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M arch 1 7, 2016

The Honorable Chuc k Grassley, Chairm an

The Honorable Patrick L e ahy, Ranking Mem be r

Comm ittee on the Judiciary

Unit ed States Senate

Washington, D C 205 10

Re: Support fo r the FBI Whistleblower Protection Enhance ment Act o f 2015

De ar Chairman Grassley and Ranking Member Leahy:

The undersigned gro ups and whistleblowers applaud yo ur bipart isan leadership at the Judiciary

Comm ittee in int ro ducing badly -needed goo d go ve rnment le gislat ion: the Fe deral Bureau o f

Inv estigatio n W histleblo wer P ro tection Enhahbl TJ 0 -1.315 TD (o)-7(v)5(e)-3(r a d)13(e)-3(c)-2(ad)2(e)-3( )TJ (an)2(d)2( )11(npublished decisions that routinely rubber-stamp wha

retaliatio n is challenged. Unde r the FBI W PEA, m echanism s will be put in plac e to effective

public serv ants at the FBI from adverse employment actions fo r challe nging abuses o f pow

the public trust. This pending legislatio n w ould transform t he agency’s current whistle blow

from a trap to a credible free speech shield by :

* Ex panding cove rage to all re levant witnesses, including applicants for employmen

po sitio ns;

* Closing loo pho les that prev iously excluded pro tection fo r disclo sures to superv iso

chain of comm and and to Congress;

* Granting autho rity for the Office o f Inspe ctor General to obtain tem porary relief

retaliatio n thro ugh “st ay s” w hile an appeal pro cee ds;

* Establishing parity for protected activity with the WPA to cover the full scope of r

m isco nduct , including illegality , gro ss w aste , gro ss mism anageme nt, o r a substantial and sp

to public he alth or safety;

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* Increasing transparency into how the Act works in practice, through publication of its track
record ranging from the number of cases filed and completed, to the whistleblowers’ won-loss record;
* Commissioning independent review by the Government Accountability Office of the Act’s track
record, to facilitate further improvements based on lessons learned; and
* Providing parity with the WPA in many critical respects, including by:
• protecting FBI employees who refuse to violate the law;
• affording employees the right to seek due process remedies if the Office of Inspector
General (OIG) has not issued a ruling within 120 days;
• establishing identical burdens of proof for all fact-finding under the Act;
• conferring the right to independent due process before an Administrative Law Judge;
• fostering due process rights generally by requiring the publication of decisions on
whistleblower complaints; and
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Elaine Mittleman, Department of the Treasury Whistleblower
Federal Law Enforcement Officer’s Association (FLEOA)
Fight for the Future
Government Accountability Project
Liberty Coalition