

Congress of the United States

Washington, DC 20510

March 13, 2019

Michael E. Horowitz
Inspector General for the Department of Justice
950 Pennsylvania Avenue, NW, Suite 4706
Washington, D.C. 20530-0001

Dear Mr. Horowitz:

We are writing to request that you review the FBI's termination of the employment of our constituent, Darin A. Jones, to determine whether Mr. Jones was terminated in retaliation for whistleblowing. We are deeply concerned about the chilling message that this case sends to potential whistleblowers working at the FBI and throughout the federal government.

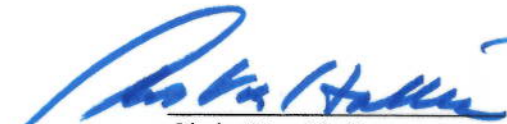
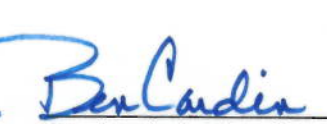

The Department of Justice described its handling of Mr. Jones's case in a letter from Assistant Attorney General Stephen E. Boyd (see attachment). According to this letter, Mr. Jones raised concerns about alleged wrongdoing to a supervisor, and at the time Mr. Jones made these concerns known, an employee's supervisors were not among the recipients who could receive a disclosure that would trigger whistleblower protections. Congress has since remedied this loophole with the FBI Whistleblower Protection Act of 2016.

The Office of Attorney Recruitment and Management (OARM) concluded that, "Mr. Jones had made sufficient non-frivolous disclosures to trigger a presumption that they were a contributing factor in the personnel action." However, OARM did not investigate further due to the jurisdictional technicality described above. Mr. Boyd's letter states that OARM did not determine whether the FBI could show "clear and convincing evidence that it would have taken the same personnel action in the absence of Mr. Jones's alleged whistleblowing," a necessary step to establish whether Mr. Jones was terminated for whistleblowing.

Regardless of the jurisdictional issues, it is in the interest of the Department of Justice to determine whether officials within the FBI are terminating employees for whistleblowing. In addition to whistleblower protection statutes, the FBI has Policy Directive 0727D, Non-Retaliation for Reporting Compliance Risks. This policy states that, "All FBI Personnel are strictly prohibited from retaliating against anyone for reporting a compliance concern that the reporting individual reasonably believes to be true," when the disclosure is reported to one of several individuals designated to receive such a disclosure, including, "Any supervisor in the chain of command of the person reporting the compliance risk." This policy further states that, "FBI personnel who engage in retaliation may be subject to disciplinary action."

Protecting whistleblowers and rooting out misconduct is a goal that we all share, and thank you for your consideration of this request.

Sincerely,

		
Chris Van Hollen United States Senator	Benjamin L. Cardin United States Senator	Jamie Raskin Member of Congress

Attachment: Letter from Assistant Attorney General Stephen E. Boyd.