



WHISTLEBLOWER PROTECTION

DOJ and FBI Need to Improve Employees' Awareness of Rights

Report to Congressional Requesters

November 2024
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United States Government Accountability Office

Accessible Version

GAO Highlights

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Why GAO Did This Study

Whistleblowers help safeguard the federal government against waste, fraud, and abuse—however, they also risk retaliation by their employers. FBI employees are protected from retaliation for reporting wrongdoing by specific statutory provisions. DOJ has issued regulations and established a process to handle their complaints.

GAO was asked to review DOJ's process for handling FBI whistleblower retaliation complaints since GAO's last report in 2015.

This report examines the timeliness and outcomes of complaints, progress DOJ made to address new protections, and the extent to which DOJ and FBI have processes for reviewing retaliatory security clearance and access determinations. GAO reviewed a generalizable sample of 169 FBI whistleblower retaliation complaints closed from 2018 through 2022. GAO also interviewed FBI whistleblowers, attorneys, and advocates as well as officials from DOJ, FBI, and other agencies about the complaint process.

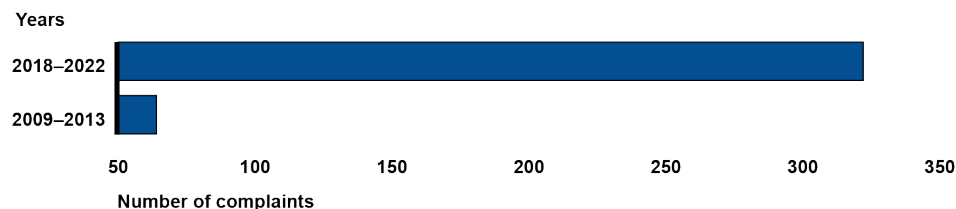
What GAO Recommends

GAO recommends that Congress should consider clarifying when determinations and corrective action orders are considered final and when complainants should be able to exercise their rights to seek corrective action from the U.S. Merit Systems Protection Board. In addition, GAO is making five recommendations to DOJ, including to update mandatory training and policy related to retaliatory security clearance and access determinations. DOJ concurred with the recommendations.

What GAO Found

The Department of Justice (DOJ) closed a higher volume of FBI whistleblower retaliation complaints from 2018 to 2022 compared to GAO's last review of complaints closed from 2009 to 2013. See figure for the number of complaints DOJ closed since GAO's last report.

FBI Whistleblower Retaliation Complaints Closed by Department of Justice from 2009 through 2013 and 2018 through 2022



Source: GAO analysis of Department of Justice data. | GAO-25-106547

Accessible Data for FBI Whistleblower Retaliation Complaints Closed by Department of Justice from 2009 through 2013 and 2018 through 2022

Years	Number of complaints
2018-2022	322
2009-2013	64

Source: GAO analysis of Department of Justice data | GAO-25-106547

DOJ took 7 years to update its regulations to address the FBI Whistleblower Protection Enhancement Act of 2016, which, among other things, provides that FBI employees can report wrongdoing, or make protected disclosures, to supervisors in their direct chain of command. Until DOJ updated its regulations in 2024 to align with the statute, some complainants experienced difficulties when making protected disclosures to supervisors. Identifying an office primarily responsible for a regulation involving multiple components and establishing anticipated time frames for the stages of the rulemaking process can help ensure regulations are timely issued.

Statutory changes in fiscal year 2023 provide FBI employees with rights to seek relief from the U.S. Merit Systems Protection Board. However, the amendments contain ambiguities—such as when determinations and corrective action orders are considered final—creating challenges for DOJ in consistently interpreting the new rights. As a result, DOJ is unable to provide clear information to complainants of their rights. Clarifying the statute would help ensure FBI whistleblower retaliation complainants can appropriately exercise their rights to seek relief from the U.S. Merit Systems Protection Board. Previously, FBI whistleblower retaliation complainants could only appeal within DOJ.

