

Testimony by
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To the Hearing Before the
United States Senate, Committee on the Judiciary
Whistleblower Retaliation at the FBI: Improving Protections and Oversight
March 4, 2015

Thank you, Chairman Grassley, Senator Leahy and other members of the Committee for holding this important hearing on Whistleblower Retaliation at the FBI. As a victim of unjustified adverse actions, I am grateful for the opportunity to share my experience with you.

Like thousands of other FBI employees, I work hard at my job every day. I have been rewarded for my efforts over the past 15 years – not only in terms of statistical accomplishments but I have also been honored with several incentive and recognition awards, including the Outstanding Law Enforcement Officer of the Year in the Southern District of Florida.

I take seriously my responsibility to keep the American people safe, but I also recognize the importance of effectively managing the resources they have entrusted to me. Whether it's helping to define the requirements for the FBI's new case management system or creating a database to manage human sources in Miami – I have always raised my hand when I believed FBI processes and products needed to be improved.

However, I never imagined that my desire to promote excellence would be used against me.

In 2011 I accepted a position as Chief of the Investigative Training Unit at the FBI Academy. This was a position for which I was especially well-suited due to my investigative experience in the FBI, as well as my four degrees in education. At the FBI Academy, I continued to push for ethical and efficient solutions to problems, and I brought problems to the attention to the highest ranking leaders at the FBI Academy. Specifically, I brought to light the following issues:

1. Training Division's intentional misleading of the Office of Management and Budget (OMB) regarding the training of new agents and new analysts.
2. Training Division's wasteful decision to install SCION, the FBI's top secret computer system, in the Intelligence and Investigative Training Center building.
3. Training Division's mismanagement of the October 2011 realignment, as it lacked any business process definition or sound instructional design principles.

When I raised these issues with the Training Division leadership, I did not retain an attorney or study the Whistleblower statute to ensure I was making a disclosure of wrongdoing to “an appropriate recipient.” I was just trying to do the right thing – as I’ve always done. I made these disclosures to the highest ranking officials at my work site, hoping these executives would at least consider making positive changes.

Instead, I was removed and demoted two GS levels.

The tool used to retaliate against me was the FBI’s Loss of Effectiveness (LOE) process. From April 22 to May 3, 2013 an FBI Inspection team traveled to the FBI Academy to conduct an inspection. On the last day of inspection, Training Division executives told me I was being removed from my position as a result of a Loss of Effectiveness (LOE) finding. The news was shocking to me, as I had earned outstanding evaluations from my supervisors, enjoyed nearly-perfect climate survey results from my employees, and received four awards during my tenure at Training Division.

At the time I was told of my removal, the Training Division executives refused to tell me why I had received the LOE finding or why they had agreed with it. Five weeks after I was told of my removal, they finally provided to me the written justification for my LOE finding. Although the inspectors found absolutely nothing wrong with my unit, they documented several accusations against me that were demonstrably false. As Senator Grassley effectively articulated in a letter to Director Comey on September 26, 2014, the justification for my removal was “contradicted by the FBI’s own documents.”

It is worth noting that if I had been accused of actual wrongdoing – say driving under the influence, vandalism, or soliciting prostitutes – I would have been given a chance to challenge the investigation and appeal the adverse action. However, with the FBI’s LOE process the accused have no avenue to appeal the findings, no chance to prevent the outcome, no recourse whatsoever.

In light of the irregular inspection practices and false statements used to justify my LOE finding, the only explanation for my removal and demotion is that of retaliation for having made the disclosures I mentioned earlier.

While no one in the FBI has disputed the fact that my LOE was based on false information, what they *are* contesting is that my Whistleblower disclosures were not *protected* because they were not made to a “qualifying individual” listed in 28 CFR 27.1(a). While conceding that my disclosures were made to the highest ranking official at the FBI Academy, the FBI insists the disclosures were not made to the “highest ranking official in any FBI field office” as the statute

requires. According to this logic, the adverse actions taken against me could not have been taken in retaliation for my disclosures because my disclosures were not protected under the statute.

I have no doubt that my removal and demotion was retaliation for having made Whistleblower disclosures. I made these disclosures in good faith and I made them to the highest ranking officials at the FBI Academy, who outrank the “highest ranking official in any FBI field office.”

Thank you for considering the expansion of the FBI Whistleblower protections so that the FBI is held accountable for its actions and held to the standard of its motto “Fidelity, Bravery, and Integrity.”

Thank you again for holding this hearing and I would be happy to answer any questions you may have.