



Office of the Attorney General
Washington, D. C. 20530

February 29, 2016

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Pursuant to the Presidential memorandum of April 14, 1997, on Whistleblower Protection for Federal Bureau of Investigation (FBI) Employees, 62 FR 23123 (1997), enclosed please find a chart that reports the status of certain FBI whistleblower allegations in calendar year 2015.

Respectfully,

A handwritten signature in black ink, appearing to read "Loretta E. Lynch".

Loretta E. Lynch
Attorney General

Enclosure

Federal Bureau of Investigation Whistleblower Reprisal Cases Calendar Year 2015

By memorandum dated April 14, 1997, the President delegated responsibility to the Attorney General for establishing appropriate processes within the Department of Justice to address whistleblower claims made by employees of the Federal Bureau of Investigation. *See* 62 FR 23123 (1997). That memorandum requires, in pertinent part, that:

Not later than March 1 of each year, the Attorney General shall provide a report to the President stating the number of allegations of reprisal received during the preceding calendar year, the disposition of each allegation resolved during the preceding calendar year, and the number of unresolved allegations pending as of the end of the calendar year.

Id. The enclosed chart sets forth the number of FBI whistleblower reprisal cases brought under 28 C.F.R. Part 27 in calendar year 2015.

Under 28 C.F.R. part 27, an FBI employee or applicant who believes he or she has suffered a reprisal for making a protected disclosure may report the reprisal in writing to the Department of Justice's Office of Professional Responsibility (OPR) or Office of the Inspector General (OIG). The office that investigates the reprisal complaint is known as the "Conducting Office." If the Conducting Office investigates the complaint and determines that there are reasonable grounds to believe that there has been a reprisal for a protected disclosure, it reports its conclusion, along with any findings and recommendations for corrective action, to the Department's Office of Attorney Recruitment and Management (OARM). Alternatively, a complainant may file a request for corrective action with OARM within 60 days of receipt of notification of termination of an investigation by the Conducting Office, or at any time beyond 120 days after filing a complaint with the Conducting Office if that Office has not notified the complainant that it will seek corrective action.

OARM is the office responsible for adjudicating cases brought under 28 C.F.R. part 27. OARM first assesses whether a case meets the threshold regulatory requirements necessary to establish OARM's jurisdiction. If jurisdiction is established, the parties engage in discovery; thereafter, OARM renders a final decision on the merits, either based on the written record or after a hearing (if one is requested and granted), and orders corrective relief where appropriate and authorized by the regulations.

Within 30 days of a final determination or corrective action order by OARM, either party may request review by the Deputy Attorney General (DAG). The DAG may set aside or modify OARM's actions, findings, or conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule, or regulation having been followed; or unsupported by substantial evidence. If the DAG upholds a finding that there has been a reprisal, then the DAG must order appropriate corrective action. At any time during the processing of a complaint (whether at the Conducting Office level or before OARM or the DAG), a complainant has the option of pursuing mediation.

The numbers in the enclosed chart reflect the following: (1) cases received by the two Conducting Offices (*i.e.*, OPR and OIG) for investigation; (2) cases received by OARM for adjudication; and (3) cases received by the DAG on appeal of a final determination or corrective action order issued by OARM.

**Federal Bureau of Investigation Whistleblower Reprisal Cases
Calendar Year 2015**

FBI Whistleblower Complaints Before the Conducting Offices	
Number of unresolved complaints pending with the Conducting Offices at the end of 2014, carried forward to 2015	17 ¹
Number of complaints received by the Conducting Offices in 2015	20
Number of complaints disposed of for failure to meet threshold jurisdictional requirements	14
Number of complaints disposed of by voluntary dismissal	1 ²
Number of complaints disposed of by settlement	3
Number of complaints resulting in finding of no reprisal by the Conducting Office	4
Number of complaints resulting in finding of reprisal by the Conducting Office	0
Total number of complaints disposed of by the Conducting Offices in 2015	22
Number of complaints pending with the Conducting Offices at end of year 2015	15
FBI Whistleblower Cases Before OARM	
Number of unresolved cases pending with OARM at the end of 2014, carried forward to 2015	5
Number of cases received by OARM in 2015	4
Number of cases disposed of for failure to meet threshold jurisdictional requirements	1
Number of cases disposed of by voluntary dismissal	0
Number of cases disposed of by settlement	2 ³
Number of cases resulting in finding of no reprisal by OARM	3
Number of cases resulting in finding of reprisal by OARM for which corrective action was ordered	0
Total number of cases disposed of by OARM in 2015	6
Number of cases pending with OARM at end of year 2015	4
FBI Whistleblower Cases Appealed to the DAG	
Number of unresolved appeals pending with the DAG at the end of 2014, carried forward to 2015	4
Number of appeals received by the DAG in 2015	1
Number of appeals resulting in finding of reprisal and order of corrective action by the DAG	0
Number of appeals resulting in a remand from the DAG to OARM	0
Number of appeals pending with the DAG at end of year 2015	3

¹ One matter was inadvertently omitted from last year's report in the list of cases pending with OPR at the end of 2014. The correction is made herein.

² The complainant declined to give OIG permission to conduct an essential interview.

³ One of these matters was pending at the end of 2013, and OARM ultimately dismissed the case without prejudice to refiling in 2014. OARM extended the deadline for refiling a number of times so that the parties could pursue settlement. The case was closed as settled in 2015.