DOJ's Office of the Inspector General has a process for reviewing allegations of retaliatory security clearance and access determinations, including suspensions, revocations, and denials. GAO found that four FBI whistleblower retaliation complainants alleged such retaliatory actions from 2018 through 2023. However, mandatory training does not mention DOJ's Office of the Inspector General review of such retaliatory actions. Updating the training would ensure individuals know that they may utilize DOJ's Office of the Inspector General's review to seek corrective action. Further, GAO found that DOJ's policy concerning the review of retaliatory security clearance and access determinations was inconsistent with statute. In July 2024, DOJ updated the policy, but further revisions are needed to ensure complainants receive appropriate corrective action when DOJ's Office of the Inspector General finds that retaliation occurred.

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Abbreviations

- DOJ: Department of Justice
- FBI: Federal Bureau of Investigation
- FBI WPEA: FBI Whistleblower Protection Enhancement Act
- NDAA: National Defense Authorization Act
- PPD-19: Presidential Policy Directive 19



November 12, 2024

Congressional Requesters

Whistleblowers play an important role in safeguarding the federal government against waste, fraud, and abuse. However, whistleblowers also risk retaliation from their employers, sometimes being demoted, reassigned, or fired as a result of their actions.¹ Retaliation may also have a chilling effect on potential whistleblowers' willingness to disclose information. Federal Bureau of Investigation (FBI) and Intelligence Community employees are excluded from the Civil Service Reform Act of 1978, which generally prohibits certain kinds of retaliation against federal employees for whistleblowing or reporting wrongdoing.² However, FBI and Intelligence Community employees are protected under separate statutes.³ Since we last reported on FBI whistleblower retaliation in 2015, the Department of Justice (DOJ) has made changes to its process for handling FBI whistleblower retaliation complaints.⁴ Members of Congress have raised questions about various aspects of the DOJ's process for handling FBI whistleblower retaliation complaints and retaliatory security clearance and access determinations.⁵

Our 2015 report found that DOJ, among other things, did not provide FBI complainants with estimates of when to expect decisions on complaints, consistently comply with certain regulatory requirements, and provide clear guidance regarding what actions were protected disclosures. We recommended that Congress consider whether FBI whistleblowers should have means to seek corrective action if retaliated against for certain disclosures to supervisors and others in the employee's chain of command. In response, Congress passed the FBI Whistleblower Protection Enhancement Act (FBI WPEA) of 2016, which, among other things, expanded the list of individuals or offices to whom an FBI whistleblower could make a protected disclosure.⁶ We also recommended that DOJ (1) clarify guidance to clearly convey to whom employees can make protected disclosures, (2) provide complainants with estimated complaint decision time frames, (3) assess actions to improve timeliness, and (4) develop an oversight mechanism to monitor regulatory compliance. DOJ addressed all of the recommendations, by, for example, updating guidance to clarify to whom employees can

¹Although retaliation is generally a broader term that can encompass other actions such as harassment, in this report, we use the term retaliation to refer to prohibited actions taken in reprisal for a protected disclosure. See 5 U.S.C. § 2303(a) (citing the enumerated list of personnel actions); 50 U.S.C. § 3341(j)(1) (concerning security clearance and access determinations).

²Pub. L. No. 95-454, §§ 101, 202, 92 Stat. 1111, 1113-8, 1121-31 (codified as amended at 5 U.S.C. §§ 2301-2306, 1201-1222, respectively). These statutory whistleblower protections apply to most federal civilian employees but exclude certain agencies and positions. See 5 U.S.C. §§ 2105(a) (defining "employee"), 2302(a)(2) (exempting certain positions and agencies, including the FBI and the Intelligence Community).

³See, e.g., 5 U.S.C. § 2303 (concerning FBI employees); 50 U.S.C. § 3234 (concerning Intelligence Community employees).

⁴GAO, *Whistleblower Protection: Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints*, [GAO-15-112](#) (Washington, D.C.: Jan. 23, 2015).

⁵A security clearance is an administrative determination that an individual is eligible for access to classified information on a "need to know" basis. Determinations are administrative decisions to grant, deny, or revoke an individual's eligibility for access to classified information or deny eligibility to hold a sensitive position. Revoking access eligibility is an administrative determination to revoke an individual's eligibility for continued access to classified information or eligibility to hold a sensitive position.

⁶Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016, Pub. L. No. 114-302, 130 Stat. 1516 (codified as amended at 5 U.S.C. § 2303).

make a protected disclosure, among other things. By implementing these recommendations, DOJ better ensures that complainants are informed about the process for making protected disclosures.

