



U.S. Department of Justice
Federal Bureau of Investigation

Office of Congressional Affairs

Office of the Assistant Director

935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

May 17, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan:

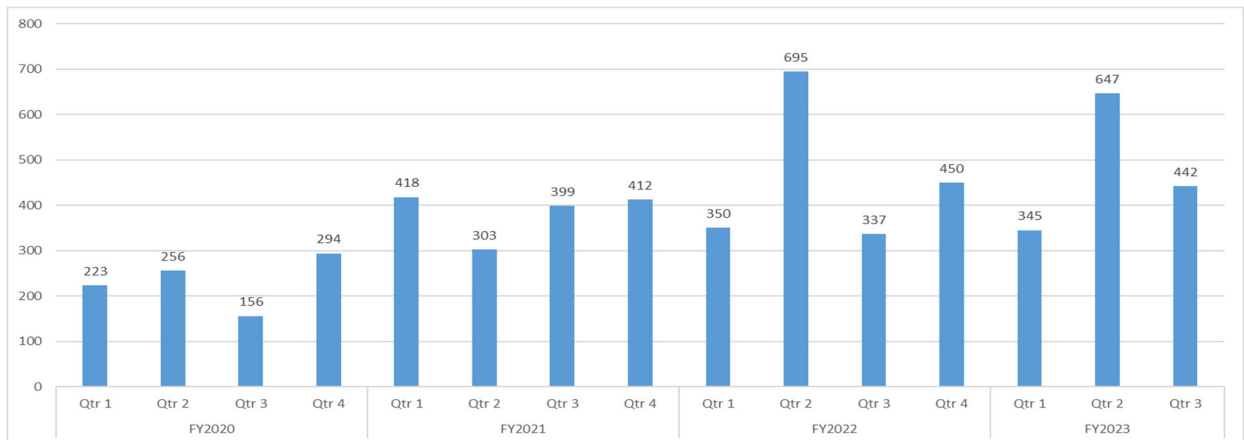
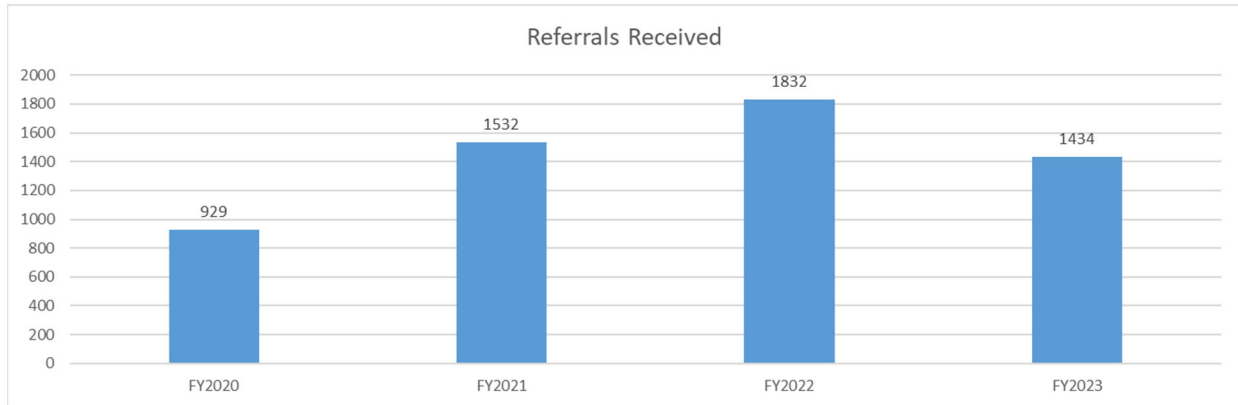
We write in further response to your letters, dated May 8, 2023, and May 10, 2023, regarding the Committee's deposition subpoena, authorized on April 24, 2023, to Federal Bureau of Investigation (FBI) Executive Assistant Director (EAD) Jennifer Moore at the conclusion of her voluntary transcribed interview. This follows our prior responses, dated May 2, 2023, and May 11, 2023, regarding the subpoena.

