

EMPOWER OVERSIGHT

Whistleblowers & Research



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January 31, 2023

VIA ELECTRONIC TRANSMISSION: FOIPA PORTAL

Federal Bureau of Investigation
Attn: Initial Processing Operations Unit
Record/Information Dissemination Section
200 Constitution Drive
Winchester, VA 22602

RE: Request for Records Relating to the FBI's Decision to Suspend Special Agent Steve Friend's Security Clearance

Dear FOIA/Privacy Act Officer:

INTRODUCTION

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seek to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

BACKGROUND

On August 19, 2022, Steve Friend, an eight-year veteran of the Federal Bureau of Investigation (“FBI”) who was stationed in the Daytona Beach Resident Office, which reports to the Jacksonville Field Office, made protected disclosures (under 5 U.S.C. § 2303) to his supervisor concerning alleged violations of the Constitution, laws, and FBI policy in connection with the planned execution of arrest and search warrants the following week. [[Declaration of Steve M. Friend \(“Declaration”\) at ¶¶ 3, 4, and 10, attached as Exhibit A.](#)] Specifically, Special Agent Friend disclosed:

- **Evasion of case management policies to drive a false narrative supporting an FBI priority.** Special Agent Friend explained that, deviating from the FBI's Domestic Investigations and Operations Guide (“DIOG”), officials in the FBI's Washington, D.C. Field Office (“WFO”) identified subjects to investigate in connection with the January 6, 2021, riot at the Capitol and/or interference with the transition of executive power, and sent information packets concerning such subjects to field offices nationwide with instructions to open investigations. [[Declaration at ¶ 8.](#)]¹ As directed by the WFO, the

¹ FBI employees are required to report in writing all instances of substantial non-compliance with the DIOG (e.g., noncompliance that has the potential to adversely affect an individual's rights or liberties, or failure to obtain supervisory approval). DIOG, § 2.8.2. If the non-compliance occurs in a field office, the writing must be routed through the Division Compliance Officer to the SAC or Assistant Director In Charge. DIOG, § 2.8.3.

recipient field offices opened investigations, designating themselves as the Offices of Origin (“OOs”), and assigned local special agents as the responsible case agents. *Id.* Thereafter, the WFO managed the cases and performed the bulk of the investigative work, including presenting cases to the offices of the United States Attorneys for prosecution. *Id.* For their part, the nominally responsible case agents assigned to the cases performed such functions as the WFO directed, *Id.*, and field office supervisors effectively had no role in monitoring compliance with the Constitution, laws, and the DIOG, [Declaration at ¶ 9]. WFO supervisors exercised *de facto* control of the cases despite documentation indicating that the OOs were other field offices. *Id.*

Additionally, Special Agent Friend pointed out that by departing from the DOIG in this way, FBI headquarters and the WFO would create false and misleading crime statistics reports to Congress. [Declaration at ¶ 16]. Instead of hundreds of domestic terrorism cases isolated in the WFO, as a consequence of events occurring on a single day, and the FBI’s extraordinary effort to investigate anyone remotely associated—even passively—with the riot at the Capitol on January 6th, the FBI has disbursed the cases throughout its field offices, *Id.*, causing a statistical surge nationwide.

- **Defiance of the Department of Justice’s Use of Force and the FBI’s policies to send a message to disfavored actors.** Special Agent Friend advised that he was concerned that the plans for the executions of the warrants applicable to subjects of investigations of the riot at the Capitol appeared to violate DOJ and FBI policies and by extension the Constitution. [Declaration at ¶¶ 10 and 11]. Specifically, he stated that the execution plans for the warrants threatened to compromise the subjects’ due process rights (*i.e.*, overzealous charges, biased jury pools in the District of Columbia, and excessive pre-trial detention) and to violate the DOJ’s Use of Force and the FBI’s least intrusive methods policies. [Declaration at ¶ 11]. In the latter regard, he believed, based on his experience, that it would be inappropriate to use FBI SWAT teams to arrest a subject of a misdemeanor offense, *Id.*, someone who had previously cooperated with the investigation, or someone who could more safely be apprehended in another manner. Alternatively, he proposed that in lieu of using force to arrest subjects at their homes, the FBI or local law enforcement could issue court summons, as many of the subjects were represented by counsel and had cooperated with FBI interview requests; or the subjects could be arrested away from their homes as they traveled from points A to B. *Id.*

