, or he sympathized/supported the criminal activity which occurred at the U.S. Capitol on 01/06/2021

- Allen lacked objectivity in information presented/conclusions in analytical products, discussions or other communications (aside from the 09/29 email)
- Allen was in any way resistant to performing his duties in support of [counter-terrorism] cases including [domestic terrorism] cases or leads related to 01/06.

Investigator 1's email also noted that the interviewees agreed that "It was not unusual for Allen to send emails with links to open source information, including links which offered alternative viewpoints." The interviewees also said that "Allen has been, and remains, a high performer in [Charlotte]." Finally, Investigator 1 noted that the interviewees suggested that "Allen does appear to be 'bothered' by the events of 01/06," and "[Charlotte management] believes Allen 'stepped over the line' with ill-founded accusations/conclusions drawn in the 09/29 email."

Investigator 1 concluded that Mr. Allen had arguably made a protected disclosure in his September 29 emails, and that no one in the Charlotte FO had any concerns about Mr. Allen's allegiance to the United States or his willingness to work January 6 investigations, or believed that he supported or advocated for individuals who engaged in violent acts against the United States. However, SecD management believed that the InTO assessment and the Charlotte management official's stated concern about Mr. Allen's ongoing access to domestic terrorism case files warranted the suspension of Mr. Allen's security clearance and called into question his Allegiance to the United States, which is referred to as Guideline A under the applicable security clearance guidance.

Investigator 1 followed SecD management's direction and drafted the suspension memorandum based on Mr. Allen's alleged lack of "Allegiance to the United States." Investigator 1 said he believed that edits made to the suspension memorandum "grossly mischaracterized" Mr. Allen's communications. One of Investigator 1's supervisors noted that he (the supervisor) signed the suspension memorandum with "some hesitancy" because of the reliance on Guideline A. Another SecD supervisor stated that SecD management's insistence on using Guideline A to suspend Mr. Allen was "a very hard stretch." SecD management told the OIG that no SecD officials, other than Investigator 1, raised concerns to them about the use of Guideline A.

SecD Suspends Mr. Allen's Clearance

In January 2022, Mr. Allen received a written notice that his Top Secret security clearance had been suspended pursuant to Guideline A. The notice included one substantive paragraph, which read: "The Security Division has learned you have espoused conspiratorial views both orally and in writing and promoted unreliable information which indicates support for the events of January 6th. These allegations raise sufficient concerns about your allegiance to the United States and your judgment to warrant a suspension of your clearance pending further investigation." On February 17, 2022, Mr. Allen was indefinitely suspended without pay.

SecD Assigns a New Investigator and the Security Investigation Continues

About two weeks after the Allen suspension notice was issued, Investigator 1 was reassigned from his position and removed from the Allen investigation and a new SecD investigator was assigned (Investigator 2). Investigator 2 conducted further investigative steps to determine whether the FBI should permanently revoke Mr. Allen's security clearance. These included:

- In May 2022, interviewing Mr. Allen for the first time about the allegations. During the interview, Mr. Allen described his role on the JTTF as providing any and all information which could impact cases or indicate criminal activity. Mr. Allen also discussed “his frustration with some [domestic terrorism] cases not being prosecuted or worked properly.” In particular, Mr. Allen mentioned a domestic terrorism case involving an individual who made threats to then Presidential Candidate Joe Biden. Mr. Allen believed the threats and evidence of violent conduct by the “far right individual” implicated federal crimes, but prosecutors did not pursue charges.
- In June 2022, asking ESOC to conduct an additional review of Mr. Allen’s user activity between November 4, 2020, and September 30, 2021. ESOC submitted a report to SecD stating that ESOC had searched and reviewed Mr. Allen’s data and the data “appeared to be of activity aligned with ALLEN’s job role.” In addition, “it did not appear Allen conducted any unauthorized searches in [FBI databases, including source databases] and no suspicious downloads or printing activities were noted.”
- In July 2022, interviewing the FBI employee with whom Mr. Allen had engaged in most of the messaging cited in the draft InTO assessment. The individual stated that some of Mr. Allen’s thoughts and opinions can be “out there,” but the individual did not think Mr. Allen supported the government’s overthrow or challenged the legitimacy of the 2020 Presidential election.
- In September 2022, interviewing Mr. Allen’s immediate Charlotte FO supervisor for a second time. The supervisor stated that at some point he instructed Mr. Allen to stop sending emails “from different sources regarding January 6th” and to focus on “actual news sites.” However, this statement was not consistent with the supervisor’s initial SecD interview or the statements of other Charlotte FO management officials, all of whom told Investigator 1 that Mr. Allen had never been counseled or told to stop sending links to “alternative” open source information prior to the September 29 emails.

In September 2022, Investigator 2 drafted a summary memorandum detailing the information gathered during the security investigation. The summary memorandum noted that the investigation was predicated on the September 29, 2021 emails that Mr. Allen sent to other Charlotte employees; restated the information that Investigator 1 received in his initial interviews of Mr. Allen’s supervisors; referenced the messages cited in the draft InTO assessment, as well as the findings from the ESOC report; and included a description of the most recent interviews. The summary memorandum did not make a recommendation to revoke or reinstate Mr. Allen’s clearance; it concluded that the case should be forwarded to the SecD security adjudication division for any action it deemed appropriate.

SecD’s Investigation Division Forwards Its Findings to the SecD Adjudication Division and the SecD Adjudicator Raises Concerns about the InTO Assessment

In October 2022, the SecD investigation division forwarded the Allen investigation to the SecD adjudication division for a determination by the adjudication division as to whether Mr. Allen’s clearance should be revoked or reinstated.

In January 2023, the assigned SecD adjudicator (Adjudicator 1) sent a memorandum to his supervisor raising concerns about the strength of the evidence gathered during the Allen investigation. For example, Adjudicator 1 questioned the relevance of the messages that InTO cited in its assessment of Mr. Allen and stated his view that the exchanges did not support InTO’s conclusions cited in SecD’s suspension memorandum. Adjudicator

1 further noted that InTO's assessment failed to acknowledge a message exchange where Mr. Allen told his co-worker that Charlotte FO had received a very large number of January 6 related leads and that all of these need to go "through the process."

Adjudicator 1 concluded his memorandum by identifying numerous mitigating factors SecD had identified during the Allen investigation, including:

- ESOC's second review found no suspicious activity and that Mr. Allen's communications were consistent with his job duties;
- None of the interviewees said that Mr. Allen ever expressed an unwillingness to work domestic terrorism matters, none questioned his allegiance to the United States or believed he supported violence, and none reported any indications that Mr. Allen supported the violence that occurred on January 6, 2021;
- Mr. Allen's personal security file contained no derogatory information relevant to SecD's investigation;
- Mr. Allen had access to Sensitive Compartmented Information from December 2015 to January 2022;
- Mr. Allen's last polygraph on October 9, 2019, found "No Deception Indicated";
- Mr. Allen's last Top Secret clearance adjudication was on October 1, 2021, and was "unremarkable";
- Mr. Allen had never been the subject of a disciplinary investigation; and
- The FBI's Inspections Division received the InTO report following Mr. Allen's September 29, 2021 email and declined to open an investigation.

Re-Interview of JTTF supervisor Leads to New Allegation that the Adjudication Division Relies on in Revoking Mr. Allen's Security Clearance

To help determine whether there was a sufficient justification to revoke Mr. Allen's clearance, Adjudicator 1 asked Investigator 2 to re-interview Mr. Allen's JTTF supervisor to determine whether the JTTF supervisor had ever counseled Mr. Allen to stop sending open source links to "alternative news" sources prior to Mr. Allen's September 29 email, as Mr. Allen's immediate supervisor stated he did in his second SecD interview.

In January 2023, Investigator 2 re-interviewed Mr. Allen's JTTF supervisor. The JTTF supervisor did not recall counseling or admonishing Mr. Allen about his email habits and described Mr. Allen as a good employee who performed his job responsibilities well. According to the JTTF supervisor, the Charlotte JTTF had over 600 Guardian leads related to January 6 and Mr. Allen assisted in research for many of them; the JTTF supervisor recalled only one that drew Mr. Allen's attention. On that occasion, Mr. Allen was concerned that the subject's constitutional rights were being violated and that a case should not have been initiated. According to the JTTF supervisor, Mr. Allen "pushed back" in an email to a Charlotte FO management official and the assigned case agent (Case Agent). The JTTF supervisor suggested that Investigator 2 contact the Case Agent.

Investigator 2 thereafter interviewed the Case Agent. The Case Agent recalled two instances in which the Case Agent believed Mr. Allen had not identified and provided open source information about January 6 subjects

that was later determined to be available. The Case Agent, however, did not allege that Mr. Allen had intentionally failed to find the information about the subjects.

SecD Revokes Mr. Allen's Security Clearance

Investigator 2 provided the information from the interviews to Adjudicator 1, who then drafted a memorandum to revoke Mr. Allen's security clearance. The memorandum relied heavily on the information provided by the Case Agent to Investigator 2. SecD management decided not to re-interview Mr. Allen to obtain his response to the Case Agent allegation. The OIG was told that SecD and FBI OGC believed it was sufficient to present the Case Agent allegation to Mr. Allen in the memorandum revoking his clearance because Mr. Allen would have an opportunity to request reconsideration of the revocation decision.

The revocation memorandum was finalized in May 2023. It stated that the basis for the investigation was Mr. Allen's September 29, 2021 emails, which included "a news article and other websites alleging the FBI was not being truthful about the events at the Capitol on 01/06/2021." The revocation memorandum did not include any reference to the InTO assessment or the messages cited in it, which was the stated basis for suspending Mr. Allen's clearance. Instead, the revocation memorandum added two new specifications—both of which were based on information identified by SecD after issuing the suspension memorandum and after interviewing Mr. Allen. First, the revocation memorandum relied on Mr. Allen's immediate supervisor's statement that Mr. Allen had been previously admonished to not send certain emails. The revocation memorandum did not address the initial interviews of Charlotte FO management which indicated that Mr. Allen had not been previously admonished for sending such emails. Second, the revocation memorandum concluded that Mr. Allen deliberately failed to provide relevant information to the Case Agent after the Case Agent requested that Mr. Allen conduct social media/public records searches on a January 6 subject. Although the Case Agent did not allege that Mr. Allen had intentionally failed to find the information, the SecD revocation memorandum concluded that his failure was intentional because, in part, SecD was able to find the information after conducting internet searches for the information approximately 18 months after Mr. Allen had been asked to do so. The revocation memorandum stated that Mr. Allen's security clearance was being revoked under Guideline A: Allegiance to the United States and Guideline E: Personal Conduct.

Mr. Allen Requests Reconsideration of the Revocation Decision

In May 2023, Mr. Allen received a letter stating that his security clearance had been revoked. The letter did not include with it a copy of the revocation memorandum or provide him with specific information about the two new allegations that had been made against him.

Under the applicable DOJ security clearance directive, after receiving the revocation letter, Mr. Allen had the right to "file a request for any documents, records, and reports, including the entire investigative file, upon which the denial or revocation is based." Mr. Allen requested the information in May 2023. According to the DOJ directive, the FBI was required to provide that information within 30 days of the request. The FBI did not provide the requested information until September 20, 2023. This was the first time Mr. Allen was able to review the two new allegations against him.

Under the DOJ directive, Mr. Allen had 30 days after receiving the investigative information from the FBI to submit a reconsideration request to SecD. Mr. Allen did so on October 20, 2023.

SecD Adjudicator Recommends Reinstatement of Mr. Allen's Security Clearance

Mr. Allen's request for reconsideration was assigned to a new SecD Adjudicator (Adjudicator 2), who reviewed the request and the SecD investigative file, and concluded that Mr. Allen's Top Secret security clearance should be reinstated. In February 2024, Adjudicator 2 prepared a presentation for SecD leadership on Mr. Allen's reconsideration request and Adjudicator 2's findings, which concluded that Mr. Allen had "explained, mitigated and/or refuted the security concerns which were included as a basis for his revocation."

In March 2024, following the presentation to SecD management, Adjudicator 2 submitted a draft reinstatement memorandum to SecD management recommending that Mr. Allen's security clearance be reinstated. The following month, in April 2024, Adjudicator 2 was reassigned from her position in the adjudication division and taken off of the Allen case.

The FBI Reinstates Mr. Allen's Security Clearance and Settles his Retaliation Complaint

On May 31, 2024, following settlement negotiations between the FBI and counsel for Mr. Allen, the FBI reinstated Mr. Allen's security clearance, and informed him that the various security concerns alleged against him had been "sufficiently mitigated." On June 1, 2024, the FBI and Mr. Allen entered into a settlement to resolve his pending retaliation complaint.

As I noted previously, the 29 months that Mr. Allen remained on unpaid leave while seeking to challenge his security suspension and the FBI's subsequent revocation decision helped inform the findings in our May 2024 MAM to the Department and our recommendations that it revise its security clearance directive. While the circumstances surrounding the handling of Mr. Allen's security clearance investigation and adjudication are concerning, I am encouraged by the Department's prompt response to our MAM's recommendations by revising its security clearance directive and including what I believe is a best practice in the federal government by requiring components to justify security clearance suspensions lasting longer than 6 months. The OIG will continue to conduct oversight to ensure that the security clearance investigation and adjudication process is not used to retaliate against whistleblowers, and that the Department complies with all relevant whistleblower protections.

I am pleased to have the opportunity to present these issues to the Committee so that you can assess the policy issues that they raise and consider whether any legislative action is warranted.

Thank you again for the Committee's support for our mission and for the opportunity to testify on this important topic. I would be pleased to answer any questions that you may have.

Chair JORDAN. Thank you, Inspector. We now recognize Mr. Leavitt for five minutes.

STATEMENT OF TRISTAN LEAVITT

Mr. LEAVITT. Chair Jordan, Ranking Member Plaskett, and the Members of the Subcommittee, thank you for the invitation to testify today. When Marcus sat here 16 months ago, the FBI smeared him with the lie that he was a threat to our national security. That lie was repeated here in this hearing room. One year later, the FBI reinstated his security clearance and agreed to restore 27 months of back pay. This amounts to an official admission by the FBI that claims about his disloyalty to the U.S. were false. His clearance should never have been revoked in the first place.

This year, a whistleblower inside the FBI's Security Clearance Office has pulled back the curtain on the dysfunction and political bias in the Security Division. Last week, I sent a 22-page letter to the Committee outlining these problems. As that letter details, each and every one of the line-level employees who worked on the review believed Marcus should retain his security clearance. The initial investigator believed it, a second investigator believed it, the first adjudicator believed it, and the second adjudicator believed it.

So, how did his clearance still get suspended and revoked contrary to both whistleblower retaliation and clearance adjudication law? The high-level officials, at least one of whom is still in the Security Division, overruled these line-level staff and intimidated employees into doing what they wanted. Division employees lived in fear of a stranger bring the so-called Kelly Cart to their desk, to package up their belongings while they are escorted out of the building and fired. Sure enough, of the four-line level employees who worked on Marcus' case, two of them also suffered reprisal from the FBI for trying to treat him fairly. In fact, the entire leadership of the Division's Clearance Adjudication Unit was removed in September 2023, apparently in reprisal for standing up to improper direction from leadership.

The Empower Oversight is now representing three current or former Security Division employees retaliated against by their managers. This summer, we disclosed to the public that the Security Division forced FBI employees to rat out their coworkers if they had ever heard them "vocalize support for President Trump" or "vocalize objection to the COVID-19 vaccination." We now understand that was just one manifestation of the FBI's politicized climate.

Former Security Division leaders like Jeffrey Veltri, who is now running the investigation into the second assassination attempt on former President Trump, has a documented history of encouraging security clearance decisions based on political views and personal medical decisions. He and fellow manager, Dena Perkins, would often ask in staff meetings whether employees whose clearances were under investigation have received a vaccine. Veltri also suggested Marcus was delusional for being motivated by his sincerely held religious beliefs. The tone for this intolerance seems to have been set at the top. In a February 2021 call with FBI managers, Deputy Director Paul Abbate made but one observer call a chilling

and personal direct threat that there would be consequences for anyone who questioned his direction.

Given these statements, how is the American public supposed to have any confidence the decisions are being made at the FBI without personal bias or politicization? Over the past two months since the former President was nearly assassinated and one man was killed, the entire country has seen how critical Secret Service whistleblowers have been to providing even the smallest measure of transparency. Yet, those whistleblowers, like all other Federal law enforcement whistleblowers, have stronger protections than the whistleblowers at the FBI. As some of you know, fixing this was one of my top goals as a Congressional staffer a decade ago. The House Intelligence Committee has repeatedly blocked reforms in this area.