During her transcribed interview, EAD Moore described, in detail, the FBI's security clearance adjudication process. When the Committee asked about the still-pending security clearance decisions of particular FBI employees, EAD Moore correctly noted that the time was not ripe for that discussion in order to protect due process and the individuals' privacy. The security clearance adjudication process is now complete for three of the four individuals referenced in your May 8 letter.

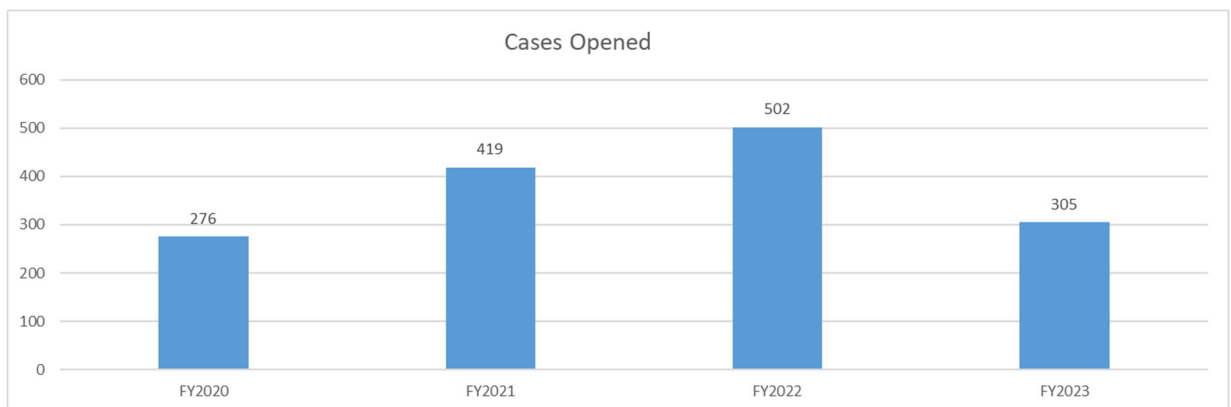
Your May 8 letter requested that EAD Moore return to "complete her testimony" before May 18, in advance of the Committee's upcoming hearing. Accordingly, EAD Moore rearranged travel and other obligations to abide by the Committee's timeline and to be in a position to provide additional information in advance of that hearing. As the Committee elected not to proceed with EAD Moore's continued interview today, we write to provide the Committee with additional information that you requested in advance of the Committee's upcoming hearing. We provide this information as a further accommodation of the Committee's April 24 subpoena and the several other written requests from the Committee Chair for information regarding the specified clearance adjudications.

First, at the April 24 transcribed interview, EAD Moore agreed to follow-up with the Committee on a number of specific points. With respect to the Committee's request for data regarding the volume of security incidents and security investigations since 2020, the following

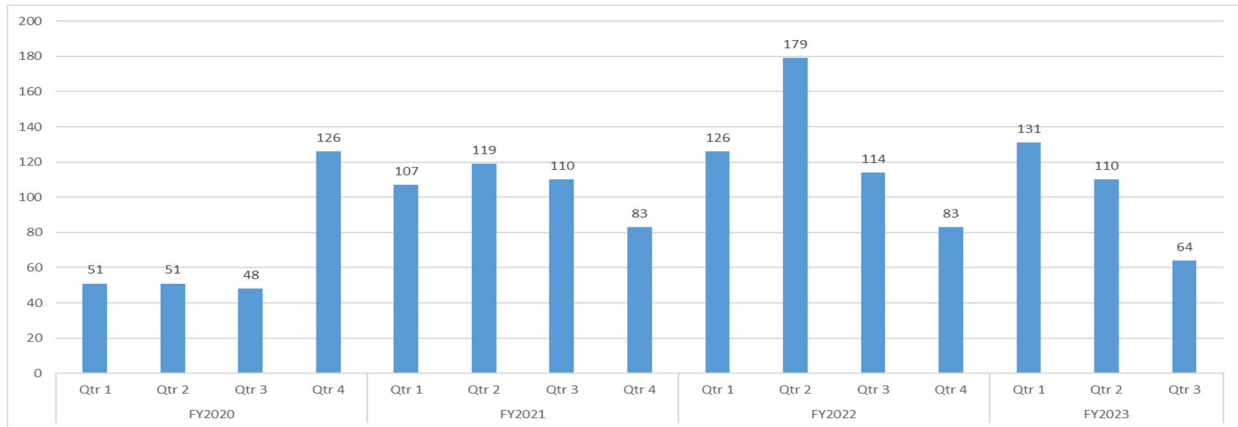
“referrals”¹ data represent the total number of security incident referrals received by the FBI’s Security Division during the specified timeframe:



