



Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



Procedural Reform Recommendation for the Federal Bureau of Investigation

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SYNOPSIS

During a recent investigation, the Office of the Inspector General (OIG) determined that the Federal Bureau of Investigation's (FBI) training on whistleblower protections does not provide sufficient guidance to FBI supervisors and managers concerning identifying and responding to potential whistleblowing activity under 5 U.S.C. § 2303 (FBI Whistleblower Statute) and 28 C.F.R. Part 27 (FBI Whistleblower Regulations).

DETAILS

The Statute

Title 5, United States Code, Section 2303 protects FBI employees who disclose information that the individual reasonably believes is evidence of:

- a violation of any law, rule, or regulation; or
- gross mismanagement;
- a gross waste of funds;
- an abuse of authority; or
- a substantial and specific danger to public health or safety.

To be protected under § 2303, a disclosure must be made to one of the following designated officials:

- to a supervisor in the direct chain of command of the employee, up to and including the head of the employing agency;
- to the Inspector General;
- to the Office of Professional Responsibility of the Department of Justice;
- to the Office of Professional Responsibility of the Federal Bureau of Investigation;
- to the Inspection Division of the Federal Bureau of Investigation;
- in a petition to Congress under section 7211;
- to the Office of Special Counsel; or
- to an employee designated by any officer, employee, office, or division described in the above list for the purpose of receiving such disclosures.

Whistleblower law permits an FBI employee to report a protected disclosure to any of the designated officials listed in Section 2303(a)(1) and does not require the employee to first report the allegations to his or her immediate supervisor.

The Issue

As the result of an OIG investigation into a whistleblower retaliation complaint filed by an FBI employee in which we substantiated the retaliation claims, the OIG concluded that the training provided by the FBI to its supervisors and managers does not contain sufficient information concerning identifying protected disclosures and responding appropriately from a management perspective. We found that supervisory employees in several FBI offices failed to understand that allegations of wrongdoing by a subordinate employee were potential "protected disclosures" under whistleblower law. We also found that supervisory employees failed to respond appropriately to these protected disclosures because the supervisory employees took personnel actions against the employee for failing to follow the "chain of command" when the employee communicated directly with a high-level supervisor.

RECOMMENDATION

Based upon the foregoing, the OIG recommends that the FBI take steps to strengthen the training provided to its supervisors and managers to ensure that management employees recognize that: 1) communications by FBI employees to offices or officials outside of the chain of command may be protected disclosures under 5 U.S.C. § 2303; and 2) penalizing FBI employees for violating the chain of command when they are engaged in protected activity may be a violation of the law.



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