His supervisor claimed to Special Agent Friend that he appeared to be under stress and suggested that he pursue counseling; characterized his disclosures as a refusal to participate in a class of cases,² which he would have to report up the chain of command; asked Special Agent Friend how he reckoned the Special Agent in Charge (“SAC”) of the field office would react to his disclosure; and inquired how he perceived his future working for the FBI. [Declaration at ¶¶ 10 and 11.]

On August 22, 2022, Special Agent Friend was instructed to report to the FBI’s Jacksonville Field Office the following day. [Declaration at ¶¶ 12, 13, and 14.] As directed, on August 23, 2022, Special Agent Friend met with two Assistant Special Agents in Charge (“ASACs”) in Jacksonville. He repeated and elaborated on the protected disclosure that he made the prior week to his supervisor. *Id.* The ASACs asked about his personal views on the class of cases in controversy; characterized him as a “bad teammate;” threatened to punish him if he

² Special Agent Friend never refused to participate. Instead, he made a protected disclosure and asked to be assigned to alternative duties on the date of the execution of the arrest and search warrants. Ultimately, one day before the planned execution of the arrest and search warrants, he was directed by FBI management not to report to duty the following day.

refused to participate in the planned arrest and search warrants;³ questioned his career prospects within the FBI; recommended counseling; and ruminated aloud that they did not know how the FBI would proceed against him, given that formal discipline is a slow process. *Id.* Approximately four hours after the meeting in Jacksonville, one of the two ASACs emailed Special Agent Friend, instructed him not to report for duty the next day, and notified him that the FBI would be placing him on Absent Without Leave (“AWOL”) status on August 24, 2022, the date of the planned execution of the arrest and search warrants. Additionally, the ASAC informed him that AWOL status could lead to disciplinary charges. *Id.* Special Agent Friend complied with the directive, did not report for duty pursuant to the instruction, and was recorded in the FBI personnel system as AWOL for that day as a result, despite having offered to perform other assigned duties.

On September 1, 2022, Special Agent Friend met with the SAC of the Jacksonville Field Office. [[Declaration at ¶ 15.](#)] She advised Special Agent Friend that, given his heretofore good reputation, she was disappointed with his refusal to participate in the arrest and search warrants on August 24th,⁴ and suggested that he needed to do some “soul searching” regarding whether he wanted to work for the FBI; theorized that Special Agent Friend’s concerns about the class of cases in controversy exposed a belief that his colleagues were coopted by leadership priorities, which caused them to cross ethical and moral boundaries; expressed her personal support for the class of cases; and informed Special Agent Friend that she had referred him to the FBI’s Office of Professional Responsibility and its Security Division, the latter of which was assessing his security clearance. *Id.*

On the evening of September 14, 2022, an ASAC in the Jacksonville Field Office called him and directed him to report to the field office the next morning (September 15, 2022) to attend a Security Awareness Briefing (“SAB”). Because he had already successfully completed the FBI’s annual SAB requirement, he asked why he was being directed to attend a duplicative one-on-one SAB lecture. The ASAC responded “because you have made different choices than other people.” Special Agent Friend then asked whether he could bring a lawyer with him to the meeting. The ASAC said he did not think so, but would ask and get back to him. By the next morning the ASAC had not resolved the question about his attorney attending the SAB, and Special Agent Friend called in sick.

On September 16, 2022, the Executive Assistant Director of the FBI’s Human Resources Branch informed Special Agent Friend that, as the FBI’s Security Programs Manager, she had suspended his security clearance. The suspension of Special Agent Friend’s security clearance precludes him from entering FBI space and, thus, suspends his “authority to fulfill the duties and responsibilities of” his position. The suspension of his security clearance thus halted his paycheck, achieving the exact same effect as a disciplinary adverse personnel action would have, but without any independent oversight or meaningful review.