Incredibly, the other prohibitive personnel practice laws that applied to the rest of DOJ don't apply to the FBI either. The FBI's internal handbook is the only prohibition on political coercion, nepotism, rigged hiring, and various other merit-based policies. How can you not end up with poor management and managers at an agency like that?

OSC, my former agency, investigates the practices in these other agencies with recourse to the MSPB, another former agency of mine. For the FBI, Mr. Horowitz' office is tasked with these investigations, but his office doesn't have the legal authority OSC does to seek a stay of a personnel action from the MSPB while it investigates. Unlike MSPB, Mr. Horowitz' office can't force the FBI to take any particular corrective or disciplinary action even if it finds wrongdoing. Congress should fix this 1970s relic of an exception for the FBI and empower OSC to investigate FBI personnel actions with appeals to MSPB and the courts.

As a broad, bipartisan coalition of groups has argued, including in a letter that we submitted yesterday to the Committee, it is also time for Congress to overturn or narrow the 1988 Supreme Court case *Navy v. Egan*. Because of it, neither OSC nor MSPB review whether a security clearance action was taken as a form of whistleblower reprisal. That should change, especially because it is becoming the FBI's primary form of whistleblower retaliation.

Allowing FBI to operate by some playbook for so long has also had other consequences. Just three weeks ago, MSPB issued an order to show cause why it shouldn't impose sanctions against the FBI in one case. The bipartisan three-person board wrote it is difficult to escape the idea that they have no intention of complying with the board's orders.

Through the reforms I have outlined, Congress can restore the proper functioning of the Civil Service at the FBI. Both parties should support these changes. They would strengthen good government in the FBI no matter who sits in the White House or Director's Office. While there is no way to erase the suffering endured by Marcus and his family or Garret O'Boyle and his family and others, the FBI can hold accountable those who perpetrated it and Congress can turn it into something meaningful by using it as the impetus to finally change these laws. Thank you.

[The prepared statement of Mr. Leavitt follows:]

**HOUSE JUDICIARY COMMITTEE
SELECT SUBCOMMITTEE ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT
HEARING ON THE WEAPONIZATION OF THE FEDERAL GOVERNMENT
SEPTEMBER 25, 2024**

**TESTIMONY OF TRISTAN LEAVITT
PRESIDENT
EMPOWER OVERSIGHT**

Chairman Jordan, Ranking Member Plaskett, and Members of the Subcommittee, thank you for the invitation to testify today.

Empower Oversight is a nonprofit organization that provides free legal services to whistleblowers from the federal government. We are honored to represent Marcus Allen and many other courageous federal employees.

Marcus is a Marine Corps veteran awarded the Navy and Marine Corps Commendation and Achievement Medals. He was deployed to Kuwait and Iraq and faced live enemy fire for the Nation he loves. Yet when he sat here 16 months ago, the FBI had publicly smeared him with the lie that he was a threat to our national security. Some of you helped the FBI spread that falsehood at that hearing.

But, one year later, the FBI reinstated his security clearance and agreed to restore 27 months of backpay. This amounts to an official admission by the FBI that claims about his disloyalty to the U.S. were false. His clearance should never have been revoked in the first place. And this year whistleblower after whistleblower from *inside* the FBI's security clearance office has pulled back the curtain on the dysfunction and political bias that led to its abuse of Marcus and his family.

Last week I sent a detailed 22-page letter to the Committee outlining these problems in the FBI's Security Division.¹ As that letter details, *each and every one* of the line-level employees who worked on the review believed Marcus should retain his clearance:

- (1) The initial investigator believed it.
- (2) A second investigator believed it.
- (3) The first adjudicator believed it.
- (4) And, another adjudicator handling our appeal also believed it.

So how did the clearance still get suspended and revoked, contrary to both whistleblower retaliation and clearance adjudication law? High-level officials, at least one of whom is still in the Security Division, overruled these line-level staff and intimidated employees into doing what they wanted. Division employees lived in fear of a stranger bringing the so-called "Kelly Cart" to their desk to package up their belongings while they were escorted out of the building and fired.

¹ See Press Release, Empower Oversight, New Evidence of FBI Abusing Security Clearances as Retaliation (Sept. 19, 2024), <https://empowr.us/new-evidence-of-fbi-abusing-security-clearances-as-retaliation>.

And sure enough, of the four line-level employees who worked on Marcus's case, two of them *also* suffered reprisal from the FBI for trying to treat him fairly. In fact, the *entire* leadership of the Division's Clearance Adjudication Unit was removed in September 2023, apparently in reprisal for standing up to improper direction from Division leadership. Empower Oversight is now representing *three* current or former Security Division employees retaliated against by their managers.

This summer we disclosed to the public that the Security Division forced FBI employees to rat out their coworkers if they'd ever heard them "vocalize support for President Trump" or "vocalize objection to [the] COVID-19 vaccination."² We now understand that was just one manifestation of the FBI's politicized climate. Former Security Division leaders like Jeffrey Veltri, who is now running the investigation into the second assassination attempt on former President Trump, has a documented history of encouraging security clearance decisions based on political views and personal medical decisions. He and fellow manager Dena Perkins would often ask in staff meetings whether employees whose clearances were under investigation had received the vaccine. Veltri suggested Marcus was delusional for being motivated by his religious beliefs. And witnesses often heard Veltri say that while FBI employees might have First Amendment rights, they had no right to a security clearance—suggesting his willingness to abuse the clearance process as a pretext for unconstitutionally targeting employees with whom he disagreed.

The tone for this intolerance seems to have been set at the top. In a February 2021 call with FBI managers, Deputy Director Paul Abbate made what one observer called "a chilling and personal" "direct threat" "that there would be consequences for anyone who questioned his direction."³ Given these statements, how is the American public supposed to have confidence that its government acts without regard to politics or personal biases?

Over the past two months since a former president was nearly assassinated and one man was killed, the entire country has seen how critical Secret Service whistleblowers have been to providing even the smallest measure of transparency. Yet those Secret Service whistleblowers, like all other federal law enforcement whistleblowers—including from every other Justice Department component—have stronger protections than whistleblowers from the FBI. As some of you know, fixing this was one of my top goals as a congressional staffer a decade ago. But the House Intelligence Committee has repeatedly blocked reforms in this area.

Incredibly, the other prohibited personnel practice laws that apply to the rest of the Justice Department don't apply to the FBI either. The FBI's internal handbook is the only prohibition on political coercion, nepotism, rigged hiring, and various other merit-based policies. How could you *not* end up with poor management—and managers—in an agency like that? Even

² Press Release, Empower Oversight, Documents Reveal Political Bias and Abuse of the FBI Security Clearance Process (June 11, 2024), <https://empowr.us/documents-reveal-political-bias-and-abuse-of-the-fbi-security-clearance-process>.

³ See Press Release, Empower Oversight Delivers Evidence of FBI Deputy Director Threatening January 6th FBI Whistleblowers (June 22, 2022), <https://empowr.us/empower-oversight-delivers-evidence-of-fbi-deputy-director-threatening-january-6th-fbi-whistleblowers>.

the Justice Department's National Security Division is subject to these statutory restrictions. So why shouldn't the FBI be?

The Office of Special Counsel (OSC) investigates violations of this statute in other agencies, with recourse to the Merit Systems Protection Board (MSPB). For the FBI, the Department of Justice Office of Inspector General (OIG) is tasked with investigating whistleblower retaliation or violations of any other FBI policies. But the OIG doesn't have the legal authorities OSC does to seek a stay of a personnel action from the MSPB while it investigates. And unlike the MSPB, the OIG can't force the FBI to take any particular corrective or disciplinary action even if it finds wrongdoing. The Bureau essentially has a free rein.

This 1970s relic of an exception needs to be fixed. Congress should strike the FBI's exemption from the standard prohibited personnel practices.⁴ This would empower OSC to investigate FBI whistleblower retaliation or nepotism just as it does other agencies, and apply the same appeal routes through MSPB and the courts.

As a broad bipartisan coalition of groups has argued, it's also time for Congress to overturn or narrow the 1988 Supreme Court case *Navy v. Egan*.⁵ Because that case has been so misinterpreted by the courts, neither OSC nor MSPB review whether a security clearance action was taken as a form of whistleblower reprisal. That should change, especially because it's become the FBI's *primary form* of whistleblower retaliation.

Until last year I served on the MSPB's three-person Presidentially-appointed, Senate-confirmed Board. Over the years it has considered the case of a former FBI employee named John Parkinson, whose security clearance was suspended in 2011. Since he had blown the whistle on his coworkers using an FBI plane to solicit prostitutes and bringing women to a secure FBI facility, Parkinson alleged the suspension was retaliation. For the reasons described above, the MSPB has not reviewed the clearance determination or retaliation claim over the years. However, the case was eventually remanded by the Federal Circuit to consider some associated issues. The MSPB found the FBI improperly withheld some of Parkinson's backpay for 2 ½ years when he *did* have an active security clearance. The Board ordered the FBI to restore that backpay—a category of order from which Congress created no appeal avenue.⁶ Yet the FBI brazenly defied the order. Three weeks ago the bipartisan Board—all appointed by President Biden—unanimously issued an order to show cause why it should not impose sanctions against the FBI, writing:

⁴ Striking the FBI's exclusion as an "agency" under 5 U.S.C. § 2302(a)(2)(C)(ii) would also subject it to the requirement at 5 U.S.C. § 7515 that agencies must propose at least a three-day suspension to any supervisor who retaliates against a whistleblower, and removal for a second offense of retaliation. Congress passed this requirement in 2017 to establish greater accountability for whistleblower reprisal and deter potential retaliators. Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, Pub. L. 115-73, Sec. 104, 131 Stat. 1235, 1236 (Oct. 26, 2017); see also S. Rep. No. 115-44, at 6-8, <https://www.congress.gov/115/crpt/srpt44/CRPT-115srt44.pdf>.

⁵ 484 U.S. 518 (1988).

⁶ *Parkinson v. Department of Justice*, MSPB Docket No. SF-0752-13-0032-C-1, Order (May 20, 2024), https://www.mspb.gov/decisions/nonprecedential/Parkinson_John_C_SF-0752-13-0032-C-1_Final_Order.pdf.

[T]he [FBI] flatly refused to comply with the Board's [backpay] order on the basis that it believed the Board's findings... "will have a substantial, adverse impact on the administration of the civil service and matters of national security." The agency provided no explanation or evidence for this extraordinary statement... If the agency is attempting to pursue some non-judicial avenue to overturn our decision, we... are aware of none, and the agency has not enlightened us... It is difficult to escape the conclusion that the [FBI]... has no intention of ever complying with the Board's orders.⁷

The FBI's blatant disregard for the Board's order is sheer lawlessness. Yet it is in part a consequence of allowing the FBI to operate by its own playbook for far too long. The FBI must not be allowed to continue acting like it's above the law.

Through the statutory reforms I've outlined, Congress can begin to restore the proper functioning of the civil service system at the FBI. These are reforms both parties should support. They would strengthen good government in the FBI no matter who sits in the White House or the Director's Office. I implore the members of this Committee to take up this challenge.

There is no way to erase the suffering endured by Marcus and his family, Special Agent Garret O'Boyle and his family, and others who have been viciously smeared and forced to endure more than 20 months without pay. But the FBI can hold those who perpetrated it accountable. And Congress can turn it into something meaningful by using it as the impetus to finally change these laws that should have been changed a long time ago.

Thank you.

⁷ *Parkinson v. Department of Justice*, MSPB Docket No. SF-0752-13-0032-X-1, Show Cause Order (Sept. 5, 2024), https://www.mspb.gov/decisions/nonprecedential/Parkinson_John_C_SF-0752-13-0032-X-1_Show%20Cause%20Order.pdf.

Chair JORDAN. Thank you, Mr. Leavitt. Mr. Allen, you are recognized for five minutes.

STATEMENT OF MARCUS ALLEN

Mr. ALLEN. Thank you, Mr. Chair and the Members of the Committee, for the invitation to testify today. My name is Marcus Allen. I'm here to speak with the Committee about how the FBI weaponized the security clearance process to retaliate against me for protected whistleblower activity.

In late 2021, I raised concerns about the FBI Director's testimony about the January 6th Capitol riot, not out of political motivation, but out of a duty to truth and integrity. This act, which I believe to be in the spirit of transparency and accountability, led to unexpected and severe consequences.

Almost exactly three years ago today, I forwarded news articles to my superiors and others within the FBI about January 6th. It was literally one of my job duties to keep my colleagues informed about open source intelligence related to their cases.

As a result of simply doing my job, the FBI accused me of promoting conspiratorial views and unreliable information. The FBI questioned my allegiance to the United States, suspended my security clearance, suspended my pay, and refused to allow me to obtain outside employment or even accept charity.

This once storied institution whose initials, ironically, stand for fidelity, bravery, and integrity, was punishing me for bravely challenging their integrity, while they questioned my fidelity.

The suspension, ultimately, lasted for 27 months. During that time, the FBI held my family and me in indefinite limbo, awaiting a final decision. Determined to not lose our home, my wife and I took early withdrawals from our retirement accounts to survive.

It became clear that the FBI with endless resources, the American people's money, was trying to destroy me financially, so that I would give up. This is a fear of countless potential whistleblowers who see the personal cost of integrity.

There are no words strong enough to describe the impact the FBI's lies about me have had on me and my family. The stress has taken a toll on our health and our children have suffered, traumatized by the thought of our door getting kicked in or dad not coming home. The battle for truth and justice will cost you, but the arduous good is worth it.

The FBI's restoration of my clearance earlier this year, thanks to the efforts of Empower Oversight, and the American Center for Law and Justice, was absolute vindication. It's a point I would not have reached without the prior help of Bigley Ranish and Judicial Watch.

However, the experience is also a stark reminder of the system's flaws. It took legal battles, public scrutiny, and patience over three long years.

No other FBI whistleblower has ever had his clearance restored as I did. Garret O'Boyle and his family are still suffering in the same limbo we were with no access to due process and no limit on the FBI's ability to delay and avoid independent accountability. How many other whistleblowers remain silent, fearing the same ordeal my family and Garret's family faced with little hope of vindication at the end?

Despite the stress and uncertainty, I've never once regretted standing up for truth. In fact, I'm grateful for the experience. Indeed, my family and I persevered due to our strength and faith, God's grace, and the sacraments.

If you do not worship God, then you will worship something else. You can either serve God or you can serve mammon, but you can't serve both. This has been a purification. While we lost material items, we gained more important things. We've stored up for ourselves treasures in heaven. What we have gained spiritually has far outweighed what was lost materially.

John Adams noted that the framework of our country was built for a moral, religious people, and unfit for the governance of any other. James Madison notes the duty to honor God is precedent, both in order of time and degree of obligation to the claims of civil society. Before any man can be considered as a member of civil society, he must be considered as a "subject of the Governor of the universe."

I recently learned about comments made by Mr. Jeffrey Veltri suggesting I was delusional for believing in and seeking guidance from the Holy Spirit. Mr. Veltri currently serves as Special Agent in Charge of the Miami field office, but at the time he was an executive at Security Division, overseeing security clearance decisions. To Mr. Veltri, I say, "You can insult me, but you should not mock God." It is an insult to the infinite dignity of God, who is Father, Son, and Holy Spirit, and is bad for the health of your soul.

This isn't about me. It's bigger. I am hopeful that the truth of what happened will be fully revealed and deter the FBI from doing the same injustice to others.

Though the path may be difficult, I must plead with other employees who have witnessed wrongdoing that they find the courage to speak up. You're not alone, nor will you ever be. Psalm 139 says, "Where can I go from your Spirit? Where can I flee from your presence?"

I've been blessed to be supported by God's sanctifying grace, the blessed sacrament, men and women of goodwill, other whistleblowers, the charity of the American people, prayers, and great attorneys along the way like Tristan and Jason of Empower Oversight.

Potential whistleblowers: Please do not be silenced by the FBI's mistreatment. We are all here to support you if you choose to come forward. "The only thing necessary for the triumph of evil is for good men to do nothing." Equally important is the awareness and involvement of the American people. This is your country.

While I feel vindicated now in getting back my security clearance, it is sad that in the country for which I fought as a Marine, the FBI was allowed to lie about my loyalty to the United States for three years. Unless there is accountability, it will keep happening to others. Better oversight and changes to the security clearance laws are key to stopping the abuses suffered by whistleblowers like me.

Thank you for the opportunity to be here today. Peace and all good.

[The prepared statement of Mr. Allen follows:]

Testimony of Marcus Allen

Thank you, Mr. Chairman and members of the committee for the invitation to testify today. My name is Marcus Allen. I am here to speak with the committee about how the FBI weaponized the security clearance process to retaliate against me for protected whistleblower activity.