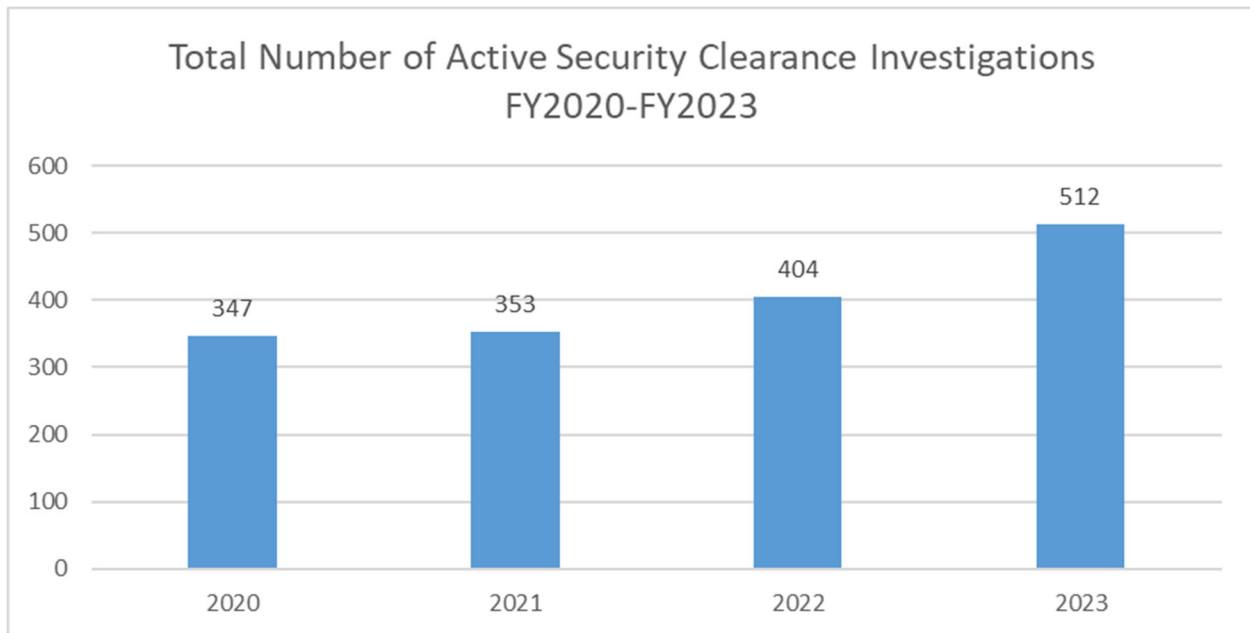
The following “cases” data represent the total number of security incident investigations opened by the FBI’s Security Division during the specified timeframe:



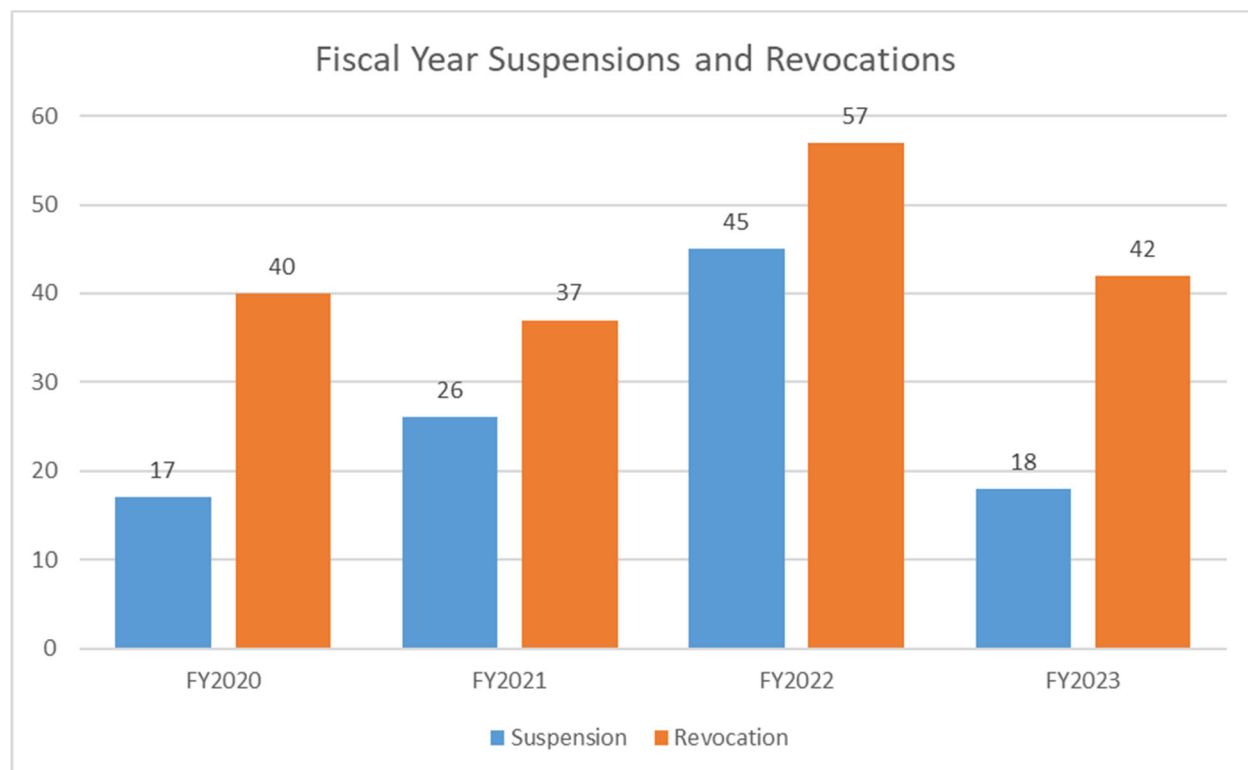
¹The Security Division receives referrals from different sources, including employee self-reports, third-party reports, other FBI divisions, and other government agencies.



The following data represents the total number of security clearance investigations during the specified timeframe:



Finally, the total numbers of suspensions and revocations by fiscal year include the following:



With respect to your request for information related to reasonable accommodation requests regarding COVID-19 vaccination requirements pursuant to Executive Order 14043, in total, the FBI received 2,878 such reasonable accommodation requests. The FBI's Human Resources Division issued decisions on 104 reasonable accommodation requests prior to the January 21, 2022, federal preliminary injunction. Of these 104 decisions, 91 vaccine exceptions were approved (including religious and medical/disability accommodation requests); 13 were denied. No FBI employees were removed for not complying with the Executive Order.

Finally, the FBI is able to confirm that the security clearance adjudications of Marcus Allen, Brett Gloss, and Stephen Friend are complete. As discussed at the April 24 transcribed interview, the legal framework affords an individual an opportunity to request an administrative appeal of the FBI's revocation decision. If the revocation decision is upheld, then the individual may appeal to the Department of Justice Access Review Committee.² The FBI has taken every effort to ensure that these investigations and adjudications were full and fair, while at the same time endeavoring to accommodate the Committee's oversight requests. Following the completion of the initial adjudication process, and as EAD Moore committed at her transcribed interview, the FBI is now able, as a further accommodation, to provide additional information

²This appeal process is separate from the Office of Inspector General's authority to review allegations of whistleblower retaliation with respect to security clearance actions. Nothing in this response is intended to infringe upon an individual's right to seek reconsideration of a clearance adjudication in any forum.

about the suspension, investigation, and revocation of the following individuals' security clearances pursuant to the Security Executive Agent Directive 4 – National Security Adjudicative Guidelines.³

Brett Gloss

Brett Gloss's TS security clearance was revoked by the FBI on May 3, 2023. A copy of Mr. Gloss's notification letter is enclosed.