As grounds for her suspension of his clearance, the Executive Assistant Director claimed:

On 08/24/2022, you advised your supervisors of your objection to participating in the court authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgement. On 09/03/2022, you entered FBI space and downloaded documents from FBI computer systems to an unauthorized flash drive and you subsequently failed to cooperate with a

³ Again, Special Agent Friend did not refuse to participate. He made a protected disclosure and asked to be assigned to alternative duties on the date of the execution of the arrest and search warrants.

⁴ See, footnotes 1 and 2.

Security Awareness Briefing, demonstrating an unwillingness to comply with rules and regulations.

However, contrary to the claims in the suspension letter, Special Agent Friend did not communicate with his managers on August 24, 2022. On that date, he complied with his ASAC's direction not to report for duty, and was placed on AWOL as a result of his compliance.

RECORDS REQUEST

To shed light on the rationale for the FBI's retaliatory conduct towards Special Agent Friend, including its suspension of his security clearance, pursuant to the Freedom of Information Act ("FOIA")⁵ and the Privacy Act of 1974 ("PA")⁶, Empower Oversight—on its own account and on behalf of Special Agent Friend⁷—requests records relating to:

1. All communications between and among FBI personnel relative to the protected disclosure that Special Agent Friend made to his supervisor on August 19, 2022.
2. All communications between and among FBI personnel relative to the protected disclosure that Special Agent Friend made to the two Jacksonville Field Office ASACs on August 23, 2022.
3. All communications between and among FBI personnel relative to the protected disclosure that Special Agent Friend made to the Jacksonville Field Office SAC on September 1, 2022.
4. All communications between and among FBI personnel relative to the decision to suspend his security clearance and place him on a leave without pay status before any investigation had been completed.
5. All communications between the Jacksonville Field Office SAC and any FBI official comprising or concerning her referral of Special Agent Friend to the FBI's Office of Professional Responsibility ("OPR") and its Security Division ("SA").
6. All records relating to OPR's investigation of Special Agent Friend.
7. All records relating to SA's investigation of Special Agent Friend.
8. All records relating to the FBI's approval of the WFO's deviations from the DIOG's policies concerning the selection of the Office of Origin, execution, and management of investigations of subjects who allegedly participated in the riot at the Capitol on January 6, 2021.
9. All records relating to the use of a SWAT team for the Jacksonville Field Office's August 24, 2022, execution of one or more arrest/search warrants

⁵ 5 U.S.C. § 552.

⁶ 5 U.S.C. § 552a.

⁷ A copy of Special Agent Friend's *Certification of Identity and Authorization to Release Information to Another Person*, Form DOJ-361, is attached hereto as Exhibit B.

associated with investigations of subjects who allegedly participated in the riot at the Capitol on January 6, 2021.

DEFINITIONS

“COMMUNICATION(S)” means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

“DOCUMENT(S)” or “RECORD(S)” mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms “DOCUMENT(S)” or “RECORD(S)” include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” “REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” or “PERTAINS TO” mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

“INCLUDING” means comprising part of, but not being limited to, the whole.

INSTRUCTIONS

The time period of the requested records is January 6, 2021, through the present.

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact Bryan Saddler by e-mail at bsaddler@empowr.us.

FEE WAIVER REQUEST

Empower Oversight agrees to pay up to \$25.00 in applicable fees, but notes that it qualifies as a “representative of the news media”⁸ and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same. Empower Oversight has no commercial interest in making this request.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public’s understanding of the rationale for the FBI’s retaliation against Special Agent Friend for making protected disclosures of FBI legal abuses.