In late 2021, I raised concerns about the FBI Director's testimony about the January 6th Capitol riot, not out of political motivation, but out of a duty to truth and integrity. This act, which I believed to be in the spirit of transparency and accountability, led to an unexpected and severe consequences.

Almost exactly three years ago today, I forwarded news articles to my superiors and others within the FBI about January 6th. It was literally one of my job duties to keep my colleagues informed about open-source intelligence related to their cases. As a result simply doing my job, the FBI accused me of promoting "conspiratorial views" and "unreliable information." The FBI questioned my allegiance to the United States, suspended my security clearance, suspended my pay, and refused to allow me to obtain outside employment or even accept charity.

The suspension ultimately lasted for 27 months. During that time, the FBI held my family and me in indefinite limbo awaiting a final decision. Imagine the daily uncertainty about providing for your family, the emotional toll of explaining to your children why their father can't work, or the stress of wondering how you'll cover medical bills or keep a roof over your heads.

Determined to not lose our home, my wife and I took early withdrawals from our retirement accounts to survive. It became clear that the FBI, with endless resources, was trying to destroy me financially so that I would give up. These fears are not just mine but are shared by countless potential whistleblowers who see the personal cost of integrity.

There are no words strong enough to describe the impact the FBI's lies about me have had on me and my family. The stress has taken a toll on our health, and our children have suffered. Our savings and retirement accounts are decimated and my career as an intelligence professional is forever tarnished.

The FBI's restoration of my clearance earlier this year—thanks to the efforts of Empower Oversight and the ACLJ—was absolute vindication. It's a point I would not have reached without the prior aid of Bigley Ranish and Judicial Watch. However, the experience is also a stark reminder of the system's flaws. It took legal battles, public scrutiny, and too much time.

No other FBI whistleblower has ever had his clearance restored as I did. Garret O'Boyle and his family are still suffering in the same limbo we were—with no access to due process and no limit on the FBI's ability to delay and avoid independent accountability. How many other whistleblowers remain silent, fearing the same ordeal my family and Garret's family faced with little hope of vindication at the end?

Despite the stress and uncertainty, I have never once regretted standing up for truth. In fact, I am actually grateful for the experience. If you do not worship God, then you will worship something else. You can either serve God or you can serve mammon, but you cannot serve both.

While we lost material items, we gained more important things. We have stored up for ourselves treasures in heaven, where moths and vermin do not destroy and where thieves do not break in and steal. (Matthew 6:20). Our faith has increased, and we have seen the hand of God move in our lives in unexpected ways. What we have gained has far outweighed what was lost.

John Adams noted that the framework of our country was built for a moral and religious people and unfit for the governance of any other. James Madison notes the duty to honor God is precedent both in order of time and degree of obligation to the claims of civil society. Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the universe.

I recently learned about comments made by Mr. Jeffrey Veltri suggesting I was delusional for believing in and seeking guidance from the Holy Spirit. Mr. Veltri currently serves as Special Agent in Charge of the Miami field office, but at the time he was an executive at Security Division, overseeing security clearance decisions. I'd like to address Mr. Veltri. Sir, you may disparage and insult me if you wish, but you should not mock God. It is an insult to the infinite dignity of God Who is Father, Son, and Holy Spirit and bad for the health of your soul (Matthew 12:31).

But this is not about me. It's much bigger than that. I am hopeful the truth of what happened will be fully revealed and deter the FBI from doing the same injustice to others.

While I would not wish this harm on anyone else, I must plead with other employees who have witnessed wrongdoing that they find courage to speak up. You are not alone, nor will you ever be. "Where can I go from your Spirit? Where can I flee from your presence?" (Psalms 139:5-7) I have been blessed to be supported by God's grace, men and women of goodwill, other whistleblowers, the charity of the American people, many prayers, and great attorneys along the way, such as Tristan Leavitt and Jason Foster of Empower Oversight.

Potential whistleblowers: please do not be silenced by the FBI's mistreatment. We are all here to support you if you choose to come forward. "The only thing necessary for the triumph of evil is for good men to do nothing." Equally important is the awareness and involvement of the American people.

While I feel vindicated now in getting back my security clearance, it is sad that in the country for which I fought as a Marine, the FBI, my employer, was allowed to lie about my loyalty to the United States for three years. Unless there is accountability, it will keep happening to others. Better oversight and changes to security clearance laws are key to stopping the abuses suffered by whistleblowers like me. Thank you for the opportunity to be here today.

Chair JORDAN. Thank you, Mr. Allen, and God bless.
Mr. Kirschner, you are recognized for five minutes.

STATEMENT OF GLENN KIRSCHNER

Mr. KIRSCHNER. Thank you Chair Jordan, Ranking Member Plaskett, and the Members of the Committee, good morning.

My name is Glenn Kirschner, and for 30 years as a Federal prosecutor, I enforced the rule of law without fear or favor and without any political interference in the important prosecutorial decisions I was entrusted to make as a career civil servant and public servant.

The rule of law is one of the single most important ingredients to a healthy democracy. Indeed, the rule of law applied without fear or favor may be second in importance only to a free, full, and unfettered ability of the people to exercise their right to vote.

I served in the Federal Government continuously under every President from Ronald Reagan to Donald Trump. Beginning in the 1980s, I served on active duty with the U.S. Army Judge Advocate General's Corps, first, prosecuting court-martial cases, then handling criminal appeals in all manner of cases, including espionage and death penalty.

After 6½ years as an Army JAG, I left military service and joined the Department of Justice, where I served 24 years as an Assistant United States Attorney for the District of Columbia.

The decisions prosecutors make day-in and day-out—whether to open grand jury investigations, whether to seek indictments, whether to proceed to trial—these decisions and virtually every other prosecutorial decision must be made without any political pressure from anyone. They must be made in an entirely apolitical fashion based exclusively on the facts and the law.

Unfortunately, that is not what Project 2025 has in mind for the United States Department of Justice. When I look at the goals and aspirations of Project 2025, I can't help but evaluate them against the backdrop of what I saw happen to the Department of Justice during the Trump administration.

As we sit here, one of Donald Trump's DOJ officials, Jeffrey Clark, is a criminally indicted RICO coconspirator and codefendant together with Donald Trump for trying to subvert the 2020 Presidential election in the State of Georgia.

I think back to Donald Trump. After being told by his DOJ officials that there was no systemic fraud undermining the results of the 2020 Presidential election, telling those same officials, "Just say the election was corrupt and leave the rest to me and the Republican Congressmen." That's a quote from a Donald Trump Department of Justice official.

Thank goodness there were some DOJ officials who thwarted Donald Trump's efforts in that regard—officials who remained loyal to the Constitution, rather than loyal to a man who was determined to retain the power of the presidency by disregarding the expressed will of the American voters.

These honorable public servants would not exist in a future Trump Administration that implements the rule-of-law-busting principles of Project 2025. I fear that horrific conduct of former President Donald Trump and his corrupt DOJ officials in his first

term will look like a government official fixing a parking ticket for a friend, as compared to what Project 2025 holds in store.

Project 2025's overarching goal for impacting the way DOJ goes about its work is to destroy the independence and apolitical nature of the work done by thousands of honorable, ethical, and dedicated civil servants, who in my experience in 24 years inside the Department of Justice go about their work in an entirely apolitical fashion, and replace them with Trump allies, loyalists, and sycophants. This is a so-called Schedule F approach to weaponizing the Department of Justice.

Quoting from some of the truly despicable language that can be found in Project 2025's pages, DOJ is alleged to be a, quote,

Bloated bureaucracy with a critical core of personnel who are infatuated with the perpetration of a radical liberal agenda and the defeat of perceived political enemies.

I spent 24 years inside DOJ. That characterization is dead wrong and untrue.

As one example of the dangers to law enforcement independence represented by Project 2025, consider this scenario: Once Donald Trump has his loyalists in place in the Department of Justice, if a report of possible voter fraud is referred to DOJ, Donald Trump's officials could screen or evaluate that claim with just one simple question: Does the alleged voter fraud work to the advantage of Republican candidates—so, by extension, to the advantage of Donald Trump? If the fraud benefits Trump, his Project 2025 officials can simply decline to investigate, summarily claiming there's insufficient evidence to open a criminal probe.

If the alleged voter fraud worked to Trump's disadvantage, then the investigation could be initiated, regardless of whether or not the evidence supported that decision. This is simply a variation on the theme: I don't care if there was no voter fraud undermining the elections results; just say there was and leave the rest to me and my loyalists in the Department of Justice.

If Project 2025 is implemented, there will be no need for a corrupt President to recruit DOJ officials to join his criminal endeavor, as the conspiracy will already be in place. Project 2025's determination to extinguish the independence of the Department of Justice looks a lot like a blueprint for autocracy.

I thank you for your invitation to appear today and look forward to your questions.

[The prepared statement of Mr. Kirschner follows:]

Written Testimony of Glenn Kirschner
Hearing Before the House Judiciary Committee
Select Subcommittee on the Weaponization of the Federal
Government
September 25, 2024

Chairman Jordan, Ranking Member Plaskett, and members of the Committee, good morning. My name is Glenn Kirschner and for 30 years as a federal prosecutor I enforced the rule of law and made prosecutorial decisions without fear or favor, and without any political interference in the important prosecutorial decisions I was entrusted to make as a career civil servant and public servant. I want to thank Chairman Jordan and Ranking Member Plaskett for inviting me to appear today.

The rule of law is one of the single most important ingredients to a healthy democracy. Indeed, the rule of law, applied without fear or favor, without improper influence from *outside* law enforcement and prosecutorial circles, and without improper motives *inside* law enforcement and prosecutorial circles, may be second in importance **only** to the free, full, and unfettered ability of the people to exercise their right to vote.

I served in the federal government continuously under every president from Ronald Reagan to Donald Trump. Beginning in the 1980s, I served on active duty with the US Army Judge Advocate General's Corps, first prosecuting court-martial cases then handling criminal appeals in all manner of cases, including espionage and death penalty cases.

After six-and-a-half years as an Army JAG, I left military service and joined the Department of Justice, where I served 24 years as an Assistant United States Attorney for the District of Columbia.

The decisions prosecutors make day in and day out – whether there is sufficient evidence to open a grand jury investigation, whether there is sufficient evidence to ask a grand jury to indict a target of an investigation, whether the evidence provides a “reasonable likelihood of success on the merits” to proceed to trial – these decisions and virtually every other prosecutorial decision must be made without out any political pressure from anyone. They must be made in an entirely apolitical fashion, based *exclusively* on the facts and the law. Unfortunately, that is not what Project 2025 has in mind for the United States Department of Justice.

When I look at the goals and aspirations of Project 2025, I can’t help but evaluate them against the backdrop of what I saw happen to the DOJ during the Trump administration. As we sit here, one of Donald trump’s DOJ officials, Jeffrey Clark, is criminally indicted as a RICO co-conspirator and co-defendant, together with Donald Trump for trying to subvert the 2020 presidential election in the state of Georgia. I think back to Donald Trump – after being told by his DOJ officials that there was no systemic fraud undermining the results of the 2020 presidential election - telling those same DOJ officials, ‘Just say the election was corrupt and leave the rest to me and the Republican congressmen.’

Thank goodness, there were some DOJ officials who thwarted Donald Trump's efforts in that regard – officials who remained loyal to the Constitution rather than loyal to a man determined to retain the power of the presidency by disregarding the expressed will of the American voters. Those honorable public servants would not exist in a future Trump administration that implements the rule-of-law-busting principles of Project 2025.

And I fear that horrific conduct of former president Donald Trump and his corrupt DOJ officials in his first term will look like a government official fixing a parking ticket for a friend as compared to what Project 2025 holds in store.

Project 2025's overarching goal for impacting the way DOJ goes about its work is to destroy the independence and apolitical nature of the work done by thousands of good, honorable, ethical and dedicated civil servants – who, in my experience over 24 years with the DOJ go about their work in an entirely apolitical fashion – and replace them with Trump allies, loyalists, and sycophants. This is the so-called Schedule F approach to corrupting and weaponizing the Department of Justice. Quoting from some of the truly despicable language that can be found in Project 2025's pages: DOJ is alleged to be a “bloated bureaucracy with a critical core of personnel who are infatuated with the perpetuation of a radical liberal agenda and the defeat of perceived political enemies.” I spent 24 years in the DOJ – this characterization is dead wrong and is untrue.

As but one example of the dangers to law enforcement independence represented by Project 2025, consider this scenario: once Donald Trump has his loyalists in place in the

Department of Justice, if a report of possible voter fraud is referred to the DOJ, Donald Trump's officials could screen or evaluate the case with just one simple question: does the alleged voter fraud work to the advantage of Republican candidates (so, by extension, to Donald Trump's advantage)? If the fraud benefits Trump, his Project 2025 officials can simply decline to investigate, summarily claiming there is insufficient evidence to open a criminal probe. But if the alleged voter fraud worked to Trump's disadvantage, then an investigation could be initiated regardless of whether or not the evidence supported that decision. This is simply a variation on the theme: 'I don't care if there was no voter fraud undermining the election results, just say there was and leave the rest to me and my loyalists in the Department of Justice.'

If Project 2025 is implemented, there will be no need for a corrupt president to recruit DOJ officials to join his criminal endeavor, as the conspiracy will already be in place.

Project 2025's determination to extinguish the independence of the Department of Justice looks a lot like a blueprint for dictatorship.

I thank you for your invitation to be here today and I look forward to your questions.

Chair JORDAN. Thank you, Mr. Kirschner.

The gentleman yields back.

We will now proceed under the five-minute rule with questions.

The gentlelady from Wyoming is recognized for five minutes.

Ms. HAGEMAN. Well, in light of that ranting from Mr. Kirschner, and the understanding that he has a long history working in the Department of Justice, I can understand why we're in the mess that we're in.

We now have the details on what the DOJ is required by law to do and its intentional violation of the law and the impact that this has on DOJ employees in the form of the loss of the ability to earn a living and having their lives destroyed.

I want to take a step back and ask the question: Why did they do it? I suppose for the same kind of reasons that Mr. Kirschner was just outlining, because they have some obsession of something that is actually not real.

They also didn't just violate the law for the sake of violating the law. They did so with the explicit intent of targeting a certain class of employees, and in this instance, those they perceived to be conservatives.

One whistleblower stated, quote,

That if an FBI employee for a certain profile is a political conservative, they were viewed as security concerns and unworthy to work to the FBI.

I assume Mr. Kirschner has the same viewpoint.

Mr. Allen, does a person's political beliefs, and most specifically, holding conservative views, disqualify someone from serving in the FBI?

Mr. ALLEN. No, ma'am, they do not.

Ms. HAGEMAN. Well, then, based on your experience as an FBI veteran and target of the DOJ's unlawful acts, why do you think this political purity campaign is ongoing inside the FBI?

Mr. ALLEN. I'm not fully aware of why they are getting rid of people with more conservative views or potentially not wanting people to speak out at this time, ma'am.

Ms. HAGEMAN. Well, then, I think your testimony is that they also are trying to get rid of anyone who holds Christian values and Christian beliefs. Is that your experience as well?

Mr. ALLEN. That is my experience, especially when you see the comments that were leveled against me in the findings during the investigation.

Ms. HAGEMAN. So, we have the gentleman sitting next to you ranting and raving about this Project 2025—I doubt that he really understands anything about it—but ranting and raving about that but doesn't seem to be at all bothered by the fact that you were targeted because you were a conservative and Christian. Do you find that odd?

Mr. ALLEN. I do find it a bit surprising. We shouldn't be targeting groups of people within our organizations because of firmly held belief or any kind of political standpoint.

Ms. HAGEMAN. Mr. Leavitt, beside the violation of whistleblower protection laws, the FBI is also, for example, using First Amendment protected speech and activity which occurs outside of work to punish its employees. Were the officials involved in this unlawful conduct, such as Acting Assistant Section Chief Dena Perkins and

Deputy Assistant Director Jeffrey Veltri punished or in any way held accountable for their violation of employees' First Amendment rights?

Mr. LEAVITT. Not that I'm aware of. I know Ms. Perkins is still in the same position and Mr. Veltri received a promotion to the fifth-largest FBI office in the country, the Miami field office. I do whistle—according to whistleblowers, that promotion was delayed because he was under investigation for whistleblower retaliation, but that wasn't for the targeting of individuals for their First Amendment views.

Ms. HAGEMAN. OK. So, in this administration—and again, while ranting about Project 2025 in this administration—you can actually violate employees' First Amendment rights and get promoted? Is that what your testimony is?