Mr. Gloss's Security Clearance Suspension

The Security Division opened a security investigation regarding Mr. Gloss in August 2021, after receiving a referral from the FBI's Washington Field Office. On March 30, 2022, Mr. Gloss's security clearance was suspended based on security concerns pursuant to three Adjudicative Guidelines: Guideline A – Allegiance to the United States, Guideline E – Personal Conduct, and Guideline J – Criminal Conduct.

Guideline A states:

“The willingness to safeguard classified or sensitive information is in doubt if there is any reason to suspect an individual's allegiance to the U.S. There is no positive test for allegiance, but there are negative indicators. These include participation in or support for acts against the U.S. or placing the welfare or interests of another country above those of the U.S. Finally, the failure to adhere to the laws of the U.S. may be relevant if the violation of law is harmful to stated U.S. interests. An individual who engages in acts against the U.S. or provides support or encouragement to those who do has already demonstrated willingness to compromise national security.”

Guideline E states:

“Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.”

Guideline J states:

“Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.... Conditions that could raise a security concern and may be disqualifying include evidence of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.”

³The Guidelines apply to all federal agencies with the authority to adjudicate security clearances.

Specifically, Mr. Gloss was in the restricted area of the U.S. Capitol grounds on January 6, 2021.⁴ Mr. Gloss's criminal trespass into the restricted zone of the Capitol showed questionable judgment and inability to follow rules and regulations indicating Mr. Gloss may not properly safeguard classified or sensitive information.

Mr. Gloss's Security Clearance Revocation

Following a thorough investigation, which consisted of reviewing relevant documents, interviews with individuals who electronically communicated with Mr. Gloss, and an interview with Mr. Gloss, it was determined that security concerns with regard to Guideline A – Allegiance to the United States and Guideline E – Personal Conduct, and Guideline J – Criminal Conduct, warranted revocation of Mr. Gloss's TS clearance.

Specifically, the FBI's investigation determined that on January 6, 2021, Mr. Gloss knowingly entered a restricted zone around the U.S. Capitol in violation of 18 U.S.C. § 1752. He was present in an area close to protestors clashing with Capitol Police. The FBI reviewed communications in which Mr. Gloss expressed support for the protestors' unauthorized entry into the Capitol building and support for their criminal acts against the U.S.

The FBI also determined that Mr. Gloss provided false and/or misleading information during his security interview about what he observed on January 6 and whether he was in the restricted area that day. Mr. Gloss denies observing any violence or being in the restricted area. These denials are inconsistent with his own description of where he was on Capitol grounds, his personal photographs of that day, publicly available videos, and text messages. Mr. Gloss's refusal to provide full, frank, and truthful answers to lawful questions of security officials in connection with a personnel security or trustworthiness determination should result in an adverse clearance action according to the Adjudicative Guidelines. Deliberately providing false or misleading information or concealing or omitting information concerning relevant information to a security official involved in making a recommendation to a national security eligibility determination is a serious security issue.

The FBI's investigation showed that Mr. Gloss remained in the restricted area even after what he believed was a deployment of tear gas and/or pepper spray, after witnessing protestors struggling with law enforcement trying to maintain barriers and eventually retreating due to protestor activity, and then immediately thereafter witnessing protestors climbing onto scaffolding. These actions showed a serious lack of judgment. Mr. Gloss also failed to report his presence near the Capitol on January 6 to the Security Division, even after being warned by his supervisor to do so.

In addition, without authorization, Mr. Gloss provided photographs of FBI SAs—who were in the process of performing their official responsibilities—to an individual who is known

⁴It is important to distinguish between criminal conduct and an individual who is engaged in First Amendment protected activity. Other FBI employees who attended events on January 6, 2021—but who did not commit criminal conduct, such as trespass into a restricted zone—did not receive security clearance suspensions or revocations.

to publicly post FBI information. This lack of judgment shows disregard for his colleagues' safety.

Criminal conduct, whether it is charged or not, creates doubt about an individual's judgment, reliability, and trustworthiness. Mr. Gloss's criminal conduct, support for protestors who entered the Capitol on January 6, and lack of candor during the security investigation are unmitigated security concerns.⁵

In total, the FBI's security investigation showed credible adverse information which supports a whole-person assessment of questionable judgment, unreliability, untrustworthiness, and unwillingness to comply with rules and regulations, indicating that Mr. Gloss may not properly safeguard classified or sensitive information. Pursuant to Guideline A – Allegiance to the United States, Guideline E – Personal Conduct, and Guideline J – Criminal Conduct, these are security concerns. Therefore, the FBI was required to revoke Mr. Gloss's security clearance.