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

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

Cordially,

[/Jason Foster/](#)

Jason Foster
Founder & President

⁸ On September 23, 2021, in connection with a FOIA appeal arising from Empower Oversight’s August 12, 2022, FOIA request, the Securities Exchange Commission conceded that Empower Oversight qualifies as a news media requester for purposes of fees assessed pursuant to the FOIA. See, “Empower Oversight Wins Appeal of Erroneous SEC Fee Decision: Must be treated as a “media requestor” in seeking ethics records of senior officials,” Empower Oversight Press Release (Sep 24, 2021), <https://empowr.us/empower-oversight-wins-appeal-of-erroneous-sec-fee-decision-must-be-treated-as-a-media-requestor-in-seeking-ethics-records-of-senior-officials/>. Thereafter, numerous other agencies recognized Empower Oversight as a media requester.

Exhibit A

Declaration of Stephen M. Friend

I, Stephen M. Friend, pursuant to 28 U.S.C. §1746, hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. Upon my belief and information, I make this Declaration on personal knowledge and in support of my complaint of reprisal and disclosure to the Office of Special Counsel, and against the Federal Bureau of Investigation (hereinafter the "FBI").

2. I am an FBI Special Agent currently on suspension. I graduated from the University of Notre Dame in 2007 and was employed as an accountant in private practice between 2007 and 2008. In 2009 I was sworn in as a Peace Officer for the Savannah Chatham Metro Police Department in Savannah Chatham Georgia. I served as a Peace Officer for said Department until 2012 when I joined my father's accounting firm for one year. In 2013 I joined the Pooler Police Department in Pooler Georgia as a Peace Officer until 2014.

3. On June 14, 2014, I joined the FBI as a new agent trainee. Following my graduation from Quantico's New Agent Academy I was posted to the FBI's Omaha Division/Sioux City Resident Agency tasked with investigating violent crimes and major offenses occurring in Indian Country. I was also a member of the FBI's Omaha SWAT Team. While in that posting I also served as an acting Special Supervisory Special Agent.

4. In June of 2021 I was transferred to the FBI's Jacksonville Florida Field Office/Daytona Beach Residency Agency as a Special Agent tasked with investigating child exploitation and human trafficking. In October of 2021, an Assistant Special Agent in Charge (ASAC) informed my supervisor that I was reassigned as a member of the Joint Terrorism Task Force (hereinafter "JTTF") and directed to concentrate my time towards domestic terrorism investigations. The ASAC communicated that the reassignment was necessary due to the voluminous number of J6 investigations and rising threats of "domestic violent extremism."

5. I was also told that child sexual abuse material investigations were no longer an FBI priority and should be referred to local law enforcement agencies. Prior to the incidents described below I received exemplary performance

reviews and numerous awards throughout my eight-year FBI career. Most recently, in July of 2022 the FBI conferred me with an "On-The-Spot" financial award.

6. **My concerns are as follows:** Stephen M. Friend, made a disclosure, of which an acting responsible official had knowledge, after which I was subjected to an adverse action.

7. As background information, full investigation casefiles within the FBI are labeled in three sections. The first section denotes the nature of the criminal offense. The second section identifies the FBI Field Office with responsibility for investigating. The third section is a unique case number populated by the FBI's SENTINEL case management system and attributable to the investigation. Additionally, if the investigating Case Agent requires assistance from another field office (i.e., interviewing a subject or witness who resides out of the Case Agent's geographical area of responsibility), investigative policy guides the Case Agent to "cut a lead" to Special Agents in another Field Office requesting that they take certain investigative action to assist the Case Agent. The "lead" facilitates timely investigation without forcing the Case Agent to engage in costly and time-consuming travel to areas beyond his area of responsibility.

* Domestic Investigations and Operations Guide (DIOG)
Appendix J: (U) Case File Management and Indexing

* J.1.2 (U) Investigative Leads and Lead Office (LO)

(U//FOUO) Leads are sent by EC, or a Lead Request document, to offices and assigned to individuals/organizations in order to aid investigations. When the OO sets a lead to another office, that office is considered a Lead Office (LO).

(U//FOUO) There are only two types of investigative leads: "Action Required" and "Information Only."

* J.1.2.1 (U) Action Required Lead

(U//FOUO) An action required lead must be used if the sending office requires the receiving LO to take some type of investigative action.