Mr. LEAVITT. I don't know why the FBI didn't look at this closer. Because, again, it's clear that there was a widespread understanding that these were issues being looked at; that these were the considerations.

I know Mr. Horowitz has talked about them, not exclusively only targeting conservatives, but all the individuals that have come to us from these various whistleblowers, there's one counter-example of somebody who wasn't conservative. All the others that we've seen, there was a clear focus on these individuals' vaccination status, their First Amendment views, their political stances, and that seems to have been accepted by leadership of the FBI.

Ms. HAGEMAN. Boy, the FBI has really been weaponized against not only the American public, but its own employees, hasn't it?

Mr. LEAVITT. It's sad. The term "weaponization," obviously, can mean a lot of things to a lot of people, but when you see the direct impact on someone's life like Marcus and his family to go 27 months without pay, as of today, he still has not received the 27 months of back pay that the FBI committed to give him. Similarly, for Garret O'Boyle, the amount of time they've gone—I think 23 months at this point—it truly has ruined their lives.

Mr. KIRSCHNER. Well, what does this actually say about the Department of Justice, FBI, and their interest in actually righting the wrongdoing and the unlawful acts that they've engaged in?

Mr. LEAVITT. It's hard to make those kinds of sweeping conclusions, but I definitely would say that the way that you help keep people—you help them abide by good things by having good laws in place. I firmly believe there need to be stronger laws to help prevent this kind of thing in the future. There has to be changes to protect FBI whistleblowers, no matter what administration or what political party is in power.

Ms. HAGEMAN. Well, and I would agree with that.

Mr. Allen, I'm sorry for what the Federal Government did to you. I think it's an absolute crime against humanity the way that you were treated. I respect your faith; respect your loyalty to this country, and we all recognize that what the FBI did was wrong. Thank you for being here.

With that, I yield back.

Mr. CONNOLLY. Mr. Chair?

Chair JORDAN. The gentlelady yields back.

The gentleman from Virginia is recognized.

Mr. CONNOLLY. I would just ask, Mr. Chair, if we could stick to some decorum and not disparage witnesses or characterize their testimony. They are here as guests of the Committee, and we should treat all of them with respect.

Chair JORDAN. The gentleman from Massachusetts is recognized for five minutes.

Mr. LYNCH. Thank you, Mr. Chair.

Mr. Kirschner, the Project 2025 document which was drafted by six of the former Cabinet Secretaries and about 140 individuals who worked in the Trump Administration, with regard to the FBI, says that the FBI has been “captured by an unaccountable bureaucratic managerial class and radical left ideologues.”

How long were you with the FBI? Your mic.

Mr. KIRSCHNER. I was with the Department of Justice, specifically, the U.S. Attorney’s Office for the District of Columbia just up the street here, for 24 years. I wasn’t with the FBI.

Mr. LYNCH. OK. Are you aware of the close connection between the United States military and the FBI?

Mr. KIRSCHNER. The United States military and the FBI?

Mr. LYNCH. Yes. Well, we’ve got a—yes, there’s a—

Mr. KIRSCHNER. I’m sorry, the “close connection” meaning?

Mr. LYNCH. Well, there’s a veterans’ preference law, military veterans—

Mr. KIRSCHNER. In hiring?

Mr. LYNCH. In hiring, going to the FBI.

Mr. KIRSCHNER. Sure. I’m generally familiar with that.

Mr. LYNCH. OK. Why don’t I ask, why don’t I ask Mr. Horowitz?

Mr. HOROWITZ, anything in your experience indicate that the FBI has been taken over by, as they say, a radical left ideology?

Mr. HOROWITZ. We haven’t found that, Congressman.

Mr. LYNCH. OK. Mr. Kirschner—

Mr. KIRSCHNER. Yes?

Mr. LYNCH. —going back to Project 2025, the Project 2025 indicates that, to ensure the promotion of the President’s agenda the FBI should “Ensure the assignment of sufficient political appointees throughout the Department,” and throughout DOJ.

Mr. KIRSCHNER. Representative, you must have read my mind because that’s the very page of Project 2025 I just opened to. It’s, specifically, page 569.

Mr. LYNCH. Let’s talk about that then.

Mr. KIRSCHNER. Please.

Mr. LYNCH. OK. So, right now, Mr. Horowitz, we don’t allow political appointees within the FBI, is that correct?

Mr. HOROWITZ. That, correct, other than the Director who’s confirmed by the Senate.

Mr. LYNCH. Right, at the top. That’s correct, right. I’ll come back to you on that.

So, this Project 2025 indicates that they’re going to ensure the assignment of sufficient political appointees through the Department. Not simply replicating what was done under previous administrations and reflected in the Plum Book, this is right from Project 2025.

The number of appointees serving throughout the Department in prior administrations, particularly during the Trump Administration, has not been

sufficient, either to stop bad things from happening through proper management or to promote the President's agenda.

Let's talk about that.

What would the impact be if we, all of a sudden, just allowed the President to start putting political hacks, people who were his henchmen, into the FBI to pursue his agenda?

Mr. KIRSCHNER. If you populate the upper echelon of these agencies with political appointees who have to pledge loyalty to the President, and the very language you cited, "Ensure the assignment of sufficient political appointees throughout department" to do what? "To stop bad things from happening." That's a quote. Who decides what bad things are? "And to promote the President's agenda." There's nothing there about "and to make sure you're making decisions based on facts and law, without fear of favor." This sounds to me to be the exact opposite of what we want our civil servants and our appointees to be doing.

Mr. LYNCH. Thank you.

Back to Inspector General Horowitz, thank you for your good work.

Can you talk about what the implications would be if the next administration were to allow, ought to inject political appointees throughout the FBI organization and throughout the Department of Justice?

Mr. HOROWITZ. Well, I'll speak generally to why Congress has in the past—

Mr. LYNCH. Please.

Mr. HOROWITZ. —had only the FBI Director been the only political appointee and that person has to go through the Senate confirmation process.

Obviously, we want our law enforcement—whether it's Federal, State, or local, to be people who may have—I've testified about this before—wide-ranging views. There is no problem with our law enforcement having deeply held political views. In fact, for most of us, we would want our law enforcement officers to be engaged with their communities and understand their communities and be participants in it.

We shouldn't, certainly wouldn't want them to effectuate the use of our laws to advance a political cause or an ideology. Frankly, through our work, through my tenure as IG, my predecessor's tenure as IG, as we all know, there have been times when the FBI has strayed both ways.

You could talk about Dr. King and the illegal wiretapping that occurred with him. We saw it in work we've done, obviously, more recently. We have done investigations involving the FBI's looking into, back in 2004, both the Democratic and the Republican convention, issues around those.

So, we've seen this over the years. It's very important to have hearings and have Congressional oversight and effective internal reviews, like we do, to ensure that law enforcement operates in an unbiased way and not based on ideology.

Mr. LYNCH. The injection of political appointees, would that help the cause of a more judicious FBI and Department of Justice?

Mr. HOROWITZ. Well, it certainly would create risks of that, Congressman, and I'm assuming that's why Congress over the years

has not authorized the Department or Federal law enforcement to have more political appointees in their realm. That's true, by the way, at the Department and the other law enforcement agencies as well. I know we're talking about the FBI, but that's true with DEA and others as well.

Mr. LYNCH. Thanks for your courtesy, Mr. Chair, and I yield back.

Chair JORDAN. The gentleman yields back.

Mr. Allen, September 29, 2021, you sent an email questioning Director Wray's testimony in front of Congress. You said in that email, "There is good possibility the D.C. elements of our organization are not being forthright about the events of January 6th." Do you remember that email?

Mr. ALLEN. Yes, sir.

Chair JORDAN. You didn't send that to anyone; you sent that to the people you're supposed to send it to, members of the Joint Terrorism Task Force, is that right?

Mr. ALLEN. That's correct.

Chair JORDAN. Now, the very next day I find to be interesting. On September 30, 2021, the next day, it just so happened your 5-year reauthorization for your security clearance came due and they said, no problem, Mr. Allen should keep his security clearance; after all, he's had it for 20 years. Right?

Mr. ALLEN. Yes.

Chair JORDAN. That happened the next day?

Mr. ALLEN. Correct, sir.

Chair JORDAN. A decorated Marine veteran, Employee of the Year at the Charlotte field office, had a security clearance for 20 years. They reauthorized your security clearance.

Something else happened that next day. Your email got forwarded to the Security Division and to Mr. Veltri, is that right?

Mr. ALLEN. That's correct.

Chair JORDAN. Then, 19 days later, Mr. Veltri opened an investigation into your security clearance status.

Did I get all those facts right, Mr. Leavitt? Is that what happened with Marcus in those two days, and then, 19 days later?

Mr. LEAVITT. Yes, except for we—it's, from what we can tell, Veltri directed that day that it be opened. It's just that the underlings under him didn't carry that out until 19 days later.

Chair JORDAN. Yes. He directed they look into a guy, a decorated Marine veteran, held a security clearance for 20—they look into him because Mr. Allen said there's a chance the FBI leadership hasn't been square with us. Right?

Mr. LEAVITT. That's correct.

Chair JORDAN. He cited *The New York Times* article; they thought the same thing. Oh, by the way, there's the history that we all know about. The FBI spied on the President's campaign, lied to the FISA Court, investigated parents at school board meetings; and said, "if you're a pro-life Catholic, you're an extremist." So, we got all that history, and he gets investigated for that, because he simply questioned the leadership. He went through the appropriate channels.

Mr. Horowitz, did Mr. Veltri and the people at the Security Division follow the standard process?

Mr. HOROWITZ. They did not.

Chair JORDAN. They did not. In fact, isn't it true that, Mr. Leavitt, some of the people—I think you cited four of them in your statement. Four people—the initial investigator, the second investigator, the first adjudicator, and another adjudicator—all got reassigned. They all agreed that Mr. Allen should keep his security clearance; this investigation shouldn't have happened. They get reassigned or something happens to them?

Mr. LEAVITT. Four of them, all did not recommend that there be a negative action on it. Two of them were reassigned.

Chair JORDAN. Two were reassigned. Some of them are whistleblowers now, right?

Mr. LEAVITT. Yes, absolutely.

Chair JORDAN. Man, if that's not political, I don't know what is.

Oh, and they didn't stop there. They piled on. They also said that Mr. Allen, he questioned whether he should get the vaccine or not. They came after him for that, is that right, Mr. Leavitt?

Mr. LEAVITT. Yes.

Chair JORDAN. Then, they went after his faith, a direct attack on the First Amendment. Because he's a Christian; because he's a Catholic; because he takes his faith seriously, oh, my goodness, we've got to take his security clearance away from him, even though he served our country, a decorated Marine, and held a security clearance for 20 years. That sure looks political to me, Inspector General Horowitz. Does it look political to you?

Mr. HOROWITZ. Well, Congressman, as I said earlier, we've seen issues with the FBI and how it's treated whistleblowers, frankly, across the spectrum. I agree with you it's very concerning that would be done here, but—

Chair JORDAN. Well, we know they're political because, while all this is going on, they used the questionnaire, isn't that right, Mr. Leavitt? Isn't that right, they used this questionnaire? To people they wanted to snitch on folks like Marcus Allen, they gave them a questionnaire?

Mr. LEAVITT. Those were used in the case of a handful of employees, and I know that Mr. Horowitz' office is looking at that. I think it is important to note that the questionnaire wasn't the only thing, right, that these questions were asked across—

Chair JORDAN. I understand that. I am talking about the way they piled on to go after Mr. Allen—

Mr. LEAVITT. Yes.

Chair JORDAN. —and keep his security clearance and keep his pay from him for 27 months. They did the same thing to Garret O'Boyle. What that has meant—as you indicated in your testimony, what that has meant to his family and Mr. O'Boyle's family. This questionnaire said did anyone ever vocalize support for President Trump? All right. You are allowed to say things about the President of the United States when you work in the FBI, aren't you, Mr. Horowitz?

Mr. HOROWITZ. I'm sorry?

Chair JORDAN. You are allowed to say you support a President? You are allowed to say that in the FBI?

Mr. HOROWITZ. Absolutely.

Chair JORDAN. Yes.

Mr. HOROWITZ. Those questions are highly inappropriate.

Chair JORDAN. You are allowed to decide what kind of health decisions you are going to make with your own body, right?

Mr. HOROWITZ. Correct.

Chair JORDAN. Those shouldn't be grounds for saying you are somehow disloyal to the country. That is what they did. Highly inappropriate questions being asked of witnesses during security clearance investigations. That is your testimony, right, Mr. Horowitz?

Mr. HOROWITZ. That's correct.

Chair JORDAN. He got reinstated just recently.

You got reinstated, right, Marcus?

Mr. ALLEN. Yes, sir.

Chair JORDAN. Why haven't they give you your money?

Mr. ALLEN. I am not aware of why it's taking them four months to cut a check for all the back pay. I have no idea why it's taking that long.

Chair JORDAN. They put you through pure heck, pure hell for 27 months, falsely accused you. They go through the process. Four people get reassigned because they agree with you, but the politics of Mr. Veltri, who, oh, by the way, as Mr. Leavitt pointed out, is now running the second assassination investigation on President Trump in Miami. I find that just astonishing. They won't pay you.

Mr. ALLEN. Right. We're still waiting for the pay out now.

Chair JORDAN. When was the final agreement? When was the final settlement with the FBI? What was the date, Mr. Leavitt?

Mr. LEAVITT. June 1st.

Chair JORDAN. Well, they have had time. Doesn't take that long to write a check, for goodness sake. So, he is still waiting. That is how our FBI treats a good man who has served our country for 20-plus years. It is ridiculous. Yet, the Democrats say there is no weaponization. You got to be kidding me.

My time is expired. I now recognize the gentlelady from California.

Ms. SANCHEZ. So, you want to talk about weaponization of the Department of Justice? Let's talk about it. Because sadly for Republicans weaponization tends to be in the eye of the beholder, the delight in talking about false allegations of politicized attacks on Republicans. I want to talk about the real weaponization, the one that would come from a second Trump-led Department of Justice.

We are already watching in horror as women across the country lose their autonomy, their dignity, and even their lives, because of draconian abortion bans in dozens of States which Trump delights in his—he brags about choosing the Supreme Court Justices that overturned *Roe v. Wade*. If we get into a second Trump presidency, the weaponization we are witnessing will be orchestrated by the DOJ at Trump's demand.

Trump's Project 2025 mandate for leadership calls for some of the most restrictive abortion and healthcare bans imaginable. In short, it lays out the path to eradicate reproductive healthcare and women's privacy. It calls for the CDC and HHS to closely monitor and report on individual women's health and abortions, keeping track of when women travel across State lines to seek reproductive healthcare and at what stage of their pregnancy they are in when

they do. Alarming it calls for the DOJ to criminally punish abortion providers who distribute abortion medication through the mail.

Mr. Kirschner, one of the proposals I mentioned is for the CDC to track women's movements to access abortions across State lines. The mandate also calls for the President to be able to direct the investigations and litigation by the FBI and the DOJ. So, hypothetically, even though that CDC-related part of the proposal didn't mention DOJ prosecutions, there are risks that a far-right government outlined in Trump's Project 2025, collecting that data, could weaponize it against the women seeking healthcare in a criminal context. Is that correct?

Mr. KIRSCHNER. It is.

Ms. SANCHEZ. So, in other words, it would be possible to take CDC data about women who have sought abortions and direct the DOJ and the FBI to target those individuals. Is that correct?

Mr. KIRSCHNER. It is, yes. Tracking women who are pregnant—horribly reminiscent of tracking and hunting animals. It really endangers—

Ms. SANCHEZ. Like stalking?

Mr. KIRSCHNER. It endangers people.

Ms. SANCHEZ. It is like stalking. Let's be honest. Tracking the movements of women. The mandate also calls for the enforcement of restrictions on DOJ grants to comply with conservative ideology such as prohibiting sanctuary cities from receiving Federal funding. Would it be possible then that DOJ grants could be conditioned on jurisdictions limiting abortion or other healthcare access?

Mr. KIRSCHNER. Under Project 2025 it seems like the sky is the limit.

Ms. SANCHEZ. Thank you. These extreme restrictions are far from the only alarming agenda points in Trump's Project 2025. The document also calls for dismantling the Department of Education which Former President Trump claimed he would do during a rally in Pennsylvania just this week. It calls for allowing businesses to discriminate against protected classes. It calls for reversal of the LGBTQ+ equity focus of the Biden Administration. If any of these proposals were to be challenged in a court, Trump's corrupt Justice Department, led by loyalists, would defend these awful provisions.

