

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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“Protecting Those Who Blow the Whistle on Government Wrongdoing”
House Committee on Oversight and Reform, Subcommittee on Government Operations
2:00 PM, Tuesday January 28, 2020
2154 Rayburn House Office Building
Chairman Gerald E. Connolly (D-VA)

We hold this hearing at a critical moment in our nation’s history. A whistleblower, who reported a reasonable belief about Presidential misconduct, has become the target of the President’s wrath. In tweets and statements to the press, the President has tried to identify the whistleblower, and has called upon others to publicly identify the whistleblower. Threats against the whistleblower are reportedly increasing. This is a very sad and, for me, a dangerous moment for whistleblowers.

For many administrations, federal employees and contractors have come forward to expose waste fraud and abuse. Whistleblowers have recovered billions of government dollars from companies that attempted to defraud the government. Whistleblowers exposed unacceptable cost overruns on agency projects and programs within the government, improved quality control at our nation’s nuclear facilities, fought for our veterans to receive the health care services they have earned, ensured the food we eat is safe, and exposed security breaches at our government’s most sensitive laboratories.

These brave whistleblowers risk their reputations, their careers, even their health, and their families’ safety sometimes when they make these allegations. They take great professional and personal risks. For decades, Congress has worked in a bipartisan fashion to protect these whistleblowers and we have enacted laws that encourage workers to come forward when they see waste, fraud, and abuse. We have created laws that punish retaliation against these whistleblowers. I hope the hearing today helps us build on that important work and address some of the challenges to our whistleblower protections that have been brought to light by current circumstances.

We rely on whistleblowers every day to help us with our oversight and reform work. Without those whistleblowers, rooting out mismanagement, abuse, and corruption would be very difficult. In fact, the most recent Office of Personnel Management survey of federal employee engagement found that only 64.5% of federal employees believe they can disclose suspected

violations of law, rule or regulation without fear of reprisal – 10.5% lower than what is reported by private sector employees.

This hearing will clarify what a whistleblower is and what protections a whistleblower is afforded. No one should be punished for doing the right thing. Contrary to the allegations of certain pundits, whistleblowers can be anonymous or confidential, and they can provide information second hand, and they deserve protection from retaliation. Today we also examine the roles of Congress, the inspectors general, the Office of Special Counsel, and the Merit Systems Protection Board in engaging whistleblowers, protecting them, and pursuing meritorious allegations. When whistleblowers produce credible information on wrongdoing, these are the entities we expect to step into the breach, to launch investigations, and help the facts come to light. If whistleblowers have no expectation that their information will help hold people and institutions accountable, they will have little incentive to come forward.

Finally, we will examine whether existing laws are enough to protect whistleblowers. The President's attacks on "the whistleblower" have exposed some uncertainties and questions about Congress's clear intent to provide robust protections to those who expose wrongdoing in government. The Trump Administration's attacks on whistleblowers certainly has a chilling effect on those who, in other Administrations, would have come forward to expose wrongdoing. This hearing seeks to ensure that those protections are clear and strong – and that those who retaliate against whistleblowers are held accountable.

This hearing is also a reminder that the Merit Systems Protection Board, the independent agency that serves as the guardian of the federal merit system, still lacks a quorum and remains unable to issue final decisions in cases where employees' rights are at stake. This board is vital to whistleblowers in particular. In fact, my first hearing as Chairman of this Subcommittee focused on the need to get MSPB operating. And yet, here we are, nearly a year later and the MSPB remains largely inoperable. It's a crisis that continues, unfortunately, to be ignored.

In May, I introduced legislation with my friend, our late Chairman Elijah Cummings, that would delegate temporary authority to the MSPB general counsel to stay questionable personnel actions brought by agencies against whistleblowers. The general counsel's authority would expire once one Board member is nominated and confirmed by the Senate. The bill, which was voted out of this Committee on a bipartisan voice vote, awaits floor action.

My efforts to get the MSPB running is in addition to other bipartisan legislative and oversight efforts to support whistleblowers. In the last Congress, I worked with my colleague Rep. Sean Duffy to enact the Follow the Rules Act, which restored a key whistleblower protection gutted by the Supreme Court. The law prohibited agencies from retaliating against employees who refused orders that, if performed, would violate a rule or regulation. In this Congress, I was joined by three of my Republican colleagues, including my good friend, Ranking Member Mark Meadows, in championing the Whistleblower Expansion Act of 2019.

The bill seeks to clarify that subcontractors and subgrantees are afforded whistleblower protections.

I trust this hearing continues a strong tradition of bipartisan support for whistleblowers, whose protections do not change with according to political context. In the words of my colleague, Republican Senator Chuck Grassley of Iowa, Members of Congress and the public “owe a debt of gratitude to our fellow citizens who are willing to stand up for what’s right despite the personal consequences they may face. Their efforts should never be overlooked or taken for granted.” I hope to work across the aisle to clarify misconceptions about whistleblowers and to enact legislation that may be needed to clarify and bolster their protections. Retaliation against these brave individuals must never be unacceptable and a disservice to our nation.

Finally, I want to remind everyone about of Committee’s “Blow the Whistle” tipline. Those who have information about waste, fraud, abuse, or gross mismanagement can provide it to this Committee through our online portal at [Oversight.house.gov](https://oversight.house.gov). You can do so anonymously, if you choose.

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