You asked us to examine DOJ's process for handling FBI whistleblower retaliation complaints. This report addresses (1) the extent to which the timeliness and outcomes of closed FBI whistleblower retaliation complaints have changed compared to our last review; (2) progress DOJ has made in promulgating regulations related to FBI whistleblower protections since the FBI WPEA of 2016; (3) progress DOJ and the U.S. Merit Systems Protection Board⁷ have made to address additional FBI whistleblower rights included in the James M. Inhofe National Defense Authorization Act for fiscal year 2023 (NDAA FBI whistleblower rights)⁸; and (4) DOJ and FBI policies and processes for addressing complaints alleging retaliatory security clearance and access determinations and outcomes of the complaints. We are providing a separate management report to DOJ's Office of the Inspector General with findings and recommendations specific to it.

To address our first objective, we reviewed DOJ case files for FBI whistleblower retaliation complaints closed from 2018 through 2022. We focused on this time frame because it was the most complete and recent data available at the time of our review. Specifically, we examined a generalizable sample (119 of 272) of complaints closed by DOJ's Office of the Inspector General and the Office of Professional Responsibility.⁹ We also reviewed summary-level information on complaint timeliness for complaints opened in 2023, after DOJ's Office of the Inspector General and the Office of Professional Responsibility made changes to their processes. We also reviewed all 50 FBI whistleblower retaliation complaints closed by DOJ's Office of Attorney Recruitment and Management and Office of the Deputy Attorney General from 2018 through 2022. We compared the timeliness and outcomes, among other things, of the 169 closed complaints we reviewed against selected required time frames in DOJ's regulations. We also compared them to the findings from our 2015 report, which assessed complaints closed from 2009 through 2013, in order to determine if DOJ timeliness has improved and how case outcomes have changed.¹⁰ For example, the DOJ offices investigating the complaints have 15 days to acknowledge that the complaint has been received, among other things.¹¹ Additional details on the scope and methodology for our case file review are discussed in appendix I.

In addition, we reviewed DOJ roles and responsibilities, policies, and procedures for handling FBI whistleblower retaliation complaints and interviewed senior DOJ officials in each of the four offices responsible for handling these complaints. When reviewing complaint timeliness and outcomes, we did not re-adjudicate complaints. Further, to obtain FBI whistleblower perspectives on DOJ's process for background purposes, we conducted semi-structured interviews with five self-identified FBI whistleblower retaliation complainants. To identify complainants, an organization of former FBI employees conducted outreach on our behalf requesting

⁷The U.S. Merit Systems Protection Board is a federal agency that handles whistleblower retaliation complaints made by certain federal employees, among other functions. 5 U.S.C. § 1221(a).

⁸The NDAA FBI whistleblower rights provide that complainants may file with and appeal to the U.S. Merit Systems Protection Board, external to DOJ. Pub. L. No. 117-263, div. E, tit. LIII, subtit. A, § 5304(a), 136 Stat. 3250 (codified at 5 U.S.C. § 2303(d)). As discussed below, these new provisions have been subject to conflicting agency interpretations.

⁹Closed refers to complaints terminated by DOJ's Office of the Inspector General and the Office of Professional Responsibility.

¹⁰[GAO-15-112](#).

¹¹28 C.F.R. § 27.3(c).

volunteers that met our criteria to be interviewed anonymously.¹² We also selected eight attorneys and organizations representing FBI whistleblower complainants, based on a snowball sampling approach.¹³

To address our second objective, we reviewed documentation, such as DOJ's policies for coordinating rulemakings, the number of DOJ's rulemaking actions posted to the Federal Register from 2016 through 2023, and documentation of coordination with the Office of Management and Budget.¹⁴ We also reviewed DOJ publications to the Federal Register to determine the time DOJ took to update regulations to address the FBI WPEA of 2016. We compared steps DOJ took related to drafting, reviewing, and finalizing regulations against Project Management Institute guidance for leading schedule management practices.¹⁵ Finally, we interviewed DOJ officials responsible for promulgating regulations to discuss the steps DOJ took to update its FBI whistleblower regulations.

