

Congress of the United States

House of Representatives

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Opening Statement

Ranking Member Gerald E. Connolly

Subcommittee on Government Operations

Hearing on “*Five Years Later: A Review of the Whistleblower Protection Enhancement Act*”

February 1, 2017

Federal employees who blow the whistle on waste, fraud, and abuse are on the front lines in the effort to ensure that our government functions efficiently and effectively. This Committee has a history of strong, bipartisan support for whistleblowers, and I want to thank Chairman Meadows for holding today’s hearing to examine how we can continue to improve protections for these employees.

Whistleblower protection is rooted in civil service protections. Due process and merit-based hiring and promotion, free of discrimination, retaliation, and political influence, form the bedrock of whistleblower protections.

Five years ago, the bipartisan Whistleblower Protection Enhancement Act of 2012 significantly strengthened the rights of federal employees who disclose waste, fraud, and abuse. This legislation marked substantial progress, but gaps remain, and we must continue to work to protect all federal employees who disclose wrongdoing.

I look forward to hearing from our witnesses today about challenges to protecting whistleblowers under current law, such as vacancies at the MSPB, loopholes for sensitive positions, retaliatory investigations, as well as proposals to address these challenges.

In fact, tomorrow, the Oversight Committee will be marking up a bill that I co-sponsored, H.R. 657, the Follow the Rules Act. Last year, a federal court ruled that an employee who refused to obey an order is protected from retaliation only if that order violates a statute. This bill clarifies that the Whistleblower Protection Act protects employees who refuse to violate a rule or regulation, in addition to a statute.

But legislative changes are not enough. Congress must provide Inspectors General and the Office of Special Counsel with the resources they need to investigate and enforce whistleblower protections under the law. For example, we’ve heard reports of egregious whistleblower retaliation at TSA. OSC has already taken action in some of those cases, but there is a backlog. Without additional resources, these whistleblowers won’t be protected.

Finally, we cannot ignore this Committee's oversight responsibility. I was alarmed to hear news reports last week – only days after President Trump's inauguration – that certain federal agencies had issued, quote, "gag orders" on federal employee communications.

One memo issued by the Acting Secretary of the Department of Health and Human Services on President Trump's first day in office states, **quote**, "no correspondence to public officials (e.g. Members of Congress, Governors)... unless specifically authorized by me or my designee, shall be sent between now and February 3."

That language – which ostensibly prevents an employee from speaking with Members of Congress – appears to violate a number of federal laws, including the Whistleblower Protection Enhancement Act. And it certainly sends a chilling message to federal employees.

That's why I plan to send a letter to agency heads asking them what steps they are taking to ensure that their communications to employees comply with the Whistleblower Protection Enhancement Act.

I ask my colleagues across the aisle to join in these oversight measures.

It is my hope that moving forward, we can work in a bipartisan manner to improve the Whistleblower Protection Enhancement Act. We must ensure that civil service and due process protections – the bedrock of that Act – remain in place. And we must provide diligent oversight to verify that agencies and this Administration are implementing the protections required under the law.

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