(U//FOUO) An action required lead may only be set out of an open investigative file, including an:

A) (U) Assessment file;

- B) (U) Predicated investigation file;
- C) (U) Pending inactive investigation file; or
- D) (U) Unaddressed work file..

8. Accordingly, investigations stemming from the January 6, 2021, Capitol Hill protest (hereinafter "J6") could be assigned, according to Domestic Investigations and Operations Guide (DIOG) Appendix J, to Special Agents working at the "Office of Origin (OO)." Per DIOG guidance, Washington D.C. Field Office (WFO) is a logical OO because WFO's area of responsibility includes Washington D.C. If deemed the appropriate OO, any investigations or assessments opened by WFO would be marked with the second section casefile label of "WF." Should investigative actions be necessary outside of Washington D.C., the WFO Case Agent should "cut a lead" to the appropriate FBI Field Office. In the event that an alternative FBI Field Office assumed the role as OO (i.e., because a subject resides in the OO's area of responsibility) any investigations or assessment opened would be marked with the second section casefile label attributable to that Field Office (i.e., "DL" for FBI Dallas). Should investigative actions be necessary outside of the OO's area of the responsibility, the Case Agent should "cut a lead" to the appropriate FBI Field Office. Regardless of the particular OO and according to DIOG Appendix J, the assigned Case Agent assumes management responsibilities for all aspects of the assessment or investigation.

* Domestic Investigations and Operations Guide (DIOG) Appendix J: (U) Case File Management and Indexing.

- o J.1 (U) Investigative File Management
 - o J.1.1 (U) Office of Origin (OO)
 - o (U//FOUO) Generally the Office of Origin (OO) is determined by:
 - A) (U//FOUO) The residence, location or destination of the subject of the investigation;
 - B) (U//FOUO) The office in which the complaint is first received;
 - C) (U//FOUO) The office designated by FBIHQ as OO in any investigation.

* Domestic Investigations and Operations Guide (DIOG) Appendix J: (U) Case File Management and Indexing

- o J.1 (U) Investigative File Management

- o J.1.3 (U) Office of Origin's (OO) Supervision of Cases (U//FOUO) The OO is responsible for proper supervision of Assessments and investigations in its own territory and being conducted in a LO. The FBI employee, usually an FBI Special Agent, to whom an investigation is assigned, is often referred to as the "Case Agent." An FBI employee is personally responsible for ensuring all logical investigation is initiated without undue delay, whether the employee is assigned in the OO or in a LO; this includes setting forth Action Required or Information Only leads as appropriate for other offices or other FBI employees in his/her own office. The OO Case Agent has overall responsibility for supervision of the investigation..

The FBI is following an atypical procedure. J6 task force members in Washington D.C. identify potential subjects and possible locations where these individuals reside. The task force disseminates information packets to Field Offices around the country. If an assessment or investigation is opened for a J6 subject, the recipient Field Offices become the official OO. However, while Special Agents and Task Force Officers in these Field Offices are assigned the role of "Case Agent," the J6 task force effectively manages the cases and performs the bulk of investigative work. The Case Agents perform investigative actions at the direction of the J6 task force. The J6 task force has the preeminent role for presenting J6 cases to the United States Attorney's Office for prosecution.

9. In October of 2021, I was assigned to J6 cases on behalf of Special Agents working in Washington D.C. On these occasions, the J6 Task Force members disseminated information to my office with instructions to perform logical investigative actions (such as surveillance or subject interviews). Members of the Daytona Beach Resident Agency (DBRA) Joint Terrorism Task Force (JTTF) completed and documented these tasks. Later, J6 Task Force members in Washington D.C. reviewed the work and requested additional investigative actions be performed or pressured members of my local JTTF to open full investigations. The J6 Task Force members assured the JTTF that once the case was opened, they would perform future investigative work and paperwork for the casefile. In accordance supervisor roles and responsibilities outlined in the DIOG, the J6 Task Force supervisors approved this work before it was submitted to the casefile. Resultantly, there are active criminal investigations

of J6 subjects in which I am listed as the "Case Agent," but have not done any investigative work. Additionally, my supervisor has not approved any paperwork within the file. J6 Task Force members are serving as Affiants on search and arrest warrant affidavits for subjects whom I have never investigated or even interviewed but am listed as a "Case Agent." The J6 Task Force tasked the DBRA JTTF with executing these warrants.