To address our third objective, we reviewed documentation that addressed the FBI whistleblower rights included in the NDAA for fiscal year 2023, such as updated policies and guidance, from DOJ and the U.S. Merit Systems Protection Board.¹⁶ We assessed steps DOJ and U.S. Merit Systems Protection Board officials took to address the NDAA FBI whistleblower rights. We also interviewed DOJ, U.S. Merit Systems Protection Board, Office of Special Counsel¹⁷, and Intelligence Community Inspector General officials to discuss FBI, federal government, and Intelligence Community whistleblower protections.

To address our fourth objective, we compared DOJ and FBI policies and procedures to relevant statutes, regulations, and directives.¹⁸ We also reviewed all four complaints that the DOJ Office of the Inspector General closed from 2018 through 2023 involving allegedly retaliatory security clearance and access determinations.¹⁹ We assessed DOJ policies and procedures against relevant statutory changes.

¹²The criteria was that volunteers' complaints were closed by DOJ from 2018 through 2022.

¹³To use a "snowball sampling" approach, at each interview, we solicited names of additional groups and attorneys to interview and selected for interviews those that were most widely recognized as knowledgeable about DOJ's process.

¹⁴Department of Justice, *Office of Legal Policy: Outline Rulemaking Process for Justice Department Rules* (Feb. 7, 2022).

¹⁵Project Management Institute, Inc. *A Guide to the Project Management Body of Knowledge PMBOK® Guide*, Seventh Edition (2021).

¹⁶The Office of Special Counsel has no role in addressing the NDAA FBI whistleblower rights. Department of Justice, *Office of Attorney Recruitment and Management Procedures for FBI Whistleblower Reprisal Claims Brought Pursuant to 28 C.F.R. Part 27* (Mar. 4, 2024). Department of Justice, *Office of the Deputy Attorney General Procedures for FBI Whistleblower Reprisal Appeals* (Mar. 4, 2024).

¹⁷The Office of Special Counsel is a federal agency that handles whistleblower retaliation complaints made by certain federal employees, among other functions. 5 U.S.C. § 1214(a)(1)(A).

¹⁸5 U.S.C. § 2303. 50 U.S.C. § 3341. 28 C.F.R. pt. 27. Presidential Policy Directive-19 (PPD-19) (Washington, D.C.: Oct. 10, 2012). Whistleblower Protection for Federal Bureau of Investigation Employees, 89 Fed. Reg. 7,277 (Feb. 2, 2024). Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (Mar. 7, 2018) (updated July 2024). Federal Bureau of Investigation, *Corporate Policy Notice 0630N: Sensitive Compartmented Information Access* (July 3, 2013). Federal Bureau of Investigation, Human Resources Division, *Federal Bureau of Investigation Policy Directive 0975D: Indefinite Suspension* (June 19, 2020). Federal Bureau of Investigation, *FBI Policy Directive 0971D: FBI Whistleblower Policy* (May 1, 2017). Federal Bureau of Investigation, Electronic Communication: *Approval and Request to Launch Updated Whistleblower Protection Course* (Sept. 9, 2021).

¹⁹We reviewed complaints involving alleged retaliatory security clearance and access determinations that DOJ's Office of the Inspector General reviewed from 2018 through 2022 and closed. The last complaint was closed in January 2023.

We conducted this performance audit from January 2023 to November 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Civil Service Reform Act of 1978 generally prohibits certain kinds of retaliation against federal employees for whistleblowing or reporting wrongdoing.²⁰ The act also provides a process for federal employees to pursue whistleblower retaliation complaints with the Office of Special Counsel and the U.S. Merit Systems Protection Board. Federal employees within DOJ are generally covered by these provisions. However, Intelligence Community agencies, including the FBI, are excluded from protections under the act.²¹ Instead, they are protected by other statutory provisions.²²

In 1999, DOJ issued regulations to implement the statute that protects FBI whistleblowers from retaliation for reporting alleged wrongdoing and established the process for handling FBI whistleblower retaliation complaints.²³ These regulations prohibit DOJ from taking, or failing to take, or threatening to take or fail to take a personnel action against an FBI employee as retaliation for a protected disclosure (i.e., retaliation).²⁴ A personnel action includes a promotion, detail, transfer, reassignment, a disciplinary or corrective action, or a decision concerning pay, benefits, or award, among other actions.