Mr. Kirschner, if any of these offensive proposals are challenged, they will be defended by the Department of Justice. What could be the result if the DOJ is more loyal to President Trump than to the Constitution?

Mr. KIRSCHNER. They could decline to take up challenges or they could decide to take up challenges not based on the rule of law, not based on what is right for the American people, but based on the whims and preferences of a President.

Ms. SANCHEZ. Mr. Horowitz, my final question is for you. Would we want agents at the FBI or any other government agency who would be seeking to promote any cause that might conflict with the Constitution, whether that be religious or ideological or loyalty to an individual rather than the Constitution?

Mr. HOROWITZ. We would not. We swear our employees in with an oath to abide by the Constitution, the laws of this country.

Ms. SANCHEZ. So, does it seem like a great idea to scrap our complete civil service and pack every Federal agency with people that

are loyal more to an individual than to the Constitution, or more to religious ideology, or more to some other kind of ideology?

Mr. HOROWITZ. I think over the years Congress has found where the appropriate balance is between having noncareer officials and political appointees leading agencies on policy issues and having a career civil service.

Ms. SANCHEZ. Thank you.

Mr. ISSA. The gentlelady's time is expired.

Ms. SANCHEZ. I yield back the balance of my time.

Mr. ISSA. The gentleman from Florida is recognized for five minutes.

Mr. GAETZ. President Trump has never read Project 2025, much less adopted it, unlike the viewpoint adopted by the sitting Vice President, which is that we should have taxpayer-funded sex change operations for illegal aliens in prison. I try to be a little open-minded when I hear a provocative argument and I just sort of wonder when would I be in favor of taxpayer-funded sex change operations for the illegal aliens? Maybe, if it was mandatory, maybe if it wasn't optional but mandatory, it would be a pretty substantial deterrent at the border.

To the matter at hand. Mr. Allen, it is good to see you again. You came last year, and you told us about these terrible things the Department of Justice was doing to you, and you have testified today you still don't think the Department of Justice has treated whistleblowers like yourself and others fairly. Is that your testimony?

Mr. ALLEN. That's correct. The treatment is unfair.

Mr. GAETZ. Do you agree with that assessment, Mr. Horowitz?

Mr. HOROWITZ. As I said in my testimony, Congressman, I think putting someone like Mr. Allen on unpaid leave for 20-plus—for two-years is unfair while you are trying to adjudicate.

Mr. GAETZ. OK. Yes. No, I get that.

Mr. HOROWITZ. There needs to be a process here that happens promptly.

Mr. GAETZ. Well, the process was to punish these people and to make an example of them. That is obvious to everyone. They saw improper actions at the FBI and DOJ. They blew the whistle on it. Then the process was the punishment. It was the point. I think that is how Mr. Allen feels. Is it?

Mr. ALLEN. Correct. The process in this instance definitely felt like the punishment.

Mr. GAETZ. Right. Yes, so they have done it to you; they have done to others. Mr. Horowitz says it shouldn't have been done. So, now I want to be a little reflective about this with Congress.

Mr. Allen, you have seen since you have given us this testimony us continue to pass continuing resolutions that put no consequence on the DOJ or the FBI for what they have done to you and your colleagues. Do you think Congress has appropriately protected whistleblowers?

Mr. ALLEN. I do not, Congressman, and I think the policy recommendations can be put forward that there can be bipartisan support to protect whistleblowers going forward in the future.

Mr. GAETZ. Absolutely. I mean this in no way as a partisan critique. Matter of fact, it is a bipartisan critique that we all own.

Mr. ALLEN. Yes.

Mr. GAETZ. Because we see the evidence that you get mistreated. We hear from the experts like Mr. Horowitz that this is totally off-book. It is obvious to anyone with a brain they are doing it to hurt you, and to make an example out of you. What do we do? We just sign the check, and we just send it over.

We should put in any continuing resolution that until you get paid and until the rest of the whistleblowers get their back pay maybe the FBI Director doesn't get his paycheck. Maybe the Attorney General shouldn't get his paycheck. Maybe the FBI Director shouldn't get the use of the private jet that he likes to fly around the country on so much. They enjoy all the accoutrements of their position, and you end up screwed. We are OK with it apparently.

Any Member votes for these continuing resolutions is voting to perpetuate the punishment that has been instituted on the whistleblowers. While we want to talk about the weaponization of the Justice Department, rightfully so, we write the check for it, and we underwrite the debt for it. It sickening to me.

Mr. Horowitz, I have got a few questions for you since we got you here. Now, the CIGIE is the Council of the Inspectors General on Integrity and Efficiency, right?

Mr. HOROWITZ. That's right.

Mr. GAETZ. You are the past Chair?

Mr. HOROWITZ. I was the Chair from 2015–2020.

Mr. GAETZ. Does it have any binding legal authority?

Mr. HOROWITZ. In terms—I mean it was created by Congress as an agency.

Mr. GAETZ. Yes, but does it have like legal authority to issue subpoenas that it can compel?

Mr. HOROWITZ. It has not been given subpoena authority.

Mr. GAETZ. OK. So, what I wonder is where this group CIGIE—

Mr. HOROWITZ. Yes.

Mr. GAETZ. —I will just call it the Integrity Committee—what happens when they start interfering in the work of IGs to expose corruption? Who adjudicates that?

Mr. HOROWITZ. So, Congress actually created the Integrity Committee again back in 2008 and gave it's authorities. The Integrity Committee puts forth a set of policies and procedures. It's required to provide them to Congress. That's the mechanism—

Mr. GAETZ. Yes, but in a State of conflict, right, where you have got an IG. You are working to expose corruption and then you have got the CIGIE hassling the IG. Who resolves that?

Mr. HOROWITZ. Well—

Mr. GAETZ. Because in the CIGIE is the head of it, is not like confirmed by the Senate, but IGs are confirmed by the Senate.

Mr. HOROWITZ. Yes, and it probably in part depends on—there are two types of IGs. There's Presidentially nominated and Senate-confirmed IGs. There's agency IGs. For Presidentially nominated and Senate-confirmed IGs ultimately it's up to the President to decide what it wants because the report goes to the President—

Mr. GAETZ. The Presidential power, not to get into a Constitutional—

Mr. HOROWITZ. Right.

Mr. GAETZ. —regression here, but the Presidential power is vested in the IG, not in this Administrative Committee, right?

Mr. HOROWITZ. That's correct.

Mr. GAETZ. OK. Great. Thank you very much. I yield back.

Mr. ISSA. Thank you. We now go to Mr. Connolly, but would you indulge me to just clarify something?

Mr. CONNOLLY. Certainly.

Mr. ISSA. Inspector Horowitz, you are Senate-confirmed, and you were the head of CIGIE, is that correct?

Mr. HOROWITZ. Correct.

Mr. ISSA. I just wanted to make it clear.

Mr. HOROWITZ. Yes, I was Senate-confirmed for DOJ IG.

Mr. ISSA. Right.

Mr. HOROWITZ. I think the point was that the Chair of CIGIE doesn't have to be Senate-confirmed. I happened to be Senate-confirmed sitting in that position.

Mr. ISSA. Thank you. I just wanted to make that clear.

The gentleman from Virginia is recognized for five minutes.

Mr. CONNOLLY. I thank the Chair.

Mr. Kirschner—and by the way I apologize at least on behalf of this side of the Committee for a disparagement characterizing your testimony. I don't think we should ever do that in a Committee. We don't have to agree.

Mr. KIRSCHNER. Thank you, Representative Connolly. I'm from New Jersey, so I've suffered worse.

Mr. CONNOLLY. Yes, I am from Boston originally. We don't like that.

Mr. Kirschner, Mr. Leavitt's client Garret O'Boyle posted the names and personally identifying information including parts of home addresses for four current or former FBI officials. In August Kyle Seraphin, who has hosted multiple podcasts with Mr. O'Boyle, tweeted, and I quote,

The people who left Garret O'Boyle's family and my family homeless should experience what guys like us are prepared to do to evil.

Mr. Kirschner, you have served in the FBI. What is wrong with identifying FBI officials' partial addresses, hometowns, personal information, and making a threat? You may justify it because you think they are engaged in evil, but that is a direct threat from the way I read it. What could go wrong with that kind of thing and isn't that the kind of threat of violence that I think ought to be examined by a Weaponization Committee as opposed to what we are doing here today? Your view?

Mr. KIRSCHNER. Yes, sir. Thank you. So, I wasn't with the FBI though. I was with the Department of Justice, the U.S. Attorney's Office right up the street there, but I will tell you I worked closely with the FBI, the Washington Field Office directly across the street from my former office. We moved heaven and earth to prevent personal information from getting out about your witnesses, about people we were investigating, so as they—to prevent them from being unfairly perhaps smeared with an investigation that didn't result in an indictment.

I had my fair share of witnesses killed in Washington, DC, because their information got out. They were labeled as snitches. Then, I had to sit with the families of a witness and talk about how very sorry I was for what happened to them because that information got out.

Mr. CONNOLLY. So, while we are bemoaning the alleged mistreatment of certain individuals, including some here today, which may or may not be true, we are escalating it with actual threats that could lead to violence, even death. Is that correct?

Mr. KIRSCHNER. You endanger the lives of folks when you put that kind of information out into the public square.

Mr. CONNOLLY. Certain irony. Certain irony when we are worked about weaponization while meanwhile some of the people we purport to be advocating for are engaged in this kind of activity, threatening FBI agents.

Mr. HOROWITZ, there have been allegations made that the FBI has weaponized security clearance revocations to target and root out conservatives at the bureau. Have you any found any such evidence of a broad pattern of trying to target conservatives and revoking their security clearances?

Mr. HOROWITZ. We have not made such a finding.

Mr. CONNOLLY. Have you made any findings that the FBI security clearance process targets Christians?

Mr. HOROWITZ. We have not made such a finding.

Mr. CONNOLLY. Have you made any findings that the FBI leadership is targeting military veterans?

Mr. HOROWITZ. We've not made such a finding.

Mr. CONNOLLY. Have you made any findings that Jeffrey Veltri, now the special agent in charge of FBI's Miami Field Office, was biased against conservatives?

Mr. HOROWITZ. We haven't made any findings with regard to Mr. Veltri.

Mr. CONNOLLY. Have made any findings that the FBI wrongly revoked the clearance of former Special Agent Garret O'Boyle?

Mr. HOROWITZ. I'm not going to speak about any particular case because we have matters ongoing. So, as I am answering those questions, I'm talking about what we've done as of today.

Mr. CONNOLLY. OK. We will stipulate that, but would it be fair to summarize your answers to the previous questions? You haven't found any pattern of ideological or religious bias by the FBI with respect to those issues, is that correct?

Mr. HOROWITZ. That is correct. What we've found, as I mentioned earlier in our past work, is frankly issues on occasion with the FBI, and frankly other law enforcement agencies in other parts of the Department acting inappropriately with regard to whistleblowers—

Mr. CONNOLLY. That is different than a pattern.

Mr. HOROWITZ. That's different than a pattern.

Mr. CONNOLLY. That is different than a pattern.

Finally, Mr. Kirschner, as a child of the 1960s, I find it almost humorous to hear characterizations of the FBI as this hotbed of liberal, if not leftist ideology. I am going to give you the last word on that. It seems to me the FBI has always been a fairly conservative culture and certainly a right-of-center political bent, if there was one. What is your view?

Mr. KIRSCHNER. Yes, sir. I had a lot of knock-down, drag-out discussions with lots of FBI agents over the course of an investigation whether we should indict, who we should indict, what we should indict, but I never believed any of it was born of politics or their

ideological beliefs or preferences. It never was in my experience. That's why I find this topic a little curious.

Mr. ISSA. The gentleman's time is expired. I will now recognize myself.

Inspector Horowitz, would it be fair to characterize you as one of the institutionalists of the IG, long-serving, and a career that, without patting yourself overly on the back—but, deservedly that has been about promoting the responsible behavior of the IG in the performance of their duty?

Mr. HOROWITZ. Congressman, that's certainly how I viewed myself and my responsibilities through my time here as IG.

Mr. ISSA. Well, that is how this Committee and other Committees of the Congress view you for four years of service and I want to thank you.

This is a difficult hearing because many people perhaps would like to make this not about weaponization. In your many years of experience the personal actions of individuals, for whatever reason, including an unstated bias, leads to bad conduct including H.R. wrongdoing. Is that correct?

Mr. HOROWITZ. That's correct. One of the hardest things—jobs we have is, you know from the work you've worked on, I've worked on, is understanding and figuring out motives.

Mr. ISSA. You often never know the motive. You only know that the action was inconsistent with policy, law, and the like?

Mr. HOROWITZ. We do our—that's correct. We do our best, for example, in the Fast and Furious work, the FISA work, others, to look at as much email, text messages, instant messages, et cetera, to try and understand whether there was evidence of motive or what the evidence of motive was.

Mr. ISSA. So, leaving motive out for a moment, in the case of the way the pulling and withholding of these clearances was done, is that clearly inconsistent with policy, procedures, tradition, and the fair treatment of an employee?

Mr. HOROWITZ. Actually, let me just—it actually was somewhat any ways consistent with the policies, practices, and procedures, which is why I think there are several policy issues that are important to talk about in terms of reforms. I know the submissions here have raised some of them.

Mr. ISSA. So, you are an attorney in addition to other things. The law is not always about fairness.

Mr. HOROWITZ. Unfortunately, that's true.

Mr. ISSA. Would you characterize that this is an example where even if marginally supported by law and regulation it is by no means a fair way to treat somebody?

Mr. HOROWITZ. As I've said, it was consistent with policy to allow someone like Mr. Allen to be out of his job on unpaid leave for more than two years and try and fight that process.

Mr. ISSA. So, not only does Congress need to find a way to prevent these—unfairness, but we also suffer from the fact that this can be done for no reason or for an unknown reason. Is that correct?

Mr. HOROWITZ. That's correct. I think that is some of the key policy issues that are here before all of you, which is Mr. Allen had an ability to challenge this, as limited as it was, because he was

alleging a whistleblower retaliation. He wouldn't have that same opportunity, but for the fact he was alleging retaliation for whistleblowing.

Mr. LEAVITT. Mr. Issa, can I add to that?

Mr. ISSA. Yes, please.

Mr. LEAVITT. Mr. Horowitz is talking about the procedures of protecting, so going through and appealing. It's important to remember that substantively this whole process started because Mr. Allen made a protected disclosure. Several of the things in Mr. Horowitz'—

Mr. ISSA. I want to get to that. Going back to whistleblower retaliation, under the intent of our whistleblower statute we intend to protect a whistleblower normally from all retaliation including any loss of pay. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. ISSA. So, the agency made what would have been a finding of whistleblower on the front end, notwithstanding—whistleblowers don't have to be right; they just have to be whistleblowers. Had they made the finding it was clear, then he would not have lost a day's pay because they would have treated his—the pay in some way as a whistleblower.

Mr. HOROWITZ. Right. As long as they thought he had a reasonable belief in what he said, they should not have taken a personnel action against him.

Mr. ISSA. OK. So, in a little bit of a circular item here—and again, I am staying away from motive for a moment, certainly, the tools were available to not deny him one day of pay. Ultimately, the resolution is some day in the future, not yet, not after four months, he will get made whole in theory in pay, but in fact it never had to be that way and the judgment used in this case is suspect.

Mr. HOROWITZ. Yes, and that is exactly why, Congressman, we put out the management alert we did to point out the fact that you don't need to put someone on unpaid leave while you review an allegation against the person. You can find other opportunities for them, other positions they can continue to work in, even if you think they shouldn't have this clearance.

Mr. ISSA. Thank you. Thanks for making that clear.

We now go to Congresswoman Garcia.

Ms. GARCIA. Thank you, Mr. Chair.

Thank you to all the witnesses. So, once again MAGA Republicans are here talking about something that quite frankly seems to just be made up, and I think I want to just stick to talking to, Mr. Kirschner, because I know you have already talked some about Project 2025. We have talked about several aspects of it, but one thing that has caught my eye, of course, is that Project 2025 is filled with antiimmigrant proposals that will continue to perpetuate cycles of racist policies, unnecessary inhumane detentions of human beings, ineffective, and dangerous border policies.

The project calls to dismantle asylum to militarize our border; that is at page 555, and also to pursue the promulgation of every rule related to immigration that was issued during the Trump Administration; that is at page 568, and to challenge any checks and balances against the President's authority over immigration, page

568. So, once again he want complete authority, and he being Donald Trump.

The project's mandate for leadership takes particular aim at sanctuary cities. One of the things about sanctuary cities that is always mentioned is that victims of crime that happen to be immigrants feel comfortable in being able to complain, or if they are witnesses to a crime.

