

EMPOWER OVERSIGHT

Whistleblowers & Research



June 21, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Jim Jordan
Chairman
The Honorable Jerrold Nadler
Ranking Member
Committee on the Judiciary
United States House of Representatives

The Honorable Richard Durbin
Chairman
The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Charles Grassley
Chairman
The Honorable Ron Wyden
Vice Chairman
Whistleblower Protection Caucus
United States Senate

Dear Chairmen and Ranking Members:

Recently, Empower Oversight obtained the attached affidavit from a Federal Bureau of Investigation (FBI) employee, who wishes to remain anonymous for fear of suffering retaliation.

The affiant heard FBI Deputy Director Paul Abbate communicate a threat to all FBI personnel in a video teleconference during February 2021. Abbate had heard that some employees were contrasting the FBI's response to January 6th with its failure to protect federal personnel and property, or to aggressively investigate interstate conspiracies and resulting damage, during the civil unrest after the murder of George Floyd in 2020.

After defending the FBI's disparate treatment of the two events, Abbate "told the audience that anyone who questions the FBI's response or his decisions regarding the response to January 6th did not belong in the FBI and should find a different job." Furthermore, Abbate told all special agents in charge ("SACs") "if they had an employee that did not agree, the SACs could have that employee call [him] personally and he would set them straight."

The affiant had observed hundreds of teleconferences with senior FBI officials but had never "seen a direct threat like that any other time." Abbate's choice of words, that any employee

who disagrees “should find a different job,” is consistent with what other Empower Oversight clients have experienced. For example, an FBI manager essentially parroted Abbate when then-Special Agent Steve Friend questioned his division’s handling of January 6th investigations. The affiant believes that the retaliation suffered by FBI whistleblowers suggests that Abbate and others made good his threat.¹

Abbate’s threat to employees was witnessed by numerous other FBI employees and constitutes evidence of intent to retaliate against any dissent. This evidence is relevant to countless administrative proceedings and inquiries related to whistleblower retaliation and security clearance determinations—not merely those involving our clients. This evidence can be independently corroborated by dozens, if not hundreds, of other FBI employees if congressional committees and the Justice Department Inspector General would investigate and document the results.

FBI executives routinely retaliate against employees for expressing concerns about the FBI and the Department of Justice. If they belonged to any other federal law enforcement agency, they would have more effective remedies for these prohibited personnel practices. But at the FBI, legally protected disclosures are not protected in practice. The vast majority of FBI employees don’t have the same civil service protections as other federal employees to obtain review of disciplinary actions taken against them.

Abbate and FBI managers following his lead are quite capable of carrying out his threat to purge dissenting employees through the security clearance process. The unreviewable authority to immediately and indefinitely remove an employee’s livelihood is an open invitation for abuse—forcing whistleblowers to choose between depleting their savings, relying on charity, or resigning.²

Moreover, by abusing the security clearance process, the FBI is capable of doing so *en masse* and with virtually no accountability—which is precisely what appears to be happening. Anecdotal evidence and our experience representing FBI whistleblowers suggests that serious scrutiny of the FBI Security Division would reveal not only a dramatic uptick in the number of FBI employees being targeted, but also an utter lack of professionalism and evidence to support the Security Division’s alleged findings in individual cases. For example, we know that the letter sent by Acting Assistant Director Christopher Dunham on May 17, 2023 and promptly leaked to the media contained numerous false claims about our client, Marcus Allen, for which the FBI has offered zero evidence. Conclusory assertions by the FBI might have carried the day once upon a time. But, those days are gone because the Bureau keeps giving the public more reasons to lose trust in its integrity.

The FBI is not a private club for FBI executives to make in their own image. It is an extremely important agency that is supposed to enforce the law without prejudice. Empower Oversight respectfully requests that you work swiftly to independently corroborate this

¹ To be clear, the affiant is not someone who knows or who has interacted with Friend or the other FBI whistleblowers who have testified before Congress on these issues, but merely a concerned FBI employee who believes this information may be relevant to their cases and the Justice Department Inspector General’s related investigations.

² Incredibly, some Members of Congress have attempted to shame and stigmatize those who have been forced to rely on charity. For example, at a May 18, 2023 hearing, Representative Dan Goldman—heir to the Levi Strauss fortune—grilled Steve Friend on receiving a charitable donation: “Are you a charitable organization?” Friend responded: “I was an unpaid, indefinitely suspended man trying to feed his family.” Later in the hearing, after Special Agent Garrett O’Boyle provided emotional testimony about being unable to access his family’s belongings, he was asked about becoming a “charity case.” He testified: “I did. And now I get derided for that. I never thought I’d have to accept charity in my life. I thought I would be able to take care of my family. But I’m grateful for everyone who has provided charity to me.”

information with other witnesses, publicly document your findings, and hold Deputy Director Abbate accountable.