Marcus Allen

Mr. Allen's Top Secret (TS) security clearance was revoked by the FBI on May 3, 2023. A copy of Mr. Allen's notification letter is enclosed.

Mr. Allen's Security Clearance Suspension

The Security Division opened a security investigation regarding Mr. Allen in October 2021, after receiving a referral from the FBI's Charlotte Field Office. On January 19, 2022, Mr. Allen's security clearance was suspended based on security concerns pursuant to National Security Adjudicative Guideline A – Allegiance to the United States.

Guideline A states:

“The willingness to safeguard classified or sensitive information is in doubt if there is any reason to suspect an individual's allegiance to the United States. There is no positive test for allegiance, but there are negative indicators. These include participation in or support for acts against the United States.”

Specifically, the Security Division found Mr. Allen espoused alternative theories to coworkers verbally and in emails and instant messages sent on the FBI systems, in apparent attempts to hinder investigative activity. Mr. Allen's supervisor admonished him to stop circulating these materials on multiple occasions. Nonetheless, Mr. Allen violated those instructions and continued to make such statements to his coworkers. As one example, on September 29, 2021, Mr. Allen sent an email using his FBI email account to multiple colleagues that contained links to websites and urged recipients to “exercise extreme caution and discretion in pursuit of any investigative inquiries or leads pertaining to the events of” January 6. Another example included an email containing a link to a website that stated, among other things, “By

⁵At this time, Mr. Gloss has not been charged with a crime. However, the Guidelines advise that criminal conduct is a security concern, regardless of whether the individual was charged, prosecuted, or convicted.

now it's clear that federal law enforcement had some degree of infiltration among the crowds gathered at the Capitol on January 6," to which Mr. Allen commented, "brings up serious concerns about USG participation."

Accordingly, the FBI concluded that Mr. Allen's conduct and the materials he circulated to coworkers related to the performance of their official duties and in violation of his superior's directives constitute a security concern pursuant to Guideline A's instruction that an individual who engages in "support for acts against the United States" demonstrates a willingness to compromise national security.

Mr. Allen's Security Clearance Revocation

Following a thorough investigation, which consisted of a review of relevant documents, multiple witness interviews, and an interview with Mr. Allen, it was determined that security concerns with regard to two Adjudicative Guidelines, Guideline A – Allegiance to the United States and Guideline E – Personal Conduct, warranted revocation of Mr. Allen's TS clearance.

Guideline E states:

"Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information."

The FBI concluded that, in totality, Mr. Allen obstructed the FBI's lawful investigation of a subject, and this behavior raised concerns about Mr. Allen's judgment, trustworthiness, and reliability which indicates that Mr. Allen may not properly safeguard classified or sensitive information.

The FBI found that Mr. Allen failed to provide relevant information to an FBI Special Agent (SA) regarding subjects who were allegedly involved in criminal activity at the U.S. Capitol on January 6, 2021. For example, the SA asked Mr. Allen to conduct open source searches on a January 6 subject. Mr. Allen reported he did not find any information that the subject engaged in criminal activity nor did he find a nexus to terrorism. Based on Mr. Allen's representation, the SA closed the case due to a lack of criminal activity. However, the case was later re-opened and a different FBI employee provided publicly available information about the subject—information that was readily available to and should have been obtained by Mr. Allen when he conducted his search. Investigative activity established that this subject physically assaulted U.S. Capitol Police officers on January 6, 2021.

The FBI's mission is to uphold the Constitution and protect the American people, and it is a security concern when an employee's beliefs impact their ability to perform their duties and accomplish this mission. Mr. Allen expressed sympathy for persons or organizations that advocate, threaten, or use force or violence, or use any other illegal or unconstitutional means, in an effort to prevent federal government personnel from performing their official duties. These sympathies also appear to have influenced his work product and resulted in him not providing

relevant information to FBI employees, and this impacted the FBI's ability to accomplish its mission.