So, Mr. Kirschner, you have served as a prosecutor for 30 years. I have been a lawyer and a judge. We understand the importance of law and order and holding violent criminals accountable. So, what would be the dangers if this mandate were to go into effect and they would attempt to end sanctuary cities? The bigger question is there is no definition of sanctuary cities. It is all a label that has been used for years. What would this do to the crime rate in some of our cities?

Mr. KIRSCHNER. I think it could potentially increase it. If you deter people from reporting that they have been victims of violent crime for fear of what will happen to them if they report that victimization, all you're doing is creating an enormous class of folk who are going to continue to be victimized. That can grow. Maybe they will then commit crimes themselves because the whole thing begins to operate outside the rule of law. So, those approaches present real challenges and could increase crime when it sounds like it's designed to decrease crime.

Ms. GARCIA. So, instead of getting rid of gangs they are probably creating the formation of more gangs?

Mr. KIRSCHNER. It could. I see also in Project 2025 on page 555, that it recommends that they use active duty military personnel to enforce civilian law, which I remember being taught in Army law school years ago that's a violation of the Posse Comitatus Act. So, none of this seems to be all that well thought out.

Ms. GARCIA. Right. Then, another priority in the mandate's proposal for the Department of Justice—my colleagues, especially Representative Lynch, have already alluded to this. The mandate reads—and I will read it again because it is worth repeating. It is at page 569.

The next conservative administrative must make every effort to obtain the resources to support a vast expansion of the number of appointees in every office and component across the Department especially in the Civil Rights Division, the FBI, and the Executive Office for Immigration Review.

So, just a complete dismantling of those offices. So, in essence this proposes to strip the Department, including the immigration enforcement, of career civil servants who of course would leave probably. If they are concerned about Mr. Allen not having two years of pay, which of course I agree it is concerning—but imagine people who are loyal not to the rule of law, not loyal to the Constitution, have no guidelines because it has all been dismantled, they could probably—anyone that appears before them, they could probably suspend all of them for two years and give them no pay because there would be no rules. Wouldn't you agree?

Mr. KIRSCHNER. Yes, if you have supervisors who are not making decisions based on the rule of law, the facts and the evidence, but political considerations—my supervisors could tell me investigate this crime; don't investigate that crime. If that determination is not

based exclusively on the facts, the law, the victim, and the protection of the community, we're going to get in real trouble.

Ms. GARCIA. So, a case like Mr. Allen's could be multiplied into thousands if there are no rules and no regulation. There wouldn't be an Inspector General to review anything.

Mr. KIRSCHNER. It could be. Let me go on record of saying I support whistleblowers—

Ms. GARCIA. Absolutely.

Mr. KIRSCHNER. —and retaliation against them needs to be stamped out. So, I just—

Ms. GARCIA. Absolutely.

Mr. KIRSCHNER. We have this thing called an adoptive admission. So, when somebody says I believe or don't believe something, I just feel compelled to put on the record what I actually believe.

Ms. GARCIA. Right. Well, thank you.

I yield back, Mr. Chair.

Chair JORDAN. The gentlelady yields back.

The gentleman from Kentucky is recognized.

Mr. MASSIE. I thank the Chair.

Inspector General Horowitz, over the past three years I have questioned FBI Director Wray and Attorney General Merrick Garland about the Federal assets such as confidential human sources that were present on January 6th at the Capitol and they have continuously stonewalled me. We have got no answers whatsoever about this from them.

Now, you announced that you were going to a review of the DOJ response in preparation, mainly preparation I think for January 6th. When did you start that review? When did you announce that review?

Mr. HOROWITZ. We announced it in 2021, but we ended up pausing it because of the ongoing criminal cases, consistent with how we perform our work. We reinitiated it last year, and I am in the process of reviewing a draft of the report.

Mr. MASSIE. So, 3½ years ago it was announced that you would be doing this review, and we still don't have the review, do we?

Mr. HOROWITZ. No. As I said, the reason is we paused the review because of the ongoing criminal work that would—consistent with our practice, we don't interfere with ongoing criminal investigations—

Mr. MASSIE. Now that you have restarted it, do you have evidence of the number of confidential human sources that were operating on the Capitol grounds on January 6th?

Mr. HOROWITZ. Our report will include the information in that regard.

Mr. MASSIE. Can you tell us today how many there were? Were there more than 100?

Mr. HOROWITZ. I am not in a position to say that, both because it is draft form and we have not gone through the classification reviews, and so I need to be careful on what I say.

Mr. MASSIE. So, we are four years in. The reason to do these reports is so we don't make the mistakes, if there were any mistakes, not to make the same mistakes again. We are just weeks away from an inauguration. We are four years, almost four years into this report. When is it going to be released?

Mr. HOROWITZ. It is certainly my hope and expectation, although I don't control this entirely because it has to go through a classification review, but certainly in the next couple of months is my estimate.

Mr. MASSIE. Do you think there is any consideration for the election about the release of this report? Would you delay it in to not release it right before the election?

Mr. HOROWITZ. At this point, given the process that has to play out in terms of classification review and all that, I am not making—I don't have to make any judgment about that. We are still—that is the last to go on. Just to give you a sense of when I did the FISA—

Mr. MASSIE. You are saying it is not even going to be done before the election.

Mr. HOROWITZ. It doesn't—I doubt it would be done in time for the election.

Mr. MASSIE. Is it going to be done before the inauguration?

Mr. HOROWITZ. That is certainly my hope and my plan.

Mr. MASSIE. It is your hope. We are four years into it and what we do know is, you are going to expose that there were confidential human sources at the Capitol. Can you tell us today how many went into the Capitol?

Mr. HOROWITZ. I will have that information in the report. I am not able to speak to information in there, both because it is in draft and we get a response from the Department and the FBI, but also because I don't know yet what is classified and not classified.

Mr. MASSIE. So, if they broke the law, if they went into the Capitol, which we pretty much know there were confidential human sources who went into the Capitol and right there alongside of everybody else, wouldn't they need to follow DOJ CHS protocols? Do you know if those were followed?

Mr. HOROWITZ. They should follow CHS protocols. Again, we will include that information in the report.

Mr. MASSIE. Do you know how many were reimbursed for travel?

Mr. HOROWITZ. As I sit here, I don't recall the numbers.

Mr. MASSIE. You don't recall or you won't tell us?

Mr. HOROWITZ. Well, and if I did know it, I wouldn't be in a position to tell you because we still have to go through—

Mr. MASSIE. We are four years into this. You are supposed to be the organization that goes and gets these answers when the FBI and the DOJ stonewall Congress. I feel like we are four years into this, we are not even going to get this information, you are telling us now, before the election, and maybe not even before the next inauguration. How would we make any corrections, or without that information?

I want to move on to something else. We have got an FBI's failed investigation of the January 6th pipe bomb. Are you looking into that at all?

Mr. HOROWITZ. We have had discussion Congressman, about it. We have followed up, and I can speak to you about that.

Mr. MASSIE. They keep saying it is ongoing investigation, but they have got no leads and no suspects. They have lost information, they have lost evidence or they can't find evidence.

The Secret Service deleted all its texts on January 6th. Steve D'Antuono, the guy in charge of Washington, DC, Field Office says that the cell phone data that could have been used to find the bomber was corrupted.

Now, we just found out, I found out from another Inspector General, and I want to submit this for the record—

Chair JORDAN. Without objection.

Mr. MASSIE. Yes, I asked him do you have the footage, the video footage, does the FBI have the video footage of the DNC on January 6th. He tells me when he asked the FBI for the video footage, they don't even have video footage of the DNC that we know was created on January. It is almost as if they don't want to know.

Can you rule out that there were any confidential human sources involved in the whole pipe bomb thing on January 6th?

Mr. HOROWITZ. I would have to go back, Congressman, and refresh myself on what we have, information we have gathered to date on that. I don't know, as I sit here. I don't recall.

Mr. MASSIE. OK, that would be a huge revelation—

Mr. HOROWITZ. I am happy to come—

Mr. MASSIE. I think we should get that and get it public before the election. I yield back.

Chair JORDAN. The gentleman yields back. I am just struck by the irony, the fact that the very email that they went after Marcus Allen, Mr. Allen, about was on this subject. We are not going to get an answer to it until after the election, potentially after the inauguration. I find the irony astounding.

It is not Mr. Horowitz's fault, it is the folks at the Justice Department who are taking their time with this report. I appreciate the gentleman's question.

Now, yield the gentleman from New York, or California? California. New York, excuse me. I will do whatever Ms. Plaskett says. OK, New York.

Mr. GOLDMAN. Thank you, Mr. Chair.

Here we are again for another hearing about the same topic. I want to say I appreciate the concerns about how the FBI addresses and investigates whistleblowers or retaliates against whistleblowers. We have had a number of hearings on this in this Committee.

Mr. Horowitz, I am glad you are looking into it. That is your job, and that is what you should do.

Let's be real. This is the weaponization of the Federal Government Subcommittee. Whistleblower retaliation is peanuts compared to a future President using the power of his office to imprison his political adversaries simply because they oppose him. That is the ultimate weaponization of the Federal Government.

We don't have to question whether or not Donald Trump will do this in the future because we know how this story plays out. We have seen it, and he has done it in the past.

I want to introduce an article from last Sunday's *The New York Times* entitled, "As President, Trump Demanded Investigations of Foes. He Often Got Them. He has threatened to target his perceived enemies if elected again. A look at his time in the White House shows how readily he could do so."

Let's just go through some of the things that Donald Trump did when he was President the first time. James Comey testified that Trump asked him for a pledge of loyalty and then requested that Comey drop the investigation of former National Security Advisor Michael Flynn. Comey refused; Trump fired him.

Trump also fired Deputy FBI Director Andrew McCabe because he oversaw an investigation that Donald Trump didn't like, just days before McCabe would have earned his full retirement pension. Trump then demanded that the IRS investigate Comey and McCabe, among others.

Well, that is not all. At Trump's direction, the Justice Department dropped its case against former National Security Advisor Flynn, who had pleaded guilty to lying to the FBI.

Mr. Kirschner, in your 30 years of experience, are you aware of any other situation where the Department of Justice withdrew a case after someone, a defendant, had admitted to the conduct under oath in court?

Mr. KIRSCHNER. I am not.

Mr. GOLDMAN. Let's move on. Donald Trump pressured overtly the DOJ to reverse its sentencing recommendation for Roger Stone. After Stone threatened to cooperate against Donald Trump, Trump granted him clemency. John Durham wasted millions of dollars on a baseless and fruitless investigation into the origins of the Russia investigation because Donald Trump demanded it.

It got so bad that Mr. Durham's No. 2 resigned in protest to Durham's plan, pressure by Bill Barr and Donald Trump to publish an interim report on the investigation shortly before the 2020 election in gross violation of DOJ policies.

That is not all. Trump tried to install Jeffery Clark as Attorney General because he acknowledged to the President that he would do his bidding and fraudulently try to help him overturn the election.

This is the one that really, really gets to the nub of this. Mr. Leavitt, we are talking about First Amendment, infringement on First Amendment rights that you are alleging has happened to these FBI agents. You would agree, would you not, that writing a book is protected speech under the First Amendment?

Mr. LEAVITT. Sure.

Mr. GOLDMAN. So, let me just give you a hypothetical scenario. Somebody pleads guilty to a crime, he is sentenced and designated to serve his sentence at home. He is asked by the Department of Justice to sign an agreement saying that he would not write a book. He refuses to do that.

As a result of his refusal, the Department of Justice throws him back into jail in solitary confinement. Is that in your mind the weaponization of the Department of Justice to infringe on First Amendment rights?

Mr. LEAVITT. I am not a First Amendment lawyer, Mr. Goldman.

Mr. KIRSCHNER. Well, you said this is all about a First Amendment infringement.

Mr. LEAVITT. Well, with reference—

Mr. KIRSCHNER. Why are you testifying about that if you are not an expert? The answer, because my time is running out—

Mr. LEAVITT. Because Federal employees have the right to talk about—

Mr. KIRSCHNER. Excuse me, the answer, because my time is running out, is that this actually happened by Donald Trump to Michael Cohen. A judge intervened immediately, reversed the decision because it is a gross violation of the First Amendment. It is a gross abuse of the power of the Department of Justice. Mr. Cohen was let out.

This is who now has complete immunity to do this as much as he wants without the guardrails of Don McGahn or John Kelly to stop him from doing it. This is going to be the danger of the weaponization of the Federal Government.

I yield back.

Chair JORDAN. The gentleman yields back. The gentleman from South Carolina is recognized.

Mr. FRY. Thank you, Mr. Chair.

Mr. Horowitz, your office published an Advisory Memo, 24-067, entitled "The Justice Department's Compliance with Whistleblower Protections for Employees with Security Clearance."

I noted how you found that the DOJ was not in compliance with whistleblower protections for employees with a clearance. Is that correct?

Mr. HOROWITZ. That is correct.

Mr. FRY. What policies exactly did the DOJ fail to follow?

Mr. HOROWITZ. So, the law requires for suspension and revocations of security clearance that the Department have an appeal process allowing after one year of suspension to come to the Inspector General and appeal that process. That was not in place at the time.

Mr. FRY. Does it concern you that the DOJ, that certain DOJ components like the FBI indefinitely suspend employees without pay for the duration of a security investigation and review process?

Mr. HOROWITZ. It does, which is one of the issues we also raised in that management memo.

Mr. FRY. What is the length, the average length of time for one of those investigations?

Mr. HOROWITZ. So, we found in the report, for the 106 employees that we looked at over a five-year period who had been suspended for more than six months, that the average was 527 days. So about 17½ months.

Mr. FRY. So, about a 1½ years, right?

Mr. HOROWITZ. For 1½ years.

Mr. FRY. So, in your work, have you seen similar delays or similar lengths of time in other agencies?

Mr. HOROWITZ. We have within the Department in other components, law enforcement components.

Mr. FRY. What concerns me too, at least with the pay issue, the DOJ's and the FBI's current policy forces employees to remain in an indefinite State of limbo without pay, right.

Mr. HOROWITZ. That is exactly right, and that is the concern, Congressman, that goes actually beyond whistleblowers. Mr. Allen ultimately was able to resolve, get a settlement because he was a whistleblower alleging retaliation. That same issue applies to peo-

ple who don't have a whistleblower claim but have nonetheless had their security clearance pulled.

Mr. FRY. I just think it is remarkable to me just to hear Mr. Allen's testimony earlier about what he and his family went through, pulling out retirement and life savings, things like that just to stay afloat. Fortunately for him, he was able to settle. He might be the exception and not the rule, is that fair to say?

Mr. HOROWITZ. That is correct. Many people we have seen have resigned or retired rather than wait two-plus years.

Mr. LEAVITT. Can I add one clarification on the settlement? It was not because of his whistleblower claim, or the settlement is related to that, but the restoration of his security clearance was because of just an appeal of the revocation. So, that was not tied to the whistleblower claim or to the settlement for the back pay.

The FBI explicitly said we are not giving you back this clearance just because there is some settlement. They made an independent security determination, and they determined he was entitled to it.

Mr. FRY. Furthermore, the memo found that DOJ policy doesn't hold that the leave requirement, to the extent practical, permits an individual to retain their employment status while their security clearance is in review. Is that correct?

Mr. HOROWITZ. That is correct.

Mr. FRY. Does the DOJ's failure to follow this policy concern you?

Mr. HOROWITZ. It does, which is what led us to issue the management alert. The Department did respond and has since changed its policies so that there is that one-year appeal.

The other thing that they have done, which is not required currently, but is certainly something that I think Congress should consider, is requiring components, the Department law enforcement components, in particular, to consider whether there are paid jobs people can be in without the clearances, even if a clearance suspension is warranted.

So, that you don't have this situation where someone gets put out on unpaid leave, or paid leave not working either. Which has been another problem, by the way, at the Department over the years, is putting people on paid leave for extended periods of time so they are getting a paycheck without having to work.

Mr. FRY. Based on your office's findings, do you think that the senior leadership within the DOJ or the FBI were aware that their policies did not follow Federal legal standards?

Mr. HOROWITZ. I actually, my sense is they were not aware. Because when we started this process and went to them, they did not seem to know about this issue. Weren't aware that their policy fell short on that issue, I should say.

Mr. FRY. Your office made four recommendations to the DOJ to address the concerns cited in your memo:

- (1) What were those for the record?
- (2) To your knowledge, what steps has the DOJ taken to implement those recommendations?

Mr. HOROWITZ. So, the four recommendations were:

- (1) To make sure there was this one-year appeal process.
- (2) To notify employees of their right to this process, because obviously you can have a process, but you shouldn't have to

have an employee rummage through a lot of policies to find it.

