

EMPOWER OVERSIGHT

Whistleblowers & Research



EMPOWR.us

March 6, 2023

VIA ELECTRONIC TRANSMISSION

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

Dear Inspector General Horowitz:

We write on behalf of former Federal Bureau of Investigation (FBI) Special Agent Steve Friend.

On September 21, 2022, Federal Bureau of Investigation (FBI) Special Agent Friend submitted to the Department of Justice, Office of Inspector General (“DOJ OIG”), a complaint that, in addition to detailing numerous acts of whistleblower retaliation against him, included allegations of systemic abuses of the Constitution, laws, and policy by the FBI. Without interviewing Friend or seeking any additional information from his counsel, DOJ OIG sent a December 2, 2022 form letter stating: “After careful consideration and in view of the limited resources of the OIG, we have decided not to open an investigation of the allegations that you raise.”

The form letter requested Special Agent Friend’s consent to refer his disclosures to the FBI’s Inspection Division, noting that “we believe the issues you raise should be brought to the attention of the responsible components/agencies for possible administrative inquiry and management review.” The form letter was unclear as to the status of Friend’s retaliation claims, but the DOJ OIG officials clarified in follow-up telephone inquiries that the form letter did not apply to retaliation claims in Friend’s complaint.

After the December 2, 2022 form letter, Special Agent Friend and Empower Oversight continued to furnish additional information to your office, to Congress, and to the public in relation to the initial declaration submitted to your office. Our understanding has been, and remains, that it is your office’s intent to interview Friend in order to obtain a more complete understanding of his allegations and fully assess both his underlying disclosures as well as his retaliation claims. Although that interview has not yet been scheduled, he is ready, willing, and eager to fully cooperate in any good faith, independent investigation. The abuse of the security clearance process to retaliate and force him out of his job is also a broader concern, of which Friend’s case is only one prominent example.

However, last week Democrats on the U.S. House Committee on the Judiciary provided a “staff report” to the *New York Times* containing selectively edited partial transcript excerpts of Friend’s testimony, along with various interview exhibits, and numerous mischaracterizations written by Democrat staff, including claims about meaning of the December 2, 2022 form letter from your office and the current status of Friend’s case there.

In short, the Democrats claimed that your office had rejected his concerns. Thus, I write to confirm our understanding that their claim is false and that your office still intends to interview Friend.

The “staff report” was released with no notice to Friend or his counsel, without authorization of the Committee, and in violation of the conditions articulated to Friend about the “confidential” treatment of the transcripts during the committee’s investigation. It made a number of assertions about Friend and his complaint with DOJ OIG. The report began with a “Forward” (sic) from Committee Ranking Member Jerrold Nadler and Subcommittee Ranking Member Stacey Plaskett which asserted without evidence: “[T]he three individuals we have met [including Friend] are not, in fact, ‘whistleblowers.’”¹ The staff report went on to assert the following:

- “Witness Stephen Friend made two primary claims. First, Friend claimed that the FBI departed from its internal operations manual as it managed hundreds of cases after the January 6 Capitol attack. Friend brought this claim to the Justice Department Inspector General . . . [which] rejected the claim.”²
- “The DOJ Office of Inspector General...declined to open an investigation into Friend’s allegations.”³
- “[T]he Inspector General rejected his claims...”⁴
- “[T]he Office of Inspector General previously reject[ed] those claims...”⁵

These mischaracterizations in the Democrat staff report were subsequently parroted by multiple media outlets, including:

- *CNN*: “After Friend was suspended for refusing to help in the case, he filed a whistleblower complaint to the Justice Department inspector general on September 21, 2022...Friend’s claim was eventually rejected...”⁶
- *Washington Post*: “In the case of Friend, who accused the FBI of mismanaging cases of Jan. 6 defendants, his claims were rejected by the independent Justice Department inspector general...”⁷

It is our understanding that several media outlets uncritically repeated the Democrat staff report’s mischaracterizations without bothering to ask your office. We know for certain that other outlets asked your office for comment and clarification to confirm our understanding of the current status of Friend’s case, but received no response.

This suggests a disturbing situation in which your office’s silence is allowing its reputation for neutrality and objectivity to be hijacked by partisans and their media allies to

¹ House Committee on the Judiciary Democratic Staff Report, *GOP Witnesses: What Their Disclosures Indicate about the State of the Republican Investigations*, 117th Congress (March 2, 2023), at 1.

² *Id.* at 4.

³ *Id.* at 31.

⁴ *Id.* at 32.

⁵ *Id.* at 34.

⁶ Annie Grayer and Alayna Treene, “Jim Jordan’s first FBI whistleblowers face scrutiny from skeptical Democrats,” *CNN*, March 2, 2023 (at <https://www.cnn.com/2023/03/02/politics/jim-jordan-whistleblowers-fbi-weaponization/index.html>).

⁷ Justine McDaniel, “Democrats challenge credibility of GOP witnesses who embrace false Jan. 6 claims,” *Washington Post*, March 3, 2023 (at <https://www.washingtonpost.com/politics/2023/03/03/gop-witnesses-fbi-jan-6-jim-jordan/>).

leave a false impression with the public—all in the service of undermining a whistleblower for political purposes.

We are aware of no communication from DOJ OIG ever indicating that it has closed Friend's retaliation claim. If DOJ OIG had issued a final determination on Friend's reprisal claim, he would have a statutory right to appeal to the Merit Systems Protection Board.⁸ He has received no such determination.

Furthermore, as described above, it is our understanding that DOJ OIG is continuing to receive and evaluate information related to Friend's initial underlying disclosures, and that DOJ OIG personnel in fact plan to interview him on these matters.

Accordingly, please confirm that DOJ OIG still intends to schedule an interview with Friend regarding his disclosures, and please let us know when that is likely to occur so that we can coordinate his availability. We also respectfully request an update on the status of Friend's reprisal complaint. Thank you very much for your prompt attention to this important matter.

Cordially,

[/Tristan Leavitt/](#)

Tristan Leavitt
President

⁸ 5 U.S.C. § 2303(d)(1); 5 U.S.C. § 1221.