



Office of the Attorney General

Washington, D.C. 20530

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 2016.

Respectfully,

A handwritten signature in black ink, appearing to read "Jefferson B. Session III".

Jefferson B. Session III
Attorney General

2/22/17

Enclosure

Federal Bureau of Investigation Whistleblower Reprisal Cases Calendar Year 2016

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 2016.

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 2016**

| FBI Whistleblower Complaints Before the Conducting Offices | |
|---|-----------------|
| Number of unresolved complaints pending with the Conducting Offices at the end of 2015, carried forward to 2016 | 17 ¹ |
| Number of complaints received by the Conducting Offices in 2016 | 27 |
| Number of complaints disposed of for failure to meet threshold jurisdictional requirements | 11 |
| Number of complaints disposed of by voluntary dismissal | 1 |
| Number of complaints disposed of by settlement | 7 |
| Number of complaints resulting in finding of no reprisal by the Conducting Office | 3 |
| Number of complaints resulting in finding of reprisal by the Conducting Office | 1 |
| Total number of complaints disposed of by the Conducting Offices in 2016 | 23 |
| Number of complaints pending with the Conducting Offices at end of year 2016 | 21 |
| FBI Whistleblower Cases Before OARM | |
| Number of unresolved cases pending with OARM at the end of 2015, carried forward to 2016 | 4 |
| Number of cases received by OARM in 2016 | 6 |
| Number of cases disposed of for failure to meet threshold jurisdictional requirements | 3 |
| Number of cases disposed of by voluntary dismissal | 1 |
| Number of cases disposed of by settlement | 1 |
| Number of cases resulting in finding of no reprisal by OARM | 1 |
| Number of cases resulting in finding of reprisal by OARM for which corrective action was ordered | 1 ² |
| Total number of cases disposed of by OARM in 2016 | 6 |
| Number of cases pending with OARM at end of year 2016 | 4 |
| FBI Whistleblower Cases Appealed to the DAG | |
| Number of unresolved appeals pending with the DAG at the end of 2015, carried forward to 2016 | 3 |
| Number of appeals received by the DAG in 2016 | 3 |
| 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 | 2 |
| Number of appeals pending with the DAG at end of year 2016 | 2 |

¹ Two matters were inadvertently omitted from last year's report as being both received by the Conducting Office in 2015 and carried over to calendar year 2016. One matter resulted in a finding of reprisal by the Conducting Office during calendar year 2016, and the other matter remained pending at year's end.

² As of the end of the calendar year 2016, this matter was pending resolution of the nature and extent of the damages due Complainant authorized by 28 C.F.R. § 27.4(f).