- (3) When there is a suspension, look to see if there are positions they can go into where they can continue to maintain their position while performing work, even without the suspension if that is the plan.
- (4) Put in place a review to make sure that these being done timely.

So, because you don't want a situation either where if they can find another job with a security clearance suspension hold, that they somehow indefinitely stay in that other job.

You want them to have that resolved. If they shouldn't be in the job, they should leave, right. If it was an unfair suspension, they should be put back to their old job.

Mr. FRY. Have they taken those recommendations?

Mr. HOROWITZ. They have. Very importantly, is the requirement that they report regularly to the Department leadership as to why that hasn't occurred in a timely way.

Mr. FRY. Thank you, Mr. Chair, I yield back.

Chair JORDAN. The gentleman yields back. The gentleman from California is recognized.

Mr. GARAMENDI. Thank you, Mr. Chair. For the witnesses, thank you for your testimony.

I am going to take this in a slightly different direction. Most of the focus has been on the Department of Justice, as is appropriate. Most of this is history. My concern is tomorrow. My concern is what might be in our future.

Project 2025 is a roadmap that the Republican Administration may use should Trump win the election. In Project 2025, there are many things to be concerned about, most of which happen to do with the weaponization of the government, the whole of government, to carry out an agenda.

I want to focus on one part of Project 2025, which really hasn't been discussed much, but really should be paid attention to. That is the redesign of our national security apparatus, putting all senior military officers and career intelligence officers through a loyalty test and what that might mean for our Nation should that come to pass.

Now, we can debate whether it would come to pass or not. The election will have something to do with that, but also the willingness or the unwillingness of the new administration to undertake that.

What would a loyalty test mean for the military? It wouldn't be their ability to conduct the necessary programs for our national defense, but rather their loyalty to the President and the President's agenda, which may or may not have anything to do with national security.

We have some history here that might be useful. For example, the Chair of the Joint Chiefs of Staff would not carry out President Trump's political agenda. Certainly, willing to carry out the military national security agenda, but not the military agenda. That earned Chief of Staff General Mark Milley the opportunity for the President to call for his execution.

Now, if Project 2025 is the roadmap for the Trump Administration, and the Trump Administration demands a loyalty test for our senior military generals, colonels, and career intelligence officers, what does that mean for the Nation? Posse Comitatus is often used, but I believe this Committee has from time to time taken a look at the emergency powers of the President, which basically can waive nearly every law.

So, we may wind up, given Project 2025 and the loyalty tests that seem to be embedded in it, with a military that is capable of involvement in domestic affairs and an intelligence community that is supposed to be looking outside of this Nation involved domestically.

So, the combination of the current very long list of emergency powers that the President has, together with a loyal military hierarchy and a loyal career intelligence community, that is, loyal to the President, not necessarily loyal to the Constitution or to the history of our democracy. What could it mean to our Nation?

A military that is used domestically for political purposes. An intelligence community that is looking inward. Project 2025 presents a very serious challenge.

Five seconds. I would like all of you to ponder what this would mean. Is it a problem, Mr. Kirschner?

Mr. BISHOP. The gentleman's—

Mr. KIRSCHNER. It is. What I am reminded of, Representative, is after I graduated law school and I was sent to Army law school, to JAG school on the campus of the University of Virginia, one thing that was drilled into our heads is you must obey lawful orders. Equally important, I would say more important, you must disobey unlawful orders.

Project 2025 would wipe out that second command, which is more important than the first command. The danger can't be overstated.

Mr. GARAMENDI. I appreciate the forbearance of the Chair for that 25 seconds.

Mr. BISHOP. The gentleman's time has—the gentleman yields back, and the Chair recognizes the gentleman from Ohio, Mr. Davidson.

Mr. DAVIDSON. I thank the Chair.

It is disappointing that we need this hearing. Mr. Allen, I want to apologize for what has happened to you. Our country should treat you better.

Mr. ALLEN. Thank you for the apology.

Mr. DAVIDSON. Thank you for your long career of service to our country. I just wanted to ask, your experience spans a couple decades, and so over your time in service to our country, just confined to the FBI, what kind of changes?

The perception back home is the rank-and-file people at the FBI are people that we want to be there that we want to support. Frankly, there is not a lot of trust in the current leadership system.

When you ask questions, a lot of my constituents had the exact same questions and others did. So, thank you for taking the courage to just ask an honest question. The way that this was treated is shameful. We are here today in part because of that.

Frankly, Mr. Horowitz is continuing a three- or four-year-long hopefully imminent report that answers the exact same question. So, how have you seen the FBI change, as someone who moved up through the ranks?

Mr. ALLEN. I would say that unfortunately in my experience with the culture at the FBI, it is very easy for leaders there to kind of impose their wills on their subordinates. It is a culture where there are a lot of careerists and blue flammers who will do what they need to climb up the charts and the ladders.

If that includes burning other agents or subordinate employees to get to where they want to get in the organization, whether that is for power or money concerns, that is something I have observed in the culture of the FBI since I started there in 2008 as a contractor. Worked for a couple years. Then, I got on officially with the Charlotte Field Office in late 2015.

So, I would like to say that this is a, from my personal experience, sea change, but from what I have seen, there have always been vain careerists within the organization who will destroy people to climb the charts.

Mr. DAVIDSON. Safe to say we are not always promoting the best and brightest.

Mr. ALLEN. I would concur with that statement.

Mr. DAVIDSON. How do we need to change the culture to get it back on track?

Mr. ALLEN. I think there needs to be more accountability, and there needs to be a high focus on moral and ethical behavior within the organization.

Outside checks and balances via policy change where the Bureau isn't allowed to simply just review their own conduct, to truly have an external watchdog force that can actually cause punitive change and enact measures in the organization. I think that is a big part of it. That is what I would advocate for.

I know a lot of folks that join the FBI, they get into it, and it is not quite what they expected once they get on the inside. So, there is a lot of cultural change just from the historical culture of the place that has to change.

I would like to tell you that I am shocked that this is where the FBI has come today, but frankly, I am not shocked at all that this kind of lawless conduct could have occurred within the walls of the organization.

Mr. DAVIDSON. Yes, sad, but I have heard it from many other people, and frankly, you felt the blunt end of it. Again, hopefully we can make this right swiftly and you serve out a good career there. Thank you for your service.

Mr. ALLEN. Thank you.

Mr. DAVIDSON. Mr. Horowitz, in another way, you have done things that my constituents appreciate. You have provided oversight and accountability. The oversight and accountability function of Congress seems to work. The public finds out about all kinds of things.

They are just so frustrated because at the end of the day, Congress just shuts up and cuts the check. We don't provide reform, we don't provide accountability. Instead, you see people like Mr.

Veltri promoted, somewhat validating Mr. Allen's observations. Trusted, as it turns out, with critical investigations.

We saw the FBI, I hope there is an investigation underway on the events in Butler, Pennsylvania, on July 13th. Is there an active Inspector General overview of that?

Mr. HOROWITZ. I actually don't have jurisdiction over that. My understanding is the DHS Inspector General—

Mr. DAVIDSON. Inspector General Cuffari does. As CIGIE, the Integrity Committee, you formerly directed that they have tried to target people, even as inspector generals. Did you feel sometimes limited or coerced because of how CIGIE has changed their behavior over the years?

Mr. HOROWITZ. Yes, let me just say I was the Chair of CIGIE, not the Chair of the Integrity Committee. By law, that distinction, Congress has separated those two. I did, but the integrity is part of CIGIE.

Look, I have dealt with issues at the Integrity Committee. I think there are improvements that are certainly needed, and can be made in both internally and through legislative action that would improve the process. I do think, and I have worked with folks there, that they have tried to exercise their responsibilities to the Chair of the—as Members of the Integrity Committee as best they could.

Mr. DAVIDSON. Well, one thing we absolutely have to do is we have to change the way it is funded. Right now, they are harvesting cash from other agencies, including extra money. So, Congress needs to take action, in particular with funding.

My time has expired, and I yield back.

Mr. BISHOP. The gentleman yields back. The Chair recognizes the gentlewoman from Texas, Ms. Crockett, for five minutes.

Ms. CROCKETT. Thank you so much, Mr. Chair.

I will pick up maybe a little bit where my colleague just left off. The question was about Butler, Pennsylvania.

I am curious to know if any of you are aware as to whether or not the FBI is involved at all in determining what is going on in Springfield, Ohio. Because as far as I am concerned, there is domestic terrorism afoot, and it is at the word of the Republican nominee and his running mate.

So, do we know if anyone is checking into that on the Federal level? I am just curious. Just say yes or no, anybody.

Mr. HOROWITZ. I don't know, Congresswoman.

Ms. CROCKETT. OK, perfect. Either way, I want to move on, and I want to talk about, Mr. Kirschner, I am just curious, if you were to define what weaponization of the Federal Government looks like just in a quick, short definition, what would it be?

Mr. KIRSCHNER. Using the Department of Justice to reward your friends and your criminal associates by delivering pardons after they have been convicted by juries, or before their case was even concluded, or before their case was even charged.

Conversely, using the Department of Justice to punish your perceived enemies, order investigations and prosecutions even if they are not warranted by evidence.

I am sorry, that was not brief.

Ms. CROCKETT. That's OK. It was accurate. Because that's how I see weaponization as well and it's something that we saw a lot out of Trump, specifically, because all his friends were going to prison and he's probably got more friends that are headed to prison soon. If we are lucky, he will find him a cellmate soon as well.

Nevertheless, as we talk about weaponization, because this whole Committee feels as if it's projection, I want to go to something that is pretty interesting, but I'm going to start with Mr. Allen.

I wasn't on this Committee the first time you were here. So, this is the first time we're interacting. I am caught up-to-speed, and I have a simple question for you, yes or no. Do you believe that career employees like yourself should have your job taken away, even if you've done your job well and followed agency rules? Do you think it's right to be fired just because you have political disagreements with those above you?

Mr. ALLEN. No, it's not right to persecute anyone for their political or religious beliefs, especially in an organization where there's supposed to be the free flow of ideas.

Ms. CROCKETT. OK. I appreciate your answer and your honesty, and I absolutely agree with you.

It is interesting, though, because that's exactly what Trump and my Republican colleagues would do if they won the election. It's spelled out in Project 2025. Trump would strip due process rights of available to career civil servants and remove, suspend, or reduce their pay in an all-out effort to oust agency employees for partisan reasons, rather than because of issues with merit or performance.

Before you say Trump and Project 2025 aren't affiliated, I'd ask unanimous consent to submit into the record Trump's campaign page where he claims,

On day one, I'd reissue a 2020 Executive Order restoring the President's authority to fire rogue bureaucrats and I will wield that power very aggressively.

The only reason democracy is standing strong today is because we had public servants who pledged loyalty to the Constitution and rule of law and not to Donald Trump.

Mr. KIRSCHNER, your testimony today demonstrates you're familiar with Project 2025. Is that a fair statement?

Mr. KIRSCHNER. Particularly, as it pertains to the Department of Justice.

Ms. CROCKETT. OK. You are aware, or maybe you're not—we'll see—on page 547, that Project 2025 states its goal of implementing a top-to-bottom overhaul of DOJ that, quote, "must include the FBI," because anything less would, quote, "guarantee the failure of the conservative administration's agenda." Are you aware—

Mr. KIRSCHNER. That does not make a lot of sense to me.

Ms. CROCKETT. OK, but that's in Project 2025?

Mr. KIRSCHNER. It is, it is on—

Ms. CROCKETT. OK.

Mr. KIRSCHNER. Yes, it is.

Ms. CROCKETT. All right. Just wanted to clarify that.

Also, this agenda includes, for example, enforcing Federal criminal laws against providers and distributors of abortion medication, as well as rescinding policies that hold that sex discrimination in-

cludes discrimination on the basis of sexual orientation, transgender identity, among other things. Is that correct?

Mr. KIRSCHNER. Yes, Representative, on page 562, they talk about aggressively going after, prosecuting, quote, “providers and distributors of abortion pills that use the mail.” So, folks who are mailing abortion pills to women who need it. That is really not what is endangering our country or inspiring violent crime.

Ms. CROCKETT. I absolutely agree.

This week, *The New York Times* reported multiple instances of Trump trying to weaponize the DOJ to retaliate against his political enemies, finding that, quote,

Mr. Trump told Mr. McGahn that he wanted to order Mr. Sessions, the Attorney General, to prosecute Mrs. Clinton and Mr. Comey, and if Mr. Sessions refused, he would take matters into his own hands.

I know my time is running out. So, I just have to ask, Mr. Chair, given you’ve convened this hearing—theoretically, it’s you—given that you’ve convened this hearing on weaponizing Federal agencies, will you commit to publicly condemning Trump for attempting to weaponize the government and condemn Project 2025 for its efforts to do the same?

Mr. BISHOP. The gentlelady’s time has expired.

I recognize myself for five minutes.

Mr. Allen, I’m going to give you a little notice. You’ve written some notes. As far as I’m concerned, you’re the person I’m most interested in hearing from.

I’m from Charlotte. I know people—I’ve been to the Charlotte field office. I know some people there. I was extraordinarily impressed by you and the other whistleblowers when you previously appeared before this Subcommittee. I’m impressed by you again. I haven’t been able to be here the whole time.

I’m going to yield you some time, just if you cared, if you have things that you wish to say, in just a moment.

The first thing I’m going to say before I do that, and then, I’m going to give Mr. Jordan the rest of my time, is I’m just overwhelmingly troubled by the fact that no one seems to be able to do much about what has happened to you.

You’ve got the Inspector General, a very respectable person. You’ve done a lot of things that have been historic. You issue a management alert. To me, it sounds ridiculous to say you don’t think these guys at the FBI, the senior managers, understand that they shouldn’t retaliate against somebody by putting him under extreme personal hardship, while they engage in a completely baseless persecution over their security clearance, and they leave them in limbo for 27 months, and to this moment, haven’t paid what I understand to be the consideration under the, under the settlement that has been reached. That is astonishing.

If that’s not astonishing enough, that all you can do is issue an alert—Congress does absolutely nothing, in the majority party, not one thing to impose on the Department of Justice or the FBI an appropriate sanction for what they’ve done.

We have a hearing about it and everybody in the Minority party, there’s some Trump—they’re fearing what Donald Trump would do in the next administration, while they sit here, and they look at

the guy who's been persecuted by the FBI. Everybody in the room understands it.

Mr. Allen, do you have comments you wish to make? I will give you about a minute, a minute and half, and then, I want to turn the rest of my time to Mr. Jordan.

Mr. ALLEN. Yes, sir. I would just say that I've considered the hearing today my last act of service as a public servant for the United States of America. I'll give you my professional opinion.

I was an intel professional for our country for many years and I would give recommendations, and I would also look at indications and warnings. So, I would offer this to the American people as my warning to them. So, this is a warning.

To the American people, I say, I personally have no confidence that the FBI will rein-in its own conduct. I have been persecuted, along with Garret, Steve, and Kyle, and countless other whistleblowers. It is my opinion that the Bureau used reprisal and fear to control the workforce. It has been a seemingly effective tactic.

I personally believe that there are no current effective checks and balances against them conducting lawless action with any type of correction in a legitimate timeframe. I welcome the work of the IG, but I think any type of lawless action, there is no legitimate timeframe to rein them back in, their ability to overclassify information to allow them to stonewall forever.

To the American people, you have a duty as a citizen to vote, and I strong urge you to do so. It's how you participate in the American experience. I know people have doubts about election integrity, but you must vote. It is your claim. State your claim and don't forfeit it willingly. Have your voice heard.

My other recommendations are in the natural order. First, vote. The second is the Second Amendment. arm yourself, and know how to defend yourself. Make three to four friends in your neighborhood and promise to come to each other's mutual aid in times of harm, hardship.

During the Great Depression, people stocked up a pantry. So, I think that's a good practice, especially in our economic times, and make sure you have three to four months of food.

As a person of faith, I'd say pray the rosary. Go to the First Friday Devotions. That's for everybody, all my brothers and sisters of all faiths, and I know I'm Catholic. Read the gospel of our Lord and Savior Jesus Christ and live it every day.

That's all I have to say. Thank you for the time.

Mr. BISHOP. Mr. Allen, the fact that there are servants like you who have borne up under persecution that a lot of political leaders in this country do not care about is the thing that heartens the American people. I'm confident the American people will resolve the situation, no matter how bad, how weak Washington is in response.

Mr. Jordan, I'm sorry I didn't reserve much time for you, but I yield to you.

Chair JORDAN. Thank you, Mr. Allen, for those well-said words.