FBI employees and applicants who file whistleblower retaliation complaints must meet two threshold regulatory requirements for their disclosure to be protected:

²⁰Pub. L. No. 95-454, §§ 101, 202, 92 Stat. 1111, 1113-8, 1121-31 (codified as amended at 5 U.S.C. §§ 2301-2306, 1201-1222, respectively). These statutory whistleblower protections apply to most federal civilian employees but exclude certain agencies and positions. See 5 U.S.C. §§ 2105(a) (defining “employee”), 2302(a)(2)(B)-(C) (exempting certain positions and agencies, including the FBI and the Intelligence Community).

²¹Intelligence Community agencies have separate protections. Minimal legislative history exists explaining the separate statutory provision for the FBI. Comments made by Members of Congress at the time suggest a compromise was adopted given the sensitive nature of the agency but also in recognition of past improprieties and the need to ensure public confidence that there are channels within the FBI to raise whistleblower matters, among other things. See 124 Cong. Rec. S14300 (daily ed. Aug. 24, 1978) (statement of Sen. Percy); 124 Cong. Rec. H9359 (daily ed. Sept. 11, 1978) (statement of Rep. Derwinski); 124 Cong. Rec. H9359-60 (daily ed. Sept. 11, 1978) (statement of Rep. Udall); 124 Cong. Rec. H11822 (daily ed. Oct. 6, 1978) (statement of Rep. Schroeder).

²²See, e.g., 5 U.S.C. § 2303; 50 U.S.C. § 3234.

²³DOJ initially issued these regulations as an interim rule effective upon publication in the Federal Register in 1998; however, DOJ invited postpromulgation comments that were addressed in a final rule issued in 1999. Whistleblower Protection For Federal Bureau of Investigation Employees, 63 Fed. Reg. 62,937 (Nov. 10, 1998). Whistleblower Protection For Federal Bureau of Investigation Employees, 64 Fed. Reg. 58,782 (Nov. 1, 1999) (codified as amended at 28 C.F.R. pts. 0, 27).

²⁴Any employee of the FBI, or of any other component of the Department, who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action, as defined in 5 U.S.C. § 2302(a)(2)(A), with respect to any FBI employee as retaliation for a protected disclosure. 28 C.F.R. § 27.2. For purposes of this report, “employees” includes applicants for employment unless otherwise specified. See 5 U.S.C. § 2303(a) (prohibiting retaliatory personnel actions against FBI employees and applicants).

1. Complainants must show they reasonably believed that they have reported wrongdoing, defined as any violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, and
2. Complainants must have reported the alleged wrongdoing to one of the designated officials or entities (e.g., supervisor in the direct chain of command of the employee, up to and including the Attorney General; the Office of the Inspector General; the Office of Professional Responsibility; among other entities).²⁵

If the complainant does not meet either of these two requirements, then the complainant's disclosure is not protected, and consequently the complainant is not entitled to corrective action.²⁶ Corrective action should return the complainant, as nearly as possible, to the position they would have been in had the retaliation not occurred. For example, corrective action can include back pay and related benefits. However, if the complainant reports wrongdoing to an entity not designated by the regulations, such as the human resources office, and then experiences retaliation, the complainant will not be entitled to corrective action for that retaliation.

Relevant FBI Whistleblower Statutes and Directives

Several statutes and directives contain FBI whistleblower protections, including the following:

- **5 U.S.C. § 2303** prohibits retaliatory personnel actions taken against employees at the FBI for whistleblowing or reporting wrongdoing. The statute provides that the Attorney General is to establish regulations to protect FBI whistleblowers from retaliation. Accordingly, the Attorney General has set up a process for handling FBI whistleblower retaliation complaints.
- **FBI WPEA of 2016** amended 5 U.S.C. § 2303 to, among other things, expand the list of individuals or offices to whom an FBI whistleblower could make a protected disclosure. Significantly, this amendment allows employees to make a protected disclosure to supervisors and others in the employee's direct chain of command.²⁷ Prior to the FBI WPEA of 2016, FBI employees could not make protected disclosures to their supervisors or others in their chain of command (unless the recipient was the highest ranking official in any FBI field office or the FBI Director).