* Domestic Investigations and Operations Guide (DIOG) 3.5 (U) Supervisor Roles and Responsibilities

* 3.5.2.1 (U) Approval/Review of Investigative or Collection Activities

(U//FOUO) Anyone in a supervisory role who approves/reviews investigative or collection activity must determine whether the standards for opening, approving, conducting, and closing an investigative activity, collection activity or investigative method, as provided in the DIOG, have been satisfied. (U//FOUO) Only FBI supervisory employees and representatives from other government agencies (OGA) assigned to the FBI under the Joint Duty Assignment Program or the Intergovernmental Personnel Act as supervisors (as defined in DIOG subsection 3.5.1) may approve the serialization of investigative records into Sentinel. Additionally, whenever an OGA supervisor (as described above) approves an investigative record, an FBI supervisor must also approve the record into Sentinel. An OGA supervisor may not approve investigative methods (i.e., DIOG Section 18 methods) or investigative activities (e.g., UDP and OIA).

* Domestic Investigations and Operations Guide (DIOG) Appendix J: (U) Case File Management and Indexing

o J.1 (U) Investigative File Management

J.1.3 (U) Office of Origin's (OO) Supervision of Cases (U//FOUO) The OO is responsible for proper supervision of Assessments and investigations in its own territory and being conducted in a LO. The FBI employee, usually an FBI Special Agent, to whom an investigation is assigned, is often referred to as the "Case Agent." An FBI employee is personally responsible for ensuring

all logical investigation is initiated without undue delay, whether the employee is assigned in the OO or in a LO; this includes setting forth Action Required or Information Only leads as appropriate for other offices or other FBI employees in his/her own office. The OO Case Agent has overall responsibility for supervision of the investigation...

10. During the week of August 15, 2022, I became aware of imminent arrests of J6 subjects and searches of their respective residences within the FBI's Jacksonville and Tampa Field Office areas of responsibility. Simultaneous takedowns were scheduled to occur on August 24, 2022. Due to perceived threats levels, an FBI SWAT team was enlisted to arrest one of the arrests. On Friday, August 19, 2022, I spoke with my front-line supervisor, SSRA Greg Federico, on two separate occasions to disclose my concerns about potential DIOG policy violations employed during the investigative processes. SSRA Federico listened to my concerns but emphasized that the warrants were lawful court orders. He said that these operations were one step in the process and that the subjects would be afforded all due process.

11. I responded that it was inappropriate to use an FBI SWAT team to arrest a subject for misdemeanor offenses and opined that the subject would likely face extended detainment and biased jury pools in Washington D.C. I suggested alternatives such as the issuance of a court summons or utilizing surveillance groups to determine an optimal, safe time for a local sheriff deputy to contact the subjects and advise them about the existence of the arrest warrant. SSRA Federico told me that FBI executive management considered all potential alternatives and determined the SWAT takedown was the appropriate course of action. SSRA Federico noted that I appeared to be under stress and suggested speaking to the FBI's employee assistance program. SSRA Federico told me that he respected how I was standing on principle, but I was putting him in a difficult situation because Special Agents cannot refuse to participate in specific cases. He stated that he wished I just "called in sick" for this warrant but his hands were tied now that I told him that I was going to refuse to participate in any J6 cases. Per the Office of Personnel Management, "an employee is entitled to use sick leave for: personal medical needs, family care or bereavement, care of a family member with a serious health condition, and adoption-related purposes." SSRA Federico told me that the FBI plans to prosecute every subject

associated with J6 and he expected "another wave" of J6 subjects would be referred to the Daytona Beach Resident Agency for investigation and arrest. SSRA Federico asked how I thought the Special Agent in Charge (SAC) of FBI Jacksonville would react to my position. He told me that it sounded like my concerns were with FBI leadership and the overall nature of the J6 investigations. SSRA Federico threatened reprisal indirectly by asking how long I saw myself continuing to work for the FBI. He asked me to reconsider my position and told me that he would decide on his actions over the course of the weekend.

