



U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1139 LONGWORTH HOUSE OFFICE BUILDING

Washington, DC 20515

June 20, 2023

The Honorable Michael E. Horowitz
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Inspector General Horowitz:

The Committee on Ways and Means and the Committee on the Judiciary are investigating serious allegations of whistleblower retaliation. As you may know, on April 19, 2023, the Committees received a letter from an Internal Revenue Service (IRS) employee's legal counsel requesting that the Committees investigate concerns the employee has regarding allegations of misconduct in the handling of a high-profile case.¹

The Committees take seriously any allegations of misconduct by government officials or offices. Given the importance of this issue, Chairman Smith specifically asked IRS Commissioner Daniel Werfel at the Committee on Ways and Means' April 27, 2023, hearing entitled, *Accountability and Transparency at the Internal Revenue Service with IRS Commissioner Werfel*, to commit that there will be no retaliation taken against that whistleblower.² The Commissioner responded with the following:

Mr. Chairman, while I can't comment on a specific case, I can say without any hesitation there will be no retaliation for anyone making an allegation or a call to a whistleblower hotline.³

On May 15, 2023—less than three weeks after the Commissioner made that commitment—the Committees received a letter from the IRS employee's legal counsel notifying the Committees that on May 15, 2023, the IRS employee “was informed that he and his entire investigative team are being removed from the ongoing and sensitive investigation of the high-profile, controversial subject about which [their] client sought to make whistleblower disclosures to Congress.”⁴ Moreover, the letter notes that the IRS employee was informed that the change

¹ *Statement from Chairman Smith on IRS Whistleblower Outreach*, H. Comm. on Ways and Means (Apr. 19, 2023), <https://waysandmeans.house.gov/statement-from-chairman-smith-on-irs-whistleblower-outreach/>.

² H. Comm. on Ways and Means Hearing Transcript, *Accountability and Transparency at the Internal Revenue Service with IRS Commissioner Werfel* (Apr. 27, 2023).

³ *Id.*

⁴ Letter from Mark D. Lytle and Tristan Leavitt, to The Hon. Jason Smith, Chairman, H. Comm. on Ways and

was made at the request of the U.S. Department of Justice (DOJ).⁵

Given the serious nature of these allegations, Chairman Smith requested an urgent briefing from Commissioner Werfel on this matter.⁶ In advance of the briefing, Commissioner Werfel responded to Chairman Smith's letter in writing noting that he has not and will not intervene in any way that would impact the status of any whistleblower, and when he first learned of the allegations of retaliation, he contacted the Treasury Inspector General for Tax Administration (TIGTA).⁷ In addition, Commissioner Werfel's response notes that "in any matter involving federal judicial proceedings, the IRS follows the direction of the Justice Department."⁸

Prior to the briefing, however, the Committees received another letter from the IRS employee's legal counsel notifying the Committees that the IRS proceeded to take further actions against the IRS employee and others in an apparent attempt to intimidate and prevent them from making similar disclosures.⁹

On May 25, 2023, given DOJ's role in possible retaliation against the whistleblower, Chairman Jordan requested documents and information from Attorney General Merrick Garland regarding his Department's actions.¹⁰ On June 7, 2023, David Weiss, U.S. Attorney for the District of Delaware, responded on Attorney General Garland's behalf, declining to provide any information.¹¹

The Committees value the importance and role of whistleblowers in ensuring the integrity of our governing institutions and take seriously the importance of protecting whistleblowers in accordance with the law. It is the Committees' understanding that this matter has also been referred to the DOJ Office of Inspector General (OIG). To inform our ongoing investigation, we ask that you please provide the following information:

1. Please confirm in writing that DOJ OIG has received a referral on this matter and that DOJ OIG plans to investigate this matter.
2. When and from whom did DOJ OIG first receive this referral?

Means, The Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (May 15, 2023).

⁵ *Id.*

⁶ Letter from The Hon. Jason Smith, Chairman, H. Comm. on Ways and Means, to The Hon. Daniel Werfel, Commissioner, Internal Revenue Service (May 16, 2022), <http://waysandmeans.house.gov/wp-content/uploads/2023/05/05.16.23-Ltr-to-IRS-Commissioner-re-Whistleblower-Retaliation.pdf>.

⁷ Letter from The Hon. Daniel Werfel, Commissioner, Internal Revenue Service, to The Hon. Jason Smith, Chairman, H. Comm. on Ways and Means (May 17, 2022).

⁸ *Id.*

⁹ Letter from Mark D. Lytle and Tristan Leavitt, to The Hon. Jason Smith, Chairman, H. Comm. on Ways and Means, The Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, et al. (May 22, 2023).


¹⁰ Letter from The Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, to The Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (May 25, 2023).

¹¹ Letter from David C. Weiss, U.S. Att'y, D. Del., to The Hon. Jim Jordan, H. Comm. on the Judiciary (June 7, 2023).

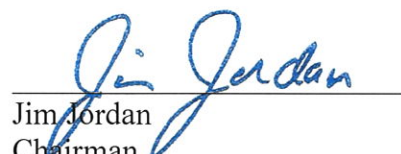
3. Please provide details regarding how DOJ OIG plans to investigate this matter, and when DOJ OIG expects the investigation to be completed.
4. Has DOJ OIG requested information, documents, interviews, or other forms of support from DOJ in this matter? If so, please provide details regarding whether DOJ has cooperated with those requests.
5. What authority or precedent does DOJ OIG have to investigate matters that cross departments given this matter relates to IRS employees, but according to the whistleblower's May 15, 2023 letter, the decision to remove the individual and their entire team from the investigation was at the request of DOJ?
6. If DOJ OIG does have the ability to investigate matters that cross departments, has DOJ OIG requested information, documents, interviews, or other forms of support from the IRS in this matter? If so, please provide details regarding whether the IRS has cooperated with those requests.
7. If an IRS Criminal Investigation employee experiences a change in duties, responsibilities, or working conditions at the direction or request of DOJ in the context of an active DOJ investigation such that it meets the elements of a prohibited personnel practice as defined by 5 U.S.C. § 2302, which agency is held responsible for violating such prohibited personnel practices—DOJ, the IRS, or both?
8. Please identify any IRS or DOJ personnel that you believe to have information relevant to the subject of the referral you have received.

Please provide this information as soon as possible, but no later than 5:00 p.m. on July 5, 2023. The Committees have legislative and oversight jurisdiction over the IRS and DOJ pursuant to Rule X of the U.S. House of Representatives.¹² If you have any questions about this matter, please contact Ways and Means Committee and Judiciary Committee Majority staff. Thank you for your prompt attention to this matter.

Sincerely,



Jason Smith
Chairman
Committee on Ways and Means



Jim Jordan
Chairman
Committee on the Judiciary

¹² Rules of the U.S. House of Representatives, R. X, 118th Cong. (2023).