²⁵Under 5 U.S.C. § 2303(a)(1), FBI employees may make protected disclosures to designated officials or entities: (1) Department of Justice Office of the Inspector General, (2) Office of Special Counsel, (3) Department of Justice Office of Professional Responsibility, (4) FBI Office of Professional Responsibility, (5) the Inspection Division of the Federal Bureau of Investigation, (6) Congress, (7) supervisor in the direct chain of command of the employee, up to and including the Attorney General, (8) employee of any foregoing entities when designated by any officer, employee, office, or division named in this subsection for the purpose of receiving such disclosures.

²⁶Corrective action can include placement of complainant, as nearly as possible, in the position the complainant would have been in had the whistleblower retaliation not taken place; reimbursement for attorney's fees, reasonable costs, medical costs incurred, and travel expenses; back pay and related benefits; compensatory damages to the extent authorized by law; and any reasonable and foreseeable consequential damages. 28 C.F.R. § 27.4(g).

²⁷Pub. L. No. 114-302, § 2, 130 Stat. 1516-17 (pertinent provision codified at 5 U.S.C. § 2303(a)(1)(A)).

- **James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (NDAA FBI whistleblower rights)** amended 5 U.S.C. § 2303 to provide for additional rights for FBI whistleblowers to file with and appeal to the U.S. Merit Systems Protection Board, external to DOJ.²⁸
- **50 U.S.C. § 3341(j), Presidential Policy Directive 19 (PPD-19), and Security Executive Agent Directive 9** contain provisions prohibiting retaliatory security clearance or access determinations taken against employees for reporting waste, fraud, and abuse.²⁹ PPD-19 states that it ensures that employees serving in the Intelligence Community (which includes the FBI) or who are eligible for access to classified information can effectively report waste, fraud, and abuse while protecting classified national security information.

Division of Responsibility for Handling FBI Whistleblower Retaliation Complaints

DOJ regulations provide the agency's processes for handling FBI whistleblower retaliation complaints and describe various offices' responsibilities for investigating, adjudicating, and hearing appeals related to these complaints. At any point of the process, the complaint may be settled, such as through the FBI Whistleblower Mediation Program.³⁰

Investigating. DOJ's Office of the Inspector General and Office of Professional Responsibility³¹, the offices conducting the investigation (the investigating offices), first conduct a review of complaints to determine if they meet criteria to proceed. The criteria include that

1. the complaints met threshold regulatory requirements because the complainant made a protected disclosure³² and an adverse personnel action was taken against the complainant, and
2. there are reasonable grounds to believe that FBI took the adverse personnel action in retaliation for the complainant's protected disclosure.

Adjudicating. DOJ's Office of Attorney Recruitment and Management (the adjudicating office) may receive complaints in three ways: (1) from the investigating offices when the applicable office determines there are

²⁸Pub. L. No. 117-263, div. E, tit. LIII, subtit. A, § 5304(a), 136 Stat. 3250 (codified at 5 U.S.C. § 2303(d)). As discussed below, these new provisions have been subject to conflicting agency interpretations.

²⁹50 U.S.C. § 3341(j)(1); The White House, Presidential Policy Directive 19 (PPD-19), ¶ (B) (Washington, D.C.: Oct. 10, 2012). Office of the Director of National Intelligence, *Security Executive Agent Directive 9: Appellate Review of Retaliation Regarding Security Clearance and Access Determinations* (Washington, D.C.: May 28, 2022).

³⁰Here, a settlement is the ending of a case by agreement of the parties. We included in "settled cases" cases in which any aspect of the case was settled, including where implementation of the corrective action order was settled.

³¹The Office of the Inspector General is a statutorily created independent entity with jurisdiction to review programs and personnel in all DOJ components. Within the Office of the Inspector General, the Oversight and Review Division conducts reviews of whistleblower retaliation complaints and security clearance and access determinations. The Office of Professional Responsibility is part of DOJ and has jurisdiction to investigate complaints alleging professional misconduct against DOJ attorneys. The office that will investigate the complaint must provide written notice to the complainant acknowledging receipt of the complaint within 15 calendar days of the date either of the investigating offices receives the complaint. 28 C.F.R. § 27.3(c).