12. On August 22, 2022, I was contacted by Jacksonville's Assistant Special Agent in Charge (ASAC) Coult Markovsky, who requested that I attend a meeting at the FBI Jacksonville office the following afternoon. On August 23, 2022, I met with ASAC Markovsky and ASAC Sean Ryan. I again disclosed my concerns about potential DIOG policy violations employed during the J6 investigative processes. I told that the irregular case dissemination, labeling, and management processes could be considered exculpatory evidence the must be disclosed to defendants in accordance with the Brady rule. I expressed my concerns about violating citizens' Sixth Amendment rights due overzealous charging by the DOJ and biased jury pools in Washington D.C. I cautioned about the similarities between Ruby Ridge, the Governor Whitmer kidnapping case, and the J6 investigation. ASAC Markovsky said that I lacked perspective on the J6 prosecutions because I was not principally involved in the day-to-day investigations. He added that it is the FBI's job to gather facts, but we are not responsible for determining if an individual should be prosecuted. I countered that former FBI Director James Comey's actions indicated this was no longer an FBI practice when he stated that "no reasonable prosecutor" would bring charges against former Secretary of State Hillary Clinton.

13. The ASACs asked if I believed the J6 rioters committed a crime. I responded that some of the people who entered the Capitol committed crimes, but others were innocent. I elaborated that I believed some innocent individuals had been unjustly prosecuted, convicted, and sentenced. ASAC Markovsky unironically asked if I thought that the individuals who "killed police officers" should be prosecuted. I replied that there were no police officers killed on January 6, 2021. ASAC Markovsky told me that I was being a bad teammate to my colleagues. The ASACs threatened reprisal again by warning that my refusal could

amount to insubordination. References were made to my future career prospects with the FBI. ASAC Ryan suggested I might want to speak with the FBI's employee assistance program about my emotional concerns with J6 cases. The ASACs informed me that I could not refuse to participate if FBI leadership was comfortable that an operation is Constitutional, within FBI guidelines, and did not present an unnecessary risk to my safety.

14. I responded by again disclosing that the facts and concerns I presented demonstrated how the J6 investigations violate all three elements. I told them that I would not participate in any of these operations. At the conclusion of the meeting, the ASACs opined that they did not know how they would proceed with me from a disciplinary perspective. They emphasized that any punitive action would be a slow process. However, four hours later ASAC Markovsky emailed me the following act of reprisal: "After multiple conversations with SSRA Greg Federico and our continued conversations today with myself and ASAC Ryan, you continue to refuse to participate in an FBI mission to serve a lawful court order issued by a Federal Judge. You are not to report to the Daytona Beach RA tomorrow, August 24, 2022, and you will be placed on AWOL (Absent Without Leave) status. AWOL in itself is not disciplinary, but can lead to disciplinary charges, such as removal." ASAC Markovsky and ASAC Ryan stated that all the details of our meeting were Unclassified.

15. On September 1, 2022, I met with FBI Jacksonville Special Agent in Charge (SAC) Sherry Onks. SAC Onks told me that I had a reputation as a good Special Agent and expressed disappointment with my refusal to participate in the January 6th investigations. SAC Onks suggested that I do "some soul searching" and decide if I wanted to work for the FBI. SAC Onks said that it "sounded like I lost faith in the FBI and its leadership." SAC Onks stated that the J6 investigations were all legal, ethical, and in accordance with FBI procedure. She said that my refusal to participate in the cases meant that I did not trust my colleagues' work and indicated that I believed the Special Agents working on J6 were coopted into behaving unethically and immorally. I again disclosed by informing SAC Onks that I believed the investigations were inconsistent with FBI procedure and resulted in the violation of citizens' Sixth and Eighth Amendment rights. I added that many of my colleagues expressed similar concerns to me but had not vocalized their objections to FBI Executive Management. SAC Onks disagreed with

my premise and said that my views represented an extremely small minority of the FBI workforce. SAC Onks told me that she had never encountered my situation during her career. She recalled the fear she felt while sitting on the seventh floor of the J. Edgar Hoover Building on January 6, 2021 when protestors "seized the Capitol" and threatened the United States' democracy. SAC Onks reprised against me and admitted as much, when she informed me that she referred me to the FBI's Office of Professional Responsibility and Security Division. SAC Onks told me that the Security Division was assessing my security clearance.