Mr. Horowitz, did you ever request permission from the Deputy Attorney General to investigate attorney misconduct in Special Counsel Davis Weiss' office?

Mr. HOROWITZ. I have not at this point asked for that authority. As we've engaged on this issue in the past, it's, first, not clear whether we have that authority. I'd have to have that discussion.

Second, while the prosecution was ongoing, it was my view, consistent with our policy and practice, to let that prosecution play out, and then—

Chair JORDAN. Do you have concerns?

Mr. HOROWITZ. I think there have been a number of legitimate concerns raised, yes, Congressman.

Chair JORDAN. My time has expired.

Mr. BISHOP. The gentleman yields back.

The Chair recognizes the gentlelady from Florida, Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chair.

Mr. Chair, Donald Trump's Project 2025 is a direct attack on women's reproductive freedom and healthcare. One of its most effective assaults on our rights comes from what's called to criminally punish healthcare providers who distribute FDA-approved abortion medication by mail. This would effectively end access to a safe, legal procedure that two-thirds of American women who seek an abortion rely on.

How would Trump's Project 2025 do that, Mr. Chair? By weaponizing our Federal Government against women and doctors. The most corrosive attack would direct the Justice Department to ban the mailing of abortion pills by enforcing an obscure 1873 obscenity law called the Comstock Act. You heard that right, a 150-year-old obscenity law.

Mr. Kirschner, could reviving this 19th century statute and weaponizing DOJ to enforce it block a clinician from sending abortion pills to patients?

Mr. KIRSCHNER. It could.

Ms. WASSERMAN SCHULTZ. Yes or no, could it stop the manufacturers from even delivering mifepristone pills to clinicians and pharmacies?

Mr. KIRSCHNER. It seems it could.

Ms. WASSERMAN SCHULTZ. Trump's Project 2025 directs the Justice Department to start using its surveillance powers to monitor these pill-makers and goes so far as to name them in their Blueprint.

Mr. Kirschner, could that kind of shadowing result in medicine companies being targeted and harassed?

Mr. KIRSCHNER. Yes.

Ms. WASSERMAN SCHULTZ. Could weaponizing the Justice Department to enforce this Civil War era law, in fact, create a de facto nationwide ban on mifepristone?

Mr. KIRSCHNER. It could.

Ms. WASSERMAN SCHULTZ. This isn't about politics; this about control. It's about denying women the ability to make decisions about our own bodies. It's about putting Donald Trump and JD Vance right in the exam rooms of doctors and millions of women. It's about punishing and even jailing doctors who provide compassionate care or loved ones who help you obtain the healthcare that you seek.

Mr. Kirschner, I want to ask you about another way Trump's Project 2025 would weaponize our government against millions of women and doctors. The medicine we're talking about, mifepristone, has been deemed safe and effective by the FDA for over 25 years. Women in nearly 100 countries have safely used it for decades. Yet, Mr. Kirschner, Trump's Project 2025 would require the FDA to, quote, "revisit and withdraw" its initial approval of mifepristone, falsely claiming, without evidence, these drugs are dangerous and should be illegal.

Would that Project 2025 agenda be based on sound medicine, science, and facts, or would it be a blatant weaponization of the FDA?

Mr. KIRSCHNER. The latter, and it sounds like it's based on politics, not on science, not on medicine, and not on what is best for women and the decisions they have to make with their doctors.

Ms. WASSERMAN SCHULTZ. Thank you.

The FDA recently allowed certified brick-and-mortar pharmacies to dispense mifepristone and doctors to prescribe mifepristone via telehealth, which expands abortion pill access, avoids added cost, and avoids added cost or stigma.

Trump's Project 2025 calls for the FDA to reverse that guidance, despite the Supreme Court recently rejecting that argument. It goes even further by eroding the privacy protections of abortion patients by promoting prosecution for women who take the pills.

Could this weaponization of our government agencies obliterate the privacy of those who obtain or dispense abortion pills?

Mr. KIRSCHNER. It could and it's dangerous.

Ms. WASSERMAN SCHULTZ. Project 2025's assault on our basic freedoms doesn't just stop at women's health. It undermines the safety of whole regions of our Nation.

Before my time expires, I'll quickly note that Trump's dangerous Project 2025 proposes to eliminate the National Weather Service in its entirety. I'll remind everyone that we have Hurricane Helene who is quickly approaching the shores of my State. This is the very agency responsible for helping us prepare for and respond to climate-change-driven natural disasters. Right now, Hurricane Helene bears down on Florida and it's the National Weather Service that provides critical forecasts that help warn and keep our communities safe.

Let's be absolutely clear. Project 2025 is not about reform; it's about control. Whether it's women's bodies or the agencies that protect us from disaster, Trump's Project 2025 would erode the freedoms that we all take for granted. We cannot allow Trump's dangerous agenda to strip away our rights and leave millions more vulnerable than ever. Whether it's criminalizing healthcare providers or dismantling the National Weather Service, as more hurricanes threaten our coast, Project 2025 is an existential threat to our Nation's core values and safety. We will not let this agenda undo everything we've fought for because we will not go back.

Thank you. I yield back the balance of my time.

Chair JORDAN. The gentlelady yields back.

The Chair asks unanimous consent to enter into the record a coalition's letter on reforms that are needed. The letter is addressed

to Chair Comer, Chair Turner, and myself, Ranking Member Nadler, Raskin, and Himes.

Without objection, that will be entered.

Chair JORDAN. The Chair now will recognize, yes, I'll recognize the Ranking Member for as much time as she would like. I'll give you 6–8 minutes, if you would like, and then, our closing statement after that. Then, I have a couple more questions, and then, we'll be adjourned.

The gentlelady is recognized.

Ms. PLASKETT. Thank you. I don't know what to do with all that time. It kind of freaked me out when you said that. I started, you know—

Chair JORDAN. You can always yield it back to me.

Ms. PLASKETT. Oh, no, I don't think—I'm not giving up what's given to me, I'll tell you that much. You never know when you can get that, but I appreciate it, Mr. Chair.

I want to thank our witnesses for being here, each one of you. Thank you for expressing your ideas and your thoughts.

I did want to ask some followup questions, though, to some of those.

Mr. Inspector General Horowitz, my colleagues across the aisle have said that the Inspector General found that the FBI intentionally weaponized the security clearance process to purge conservatives from its ranks. Mr. Inspector General, did your office find that the FBI has a pattern or practice of misusing the security clearance adjudication process to purge certain FBI employees?

Mr. HOROWITZ. We have not made such a finding.

Ms. PLASKETT. OK. Also, there were allegations made that the FBI has weaponized any findings, that it was related specifically to individuals who might have expressed sentiments with regard to January 6th. Did you find that?

Mr. HOROWITZ. We haven't made such a finding. We've actually, Congresswoman, had complaints come in from both sides on these issues—on one side, complaints about field offices not taking action in January 6th cases, and on the other side, complaints about offices that did take matters in January 6th—

Ms. PLASKETT. So, as usual, it's across the board of the political spectrum?

Mr. HOROWITZ. We have complaints from whistleblowers on both sides on that issue.

Ms. PLASKETT. That is par for the course? You've found in the FBI and in your position over, hearing from your other Inspector General officers, that complaints may come from both sides of the political spectrum?

Mr. HOROWITZ. I've certainly seen, with regard to the DOJ law enforcement components, issues coming from various perspectives, I will say nonideological/ideological complaints across the—

Ms. PLASKETT. What about religious? Have you made any findings that the FBI security clearance process targets Christians?

Mr. HOROWITZ. We've not made such a finding.

Ms. PLASKETT. Or targeting military veterans?

Mr. HOROWITZ. We've not made such a finding.

Ms. PLASKETT. Thank you.

I understand my colleagues' concern that it would appear that Democrats are not taking the issue of whistleblowers seriously. I think we do. We have a Committee for that, the Oversight Committee, for which I, when I was a Member of the Oversight, that's when I first met Mr. Horowitz, was in having oversight over different agencies and questioning you about some of your findings there—some of which, when I first came to Congress, were targeted against Democrats, a Democratic Administration, at the time the Obama Administration. We've gone through a Trump Administration. We are now in a Biden Administration. So, the vagaries of political persuasion, you've seen them all.

I think the reason that the Democratic Members have been bringing up Project 2025 and President Trump is because it presents a global threat, a true weaponization of offices and of a position against the American people as a whole.

We see places like North Korea, Hungary, Iran, now Venezuela, where those citizens could not have imagined 20–30 years before potentially that they are living under a dictatorial rule.

I went to school with individuals—I'm dating myself—in the early 1980s with students who had fled Iran. I have been around young people in undergrad who have fled North Korea. The notion that anything like that could happen in this country seems so antithetical to our thinking. We cannot drop the ball when we see an individual or a group of individuals who have power trying to take that control.

It is our opinion, many of our opinions, that Trump, for his own purposes, has now joined forces with individuals who have offered Project 2025 as a means to an end for each one of their own desires.

I would ask to submit to the record a *CNN* article, "Trump Claims Not to Know Who is Behind Project 2025." *CNN* review found at least 140 people who worked for him are involved.

Chair JORDAN. Without objection.

Ms. PLASKETT. Thank you.

In this article, and in other places, we will see the nexus of relationships between the President and individuals who have written this—six of his former Cabinet Secretaries; four individuals nominated by the former President as Ambassadors; his first Deputy Chief of Staff, my former colleague, Mark Meadows, and also, his long-time advisor Stephen Miller, who are advising Project 2025.

The Federal Communications Commissioner under President Trump, Brendan Carr; Lisa Correnti, who was a Delegate to the United Nations Commission on the Status of Women—all wrote components of Project 2025.

We have the American Accountability Foundation putting together a roster of current Federal workers it suspects could impede Trump's plan for a second term.

I would direct your attention to what we have up there on the screen, which shows so many associates who have, in fact, contributed to the transitional plan for a Presidential Trump next term that are part of his orbit. Paul Dans, top official in Trump's White House. We have Ben Carson, former HUD Secretary; Christopher Miller, Acting Secretary of Defense. Peter Navarro wrote a section

defending the former President's trade policies. This has been drafted as the next conservative President's last opportunity.

The last opportunity for what? Not the America we know now; a different form of America—one that meets the demands of specific individuals, not all of us; one women that does not include us having complete autonomy of our selves; one that puts a form of Christianity that may not be my form of Christianity. That's why we have a separation of church and State, so that we can all worship our God as we wish.

That's not what Project 2025 is looking toward. Today, you may be part of it; tomorrow, you may not be. Today, it may help you; tomorrow, it may not.

I know I'm on the front line; I know my community is on the front line, but tomorrow it may be yours. Next week, next month, 180 days he's giving himself. Two years from now, it may be your son, your daughter pointing, in the military, pointing a weapon at their fellow citizen, at their brother, their sister who are protesting on the streets of America.

Because, yes, in Project 2025, it allows the President to direct the active military to come to the streets of the United States against those that he deems as political rivals. That's in Project 2025. Those are the things that are in there—against us as Americans.

That's the reason why, Mr. Chair, we keep talking about it—not because whistleblowers' issues are unimportant, but because this is a clear and present threat right now to the American people that we need to join forces with and stop.

So, I want to thank you for the additional time. While we're on the recess, God bless you and your family.

Chair JORDAN. You, too. You, too.

Ms. PLASKETT. I pray safety for all of us as Members, all the people who have spoken out, and individuals, we may not agree with one another, but I pray that this election goes safely and that we are all back here again to continue the people's business.

Chair JORDAN. I agree. Just a few more questions, if I could.

Mr. Horowitz, you said you have not seen a pattern, but you have found evidence—well, let's say, well, let me do it as a question. Have you found any evidence of a focus on religion and vaccination status playing a role in discussions about clearance decisions?

Mr. HOROWITZ. We certainly did as to Mr. Allen.

Chair JORDAN. Of course. That's the whole, the whole point. I thought his email, questioning the leadership of the FBI, the used that. They used his vaccination status. They used his religion. I thought pretty soon they were going to accuse Marcus Allen of writing Project 2025. I thought that might happen.

You didn't write Project 2025, did you, Mr. Allen?

Mr. ALLEN. No, I never—

Chair JORDAN. You had nothing to do with that.

Mr. Leavitt, you didn't, either, right? I know Mr. Horowitz didn't have anything to do with that.

Let's go to this questionnaire. Because this questionnaire that was used by the FBI in these clearance discussions, I find very troubling. In the opening, in sort of the preamble before they get

to the questions, they say to—now, they’re asking colleagues to rat on fellow colleagues. They say,

You are being asked to provide information as a fact witness. Should you refuse to answer or fail to reply, action against your security clearance may be undertaken.

So, I find this amazing. Like they’re going to a colleague, in a security clearance investigation, they’re asking a colleague to talk about that individual, and if they don’t, they’re going to lose their security clearance. I mean then, when you look at the questions, do you find that a little troubling, Mr. Horowitz?

Mr. HOROWITZ. I certainly find the—I’m not sure I find necessarily the questioning of individuals about allegations troubling. How you tell them about it and talk to them about it is concerning, as you indicated, and certainly, the questions were highly inappropriate.

Chair JORDAN. Well, certainly, coupled together—hey, we’re doing a security investigation on Mr. Allen, as an example, and if you don’t, if you don’t answer it, your security clearance is in jeopardy. Oh, by the way, here’s the question: “Did Mr. Allen ever voice support for President Trump?” “Did Mr. Allen ever express concerns about the COVID-19 vaccination?” “Did Mr. Allen ever attend a gun rally?” That is as troubling as it gets.

Right at the top of this questionnaire, “FBI Security Division, Security Integrity and Investigation Section, Clearance Investigation Unit.”

Mr. Leavitt, have you ever seen anything like this?

Mr. LEAVITT. Not before this last round of whistleblowers, but I do think—the point I tried to make earlier is that, even if this questionnaire was only typed up by a couple of individuals—and to be clear, those are the same ones that were worried about the Kelly Cart. So, they were the same ones that were worried that their supervisors—

Chair JORDAN. Right.

Mr. LEAVITT. Even where, in cases where this questionnaire wasn’t used, we’ve heard from a number of whistleblowers that these types of things were asked about, and, of course, we know they factored into the decisions. So, I think it’s not just about the questionnaire.

Chair JORDAN. Yes.

Mr. LEAVITT. I hope that the Inspector General’s Office will look at how all these issues were focused on by leadership.

Chair JORDAN. That’s the element of fear Mr. Allen just talked about in his last response to Mr. Bishop—the fear that, that environment of fear, and this is it in practice right here. That is what is scary.

So, if that’s not weaponization of government—earlier, Ms. Crockett asked about, would the weaponization of government include certain things? It would certainly include this in the environment described by Mr. Allen, and it would certainly include the 27 months that he had to live through and the 24 months now Garret O’Boyle has had to live through.

I just find that—again, I want to thank you all for being here.

Oh, Mr. Kirschner, would the weaponization of government include lying to the FISA Court to spy on a Presidential campaign?

You got asked a series of questions of “Would it include . . . ?” I’m just curious if you thought that would be the weaponization of government.

Mr. KIRSCHNER. Lying to a court, any court, FISA Court or otherwise, is deeply, deeply troubling.

Chair JORDAN. That wasn’t the question. Would the weaponization of government include lying to a FISA Court to spy on a Presidential campaign?

Mr. KIRSCHNER. I would suppose it could.

Chair JORDAN. Could?

Mr. KIRSCHNER. Yes.

Chair JORDAN. OK. Great. OK.

Would it include text messages written by people who were involved in that effort to spy on a Presidential campaign? Text messages like “Don’t worry, we’ll stop Trump,” would that be the weaponization of government as well?

Mr. KIRSCHNER. I think that’s inappropriate language because we’re supposed to be doing our work apolitically, without fear or favor. So, I think that’s ill-advised.

Chair JORDAN. It sure was. It’s so ill-advised Mr. Mueller kicked them off, kicked those individuals off his, his team. So, it was so ill-advised that Kevin Clinesmith got prosecuted for lying to the FISA Court to go spy on a Presidential campaign. That seems to me to be the weaponization of government as well.

I want to thank all of you for being here.

Mr. Allen, we really thank you. You’re the one who’s had to endure this. Your testimony, too, the strength of your faith, and your family, I think is just inspiring. We appreciate your service to our country, your service to this Committee, and to the country for telling your story and being willing to come forward and work with Mr. Leavitt.

Mr. Horowitz, we appreciate the work you’ve done over the years and in getting this information to us.

With that, the Committee stands adjourned.

[Whereupon, at 12:31 p.m., the Select Subcommittee was adjourned.]

All materials submitted for the record by Members of the Select Subcommittee on the Weaponization of the Federal Government can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=117688>.