WHISTLEBLOWER PROTECTION

Additional Actions Needed to Improve DOJ’s Handling of FBI Retaliation Complaints

Why GAO Did This Study
Whistleblowers help safeguard the federal government against waste, fraud, and abuse—however, they also risk retaliation by their employers. For example, in 2002, a former FBI agent alleged she suffered retaliation after disclosing that colleagues had stolen items from Ground Zero following the September 11, 2001, terrorist attacks. DOJ found in her favor over 10 years after she reported the retaliation. GAO was asked to review DOJ’s process for handling such complaints.

What GAO Found
The Department of Justice (DOJ) closed 44 of the 62 (71 percent) Federal Bureau of Investigation (FBI) whistleblower retaliation complaints we reviewed within 1 year, took up to 4 years to close 15 complaints, and took up to 10.6 years to close the remaining 3. DOJ terminated 55 of the 62 complaints (89 percent) and awarded corrective action for 3. (Complainants withdrew 4.) We found that DOJ terminated many (48 of 62) complaints we reviewed because they did not meet certain regulatory requirements. For example, DOJ terminated at least 17 complaints in part because a disclosure was made to someone in the employee’s chain of command or management, such as a supervisor, who was not one of the nine high-level FBI or DOJ entities designated under DOJ regulations to receive such disclosures. Unlike employees of other executive branch agencies, FBI employees do not have a process to seek corrective action if they experience retaliation based on a disclosure of wrongdoing to their supervisors or others in their chain of command who are not designated officials. This difference is due, in part, to DOJ’s decisions about how to implement the statute governing FBI whistleblowers. In 2014, DOJ reviewed its regulations and, in an effort to balance competing priorities, recommended adding more senior officials in FBI field offices to the list of designated entities, but did not recommend adding all supervisors. DOJ cited a number of reasons for this, including concerns about the additional resources and time needed to handle a possible increase in complaints if DOJ added supervisors. However, DOJ is already taking other steps to improve the efficiency of the complaint process.

What GAO Recommends
Congress may wish to consider whether FBI whistleblowers should have means to seek corrective action if retaliated against for disclosures to supervisors, among others. Further, GAO recommends that DOJ clarify guidance to clearly convey to whom employees can make protected disclosures, provide complainants with estimated complaint decision timeframes, and develop an oversight mechanism to monitor regulatory compliance. DOJ and the Office of the Inspector General concurred with GAO’s recommendations.

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