In total, the FBI's security investigation showed credible adverse information which supports a whole-person assessment of questionable judgment, unreliability, and unwillingness to comply with rules and regulations, indicating that Mr. Allen may not properly safeguard classified or sensitive information. Pursuant to Guideline A – Allegiance to the United States and Guideline E – Personal Conduct, these are security concerns. Therefore, the FBI was required to revoke Mr. Allen's security clearance.

Stephen Friend

Mr. Friend's Top Secret (TS) security clearance was revoked by the FBI on May 16, 2023. A copy of Mr. Friend's notification letter is enclosed.

Mr. Friend's Security Clearance Suspension

The Security Division opened a security investigation regarding Mr. Friend in September 2022, after receiving a referral from the FBI's Jacksonville Field Office. On September 16, 2022, Mr. Friend's security clearance was suspended based on security concerns pursuant to two Guidelines, Guideline E – Personal Conduct and Guideline K – Handling Protected Information.

Guideline E states:

“Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.”

Guideline K states:

“The concern is the deliberate or negligent failure to comply with rules and regulations for handling protected information – including classified or other sensitive government information, and proprietary information - which reflects unfavorably on an individual's eligibility to maintain a security clearance. Conditions which may be disqualifying include disclosure of protected information to unauthorized persons, including the media.”

In August 2022, Mr. Friend refused to participate in the execution of a court authorized, search and arrest of a criminal subject. During his communications with his management about his refusal to participate, he espoused an alternative narrative about the events at the U.S. Capitol on January 6, 2021. On September 3, 2022, Mr. Friend entered FBI space and downloaded documents from FBI computer systems to an unauthorized removable flash drive. The FBI then required Mr. Friend to attend a Security Awareness Briefing (SAB) regarding his actions, but he refused to do so.

Accordingly, Mr. Friend's conduct raises security concerns under Guideline E and Guideline K. Pursuant to Guideline E, failure to participate in a security process like the SAB, "will normally result in an unfavorable...security clearance action." Therefore, the FBI was required to mitigate the security concern by suspending Mr. Friend's security clearance.

Mr. Friend's Security Clearance Revocation

Following a thorough investigation, which consisted of coworker interviews, review of Mr. Friend's social media activity, and an interview with Mr. Friend, it was determined that security concerns with regard to four Adjudicative Guidelines: Guideline E – Personal Conduct, Guideline J – Criminal Conduct, Guideline K – Handling Protected Information, and Guideline M – Use of Information Technology warranted revocation of Mr. Friend's TS clearance.

Guideline J states:

"This concern is that criminal activity creates doubt about a person's judgement, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations. This includes evidence of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted."

Guideline M states:

"The concern is a failure to comply with rules and regulations pertaining to information technology systems – which may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information."

In addition to the security concerns that resulted in the suspension of Mr. Friend's security clearance, the investigation yielded evidence of additional security concerns. Specifically, Mr. Friend acknowledged he publicly released sensitive FBI information on his personal social media accounts without authorization.

Mr. Friend participated in multiple, unapproved media interviews, including an interview with a Russian government news agency. Mr. Friend alleges he obtained approval from the FBI's Office of Public Affairs (OPA) to participate in these interviews, but OPA did not provide such authorization. Mr. Friend's failure to follow FBI policies relating to social media contacts and his lack of candor poses a security concern. Further, Mr. Friend's surreptitious recording of a meeting with FBI management may have violated Florida state law.

Pursuant to Guideline A – Allegiance to the United States, Guideline E – Personal Conduct, and Guideline J – Criminal Conduct, these unmitigated security concerns indicate that Mr. Friend may not properly safeguard classified or sensitive information. Therefore, the FBI was required to revoke Mr. Friend's security clearance.

* * *

As we stated before, the FBI appreciates the Committee's interest in these particular adjudications and your recognition that the FBI must protect established Executive Branch and individual privacy interests of the employees involved. EAD Moore remains willing to return to answer additional questions the Committee may have regarding these matters as soon as possible, including on June 2, 2023. We also look forward to sharing additional details regarding the security clearance adjudication of the fourth and final individual upon completion of the adjudication process.

Sincerely,



Christopher Dunham
Acting Assistant Director

cc: The Honorable Jerrold L. Nadler
Ranking Member