Cordially,

[/Tristan Leavitt/](#)
Tristan Leavitt
President

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

AFFIDAVIT OF [REDACTED]

1. [REDACTED] declare as follows:

1. I am a special agent in the FBI with more than fifteen years of experience. I have been in a leadership position in the FBI for more than ten years. I am over the age of eighteen and am competent to testify. The statements contained in this affidavit are based on my personal knowledge. If called to testify, I can and will testify to these facts.

2. I ask that my identity remain confidential, because I fear retaliation if I am identified. The information sworn to here can easily be independently verified by any of the many other witnesses to the event, and I encourage oversight authorities to do so.

3. I am providing this sworn declaration to advise that the Deputy Director of the FBI, Paul Abbate, threatened employees who criticized the FBI's response or tactics related to investigations of the events of January 6, 2021 ("January 6th").

4. Such criticisms can constitute protected whistleblower disclosures based on good faith belief of wrongdoing. Thus, I believe it is my duty to report Deputy Director Abbate's statement as evidence of improper retaliatory intent and a green light for FBI managers to engage in reprisal against January 6th whistleblowers in violation of 5 U.S.C. § 2303.

5. This evidence would be relevant to pending FBI whistleblower cases, particularly to the extent that FBI personnel involved in the suspension of security clearances and other acts of retaliation were among those who witnessed or became aware of Deputy Director Abbate's threats. I encourage oversight authorities to investigate and consider whether these threats were a contributing factor in retaliation against January 6th whistleblowers.

6. Each Wednesday, typically at 3 p.m. Eastern Time, the FBI Director hosts a video teleconference in which he addresses all of the FBI's divisions. The heads of the 56 field offices, foreign legal attaches, and headquarters divisions will typically attend the Secure Video

Teleconference (“SVTC”). During the SVTC, division heads or executive assistant directors will address topics of interest and the Deputy Director (“DD”) and Assistant Deputy Director will frequently address the audience.

7. During February 2021, the newly appointed DD, Paul Abbate, took time during the meeting to address all FBI personnel on the SVTC, including myself. He stated that it had come to his attention that some employees of the FBI questioned the FBI’s investigative response to the events on January 6, 2021. He had heard that some employees were contrasting the response to January 6th with the response to the post-George Floyd protests and riots in the summer of 2020. DD Abbate told the audience that anyone who questions the FBI’s response or his decisions regarding the response to January 6th did not belong in the FBI and should find a different job – or something to that effect. He stated that the FBI’s response to January 6th was consistent with the response to the Summer 2020 riots. He argued that the FBI was applying all appropriate resources in each situation. Finally, he challenged all Special Agents in Charge (“SACs”) that if they had an employee that did not agree, the SACs could have that employee call DD Abbate personally and he would set them straight. I have witnessed hundreds of Director SVTCs and have never seen a direct threat like that any other time. It was chilling and personal, communicating clearly that there would be consequences for anyone that questioned his direction.

8. Shortly before that February 2021 SVTC, DD Abbate had received an email, presumably from a former senior employee. In that email, the sender claimed to DD Abbate that a “sizeable percentage” of FBI employees “felt sympathetic” to January 6th rioters. The email described anecdotal evidence based on a few conversations and made sweeping political generalizations implying that DD Abate needed to take some action to deal with the dissenting views within the FBI. I believe the SVTC threats may have been in response to, or inspired in part by, that email. *See https://vault.fbi.gov/@/a/dvpdf/files/f/4/f4d8fa57ba274002a3a5548d7742ec15/normal/dump_7.png*

(last visited June 20, 2023).

9. As part of new agents' training at the FBI Academy in Quantico, Virginia, every agent used to go to the U.S. Holocaust Memorial Museum for a tour and a discussion of lessons learned from a law enforcement perspective. The message was this: when orders or policies are wrong, when we are told to do things that violate core values and principles, we must have the courage to ask difficult questions and raise objections. We should be able to do that without fear of being crushed. The Deputy Director's threats sent the opposite message: Dissent will not be tolerated. If you question my response to January 6, I don't want you in my FBI.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of June 2023 in 

