

# EMPOWER OVERSIGHT

*Whistleblowers & Research*



June 6, 2023

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

Dear Chairman Jordan:

Thank you for the opportunity to follow up on the legislative recommendations I made in the Select Subcommittee on the Weaponization of Government's May 18 hearing regarding protecting Federal Bureau of Investigation (FBI) whistleblowers.

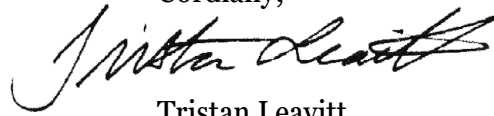
Giving FBI whistleblowers the same statutory protections as the vast majority of agencies covered under Title 5, including other federal law enforcement agencies, would require two straightforward amendments. The first is to strike "the Federal Bureau of Investigation" from the list of agencies in 5 U.S.C. § 2302(a)(2)(C)(ii)(I). The second is to repeal 5 U.S.C. § 2303 and associated regulations. In addition to applying to the FBI the same substantive prohibitions on certain personnel practices (commonly called "prohibited personnel practices," or "PPPs"), these two changes together would grant the U.S. Office of Special Counsel jurisdiction to investigate PPPs at the FBI. The changes would also maintain the FBI whistleblower access to the Merit Systems Protection Board (MSPB) Congress granted with the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023, Pub. L. No. 117-263, § 5304, 136 Stat. 3250 (2022).<sup>1</sup>

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<sup>1</sup> The Department of Justice just closed a comment period on updates to its FBI whistleblower regulations. Whistleblower Protection for Federal Bureau of Investigation Employees, 88 Fed. Reg. 18487 (proposed Mar. 29, 2023). However, the proposed regulatory updates deal exclusively with changes Congress passed six and a half years ago with the FBI Whistleblower Protection Enhancement Act of 2016, Pub. L. No. 114-302, 130 Stat. 1516 (2016). Implementing the changes proposed above would obviate the need for the Department of Justice to adopt separate whistleblower regulations for the FBI, with their inordinate delays.

Protecting against the abuse of the security clearance process as a means of whistleblower retaliation is more complicated. However, we would be happy to work with your staff to brief you on the legislative history surrounding this issue and some potential approaches to remedying it.

Cordially,

A handwritten signature in black ink, appearing to read "Tristan Leavitt". The signature is fluid and cursive, with a large initial "T".

Tristan Leavitt  
President

cc: Ranking Member Jerrold Nadler  
Committee on the Judiciary  
U.S. House of Representatives

Ranking Member Stacey Plaskett  
Select Subcommittee on the Weaponization of the Federal Government  
U.S. House of Representatives