16. In addition to the atypical Originating Office identification process for J6 cases, the process potentially violates Case Manager and Case File Management and Indexing policies listed in the FBI's Domestic Investigations and Operations Guide (DIOG). These potential violations include:

- Domestic Investigations and Operations Guide (DIOG) 3.3 (U) Special Agent/Task Force Officer (TFO)/Task Force Member (TFM)/Task Force Participant (TFP)/FBI Contractor/Others - Roles and Responsibilities
 - 3.3.1.10 (U) Serve as Investigation ("Case") Manager: (U//FOUO) If assigned responsibility for an investigation, manage all aspects of that investigation, until it is assigned to another person. It is the case manager's responsibility to ensure compliance with all applicable laws, rules, regulations, and guidelines, both investigative and administrative, from the opening of the investigation through disposition of the evidence, until the investigation is assigned to another person...
- Domestic Investigations and Operations Guide (DIOG) Appendix J: (U) Case File Management and Indexing
 - J.1 (U) Investigative File Management
 - J.1.3 (U) Office of Origin's (OO) Supervision of Cases (U//FOUO) The OO is responsible for proper supervision of Assessments and investigations in its own territory and being conducted in a LO. The FBI employee, usually an FBI Special Agent, to whom an investigation is assigned, is often referred to as the "Case Agent." An FBI employee is personally responsible for ensuring all logical investigation is initiated without undue delay, whether the employee is assigned in the OO or in a LO; this includes setting forth Action Required or

Information Only leads as appropriate for other offices or other FBI employees in his/her own office. The OO Case Agent has overall responsibility for supervision of the investigation..

The manipulative casefile practice creates false and misleading crime statistics, constituting false official federal statements 18 U.S.C. §1001. Instead of hundreds of investigations stemming from an isolated incident at the Capitol on January 6, 2021, FBI and DOJ officials point to significant increases in domestic violent extremism and terrorism around the United States. At no point was I advised or counseled on where to take my disclosure beyond the reprising officials above; the threatened reprisal constituted a *de facto* gag on my whistleblowing.

17. The acting officials who had knowledge of my disclosures as set forth above included SSRA Greg Federico, Jacksonville's Assistant Special Agent in Charge (ASAC) Coult Markovsky, ASAC Sean Ryan, and FBI Jacksonville Special Agent in Charge (SAC) Sherry Onks.

18. I was reprised against and instructed to not report to the Daytona Beach RA on August 24, 2022, and was placed on AWOL status. When I arrived at the FBI's Daytona Beach Field Office on the morning of September 19, 2022, I was brought into a meeting with my supervisor, ASAC, SAC, and security officer. I was told that my security clearance was suspended pending an investigation. My credentials, firearm, and badge were confiscated, and I was escorted from the building.

19. I also received the letter annexed hereto and made a part hereof dated September 16, 2022.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the above statement are true to the best of my knowledge.

Stephen M. Friend L.S.

Stephen M. Friend

September 21, 2022

Exhibit B

U.S. Department of Justice

Certification of Identity

FORM APPROVED OMB NO. 1103-0016
EXPIRES 05/31/2023

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ Stephen Michael FriendCitizenship Status ² USA Social Security Number ³ [REDACTED]Current Address [REDACTED]Date of Birth [REDACTED] Place of Birth [REDACTED]**OPTIONAL: Authorization to Release Information to Another Person**

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Empower Oversight Whistleblowers & Research
Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ Stephen Friend Date 1/31/2023

¹ Name of individual who is the subject of the record(s) sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

FORM DOJ-361