³²For the complainant to have made a protected disclosure sufficient to meet threshold regulatory requirements at the investigating office, (1) a disclosure must be made to one of the officials or entities designated in the statute and (2) the complainant must reasonably believe that the disclosure evidences any violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. See 5 U.S.C. § 2303(a).

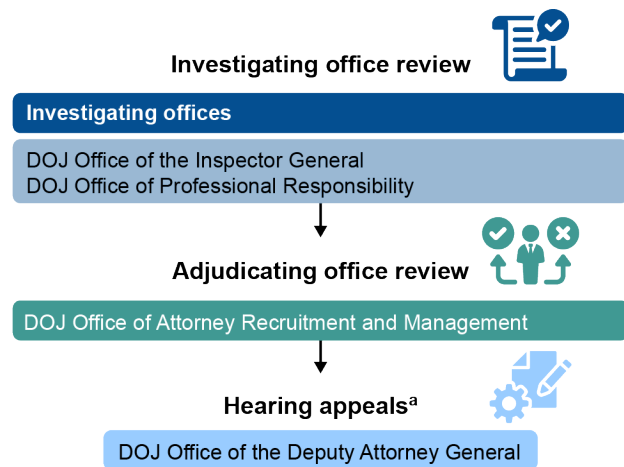
reasonable grounds to believe retaliation occurred; (2) from the complainant within 60 days of the investigating office closing its investigation; or (3) from the complainant after 120 days have passed and the investigating office has not made a determination.³³

The adjudicating office first determines whether the complaint meets threshold regulatory requirements.³⁴ If the complaint met threshold regulatory requirements, the adjudicating office will consider the substance of the allegation in the complaint (adjudicating on the merits). It will review the supporting evidence, along with the arguments submitted by the complainant and the FBI, to determine if the complainant proved that the protected disclosure was a contributing factor in the retaliatory personnel action. Next, the adjudicating office considers whether the FBI has demonstrated it would have taken the same personnel action in the absence of such disclosure. If the adjudicating office determines the complaint does not have merit, it may close the complaint. If the adjudicating office determines the complaint has merit, it may order the FBI to take corrective action, such as providing the complainant with a retroactive promotion or reimbursement for attorney’s fees.

Hearing appeals. DOJ’s Office of the Deputy Attorney General (the appeals office) reviews and rules on parties’ appeals of adjudicating office decisions.

Figure 1 provides an overview of DOJ’s process for handling FBI whistleblower retaliation complaints. For additional information, see appendix II.

Figure 1: Overview of the Department of Justice’s (DOJ) Process for Investigating, Adjudicating, and Hearing Appeals of FBI Whistleblower Retaliation Complaints



Source: GAO analysis of DOJ regulations; Icons-Studio/stock.adobe.com. | GAO-25-106547

^aFBI employees and applicants may also appeal final determinations and corrective action orders to the U.S. Merit Systems Protection Board. 5 U.S.C. § 2303(d).

³³The complainant must exhaust his or her administrative remedies by first filing a retaliation complaint with an investigating office before filing a request for corrective action with the adjudicating office.

³⁴For the complaint to meet threshold regulatory requirements at the adjudicating office, the complainant must exhaust their investigating office remedies and make a nonfrivolous allegation that their protected disclosure was a contributing factor in the FBI’s decision to take or fail to take, or threaten to take or fail to take, a personnel action against the complainant.

DOJ and FBI Processes for Handling Retaliatory Security Clearance or Access Determination Complaints

In addition to DOJ's processes for handling FBI whistleblower retaliation complaints alleging a retaliatory personnel action, DOJ and FBI have separate processes for complaints that allege a retaliatory security clearance or access determination. Adverse retaliatory security clearance and access determinations are not retaliatory personnel actions under 5 U.S.C. § 2303. Retaliatory security clearance and access determinations are prohibited under a different statute and directives, including PPD-19.³⁵ According to PPD-19, it ensures that employees serving in the Intelligence Community or who are eligible for access to classified information—which includes FBI employees because FBI employees must hold a security clearance—can effectively report waste, fraud, and abuse while protecting classified national security information.

