



U.S. Department of Justice

Office of the Inspector General

April 12, 2019

The Honorable Chris Van Hollen
United States Senator

The Honorable Benjamin L. Cardin
United States Senator

The Honorable Jamie Raskin
Member of Congress

Dear Senator Van Hollen, Senator Cardin, and Representative Raskin:

I am writing in response to your letter dated March 13, 2019, in which you requested that the Department of Justice (Department) Office of the Inspector General (OIG) review the FBI's termination of the employment of your constituent, Darin A. Jones.

As noted in your letter, Mr. Jones' retaliation complaint has already been adjudicated by the Department's Office of Attorney Recruitment and Management (OARM), in a decision that was upheld on appeal by then Deputy Attorney General Sally Yates. After passage of the FBI Whistleblower Protection Enhancement Act (FBI WPEA) in late 2016, Mr. Jones' petitioned OARM to reopen his case. OARM declined his request. I strongly supported the changes in the law made by the FBI WPEA. Those changes have given the OIG greater authority to assist FBI whistleblowers who experience retaliation for reporting misconduct to their direct supervisors. Notwithstanding my support for this law, the OIG is the investigating, not the adjudicating, office in FBI retaliation complaints. Therefore, we do not have any authority in connection with legal decisions made by OARM or the Deputy Attorney General in adjudicating particular matters.

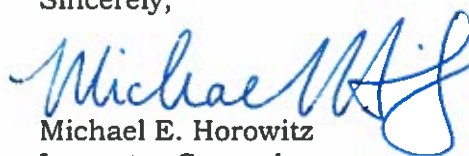
Your letter also notes that it is in the interest of the Department to determine whether officials within the FBI are terminating employees for whistleblowing, notwithstanding the specific jurisdictional limitation that OARM and the Deputy Attorney General cited in deciding Mr. Jones' retaliation complaint. I completely agree. In fact, prior to the FBI WPEA, the OIG conducted FBI retaliation investigations under similar circumstances, and reviewed whether officials violated FBI policy by taking action against a subordinate for reporting a concern to a supervisor, even though such disclosures were not protected by the FBI whistleblower law at the time. In 2012, with this concern in mind, we carefully reviewed Mr. Jones' retaliation complaint and the specific reasons the FBI provided for terminating his employment. We also had an OIG agent and two auditors meet with Mr. Jones. Our review identified no reasonable basis to conduct a retaliation investigation against the FBI managers involved in the decision.

While I understand that this is not the outcome Mr. Jones is seeking, I want to assure you that we have done everything that we can to facilitate a careful review of Mr. Jones' concerns, including his underlying disclosures of waste, fraud, and abuse. In

September 2017, after receiving additional correspondence from Mr. Jones, I asked representatives from our Audit Division to again meet with Mr. Jones to discuss in detail his continued concerns about the FBI's 2011 Enterprise Operations Center Task Order, its use of Reimbursable Work Authorizations, and its 2012 awards ceremony, among other issues. While we determined that the information provided by Mr. Jones did not provide a sufficient basis for further investigation of these matters, I believe it is critically important that whistleblowers have an open channel with the OIG to report these issues and to ensure they have been properly vetted and considered.

We hope that this information is helpful. If you have further questions, please feel free to contact me or Adam Miles, Counselor to the Inspector General, at (202) 514-3435.

Sincerely,



Michael E. Horowitz
Inspector General