DOJ's policy sets forth a process for individuals to seek review of security clearance and access determinations and a second process to seek review of retaliatory security clearance and access determinations. Individuals who can make complaints under this second process are FBI applicants, employees, and others—some of whom would not be able to file a complaint alleging retaliatory personnel action under 5 U.S.C. § 2303.³⁶ See appendix V for more information on who can file complaints under each of the statutes. Individuals may also seek reconsideration of security clearance and access determinations. DOJ and FBI processes regarding review of security clearance and access determinations include the following:

- **Security clearance determinations by FBI's Security Division.** Generally, individuals with access to classified information or sensitive positions undergo periodic reinvestigations. Within the FBI, the FBI Security Division conducts these investigations through the department's continuous evaluation program.³⁷ The FBI Security Division is authorized to suspend and revoke FBI security clearances.³⁸ If the FBI Security Division receives complaints alleging that an employee may present a security risk, then it may open a security clearance investigation.
- **Reconsideration and Access Review Committee process.** An individual may request the FBI Security Division to reconsider a security clearance or access determination and may appeal the determination to DOJ's Access Review Committee.

³⁵50 U.S.C. § 3341(j)(1) (concerning security clearance and access determinations); The White House, Presidential Policy Directive 19 (PPD-19), ¶ (B) (Washington, D.C.: Oct. 10, 2012). Office of the Director of National Intelligence, *Security Executive Agent Directive 9: Appellate Review of Retaliation Regarding Security Clearance and Access Determinations*, ¶ (E)(1) (Washington, D.C.: May 28, 2022).

³⁶The procedures outlined here apply to an "individual," or "applicants, employees, and those individuals whose affiliation or interaction with DOJ requires that they undergo security processing for determining eligibility for access to classified information or eligibility to hold a sensitive position pursuant to E.O. 12968, as amended. This includes self-employed contractors, task force members, and individuals whose clearances are processed by the Department to work on cases involving classified information." Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (July 30, 2024).

³⁷Continuous evaluation is a personnel security investigative process that leverages technology to perform automated records checks of commercial databases, U.S. Government databases, and other information, to continuously review the background of individuals who have been determined eligible for access to classified information or to occupy a national security position. To meet the requirements for Security Executive Agent Directive 6, the Department of Justice uses the Director of National Intelligence's Continuous Evaluation System and the Defense Counterintelligence and Security Agency's Trusted Workforce Service. Office of the Director of National Intelligence, *Security Executive Agent Directive 6: Continuous Evaluation* (Washington, D.C.: Jan. 12, 2018).

³⁸Federal Bureau of Investigation, Inspection Division 1245PG: *Internal Affairs Policy Guide* (Jan. 12, 2023).

- **Review of allegedly retaliatory security clearance or access determinations by DOJ's Office of the Inspector General.** Separate from the reconsideration and Access Review Committee process, an individual may seek review by the Office of the Inspector General when they believe a security clearance or access determination was taken in retaliation for a protected disclosure they made.³⁹

DOJ Settled More Whistleblower Retaliation Complaints Since 2013 but Continued to Not Meet Required Notification Time Frames in Many Cases

DOJ Settled More Complaints and Closed Complaints at Similar Time Frames as Found in Our Prior Work

Since our last review, the adjudicating office determined that a smaller proportion of complaints did not meet threshold regulatory requirements and settled more complaints. Specifically, the adjudicating office determined that 48 percent (24 of 50) of complaints closed from 2018 through 2022 did not meet threshold regulatory requirements. This is as compared to 56 percent (9 of 16) of complaints closed due to not meeting threshold regulatory requirements from 2009 through 2013, as we reported in 2015.⁴⁰ In addition, the adjudicating office determined about one-quarter of complaints on the merits, about the same percentage as we found in our prior work. DOJ and complainants settled 16 percent (8 of 50) of complaints we reviewed from 2018 through 2022 that the adjudicating and appeals offices closed. These complaints included three complaints that DOJ settled via mediation. By comparison, none of the complaints we reviewed from 2009 through 2013 resulted in a settlement. From 2018 through 2022, DOJ ordered corrective action in 4 complaints, compared to 3 complaints from 2009 through 2013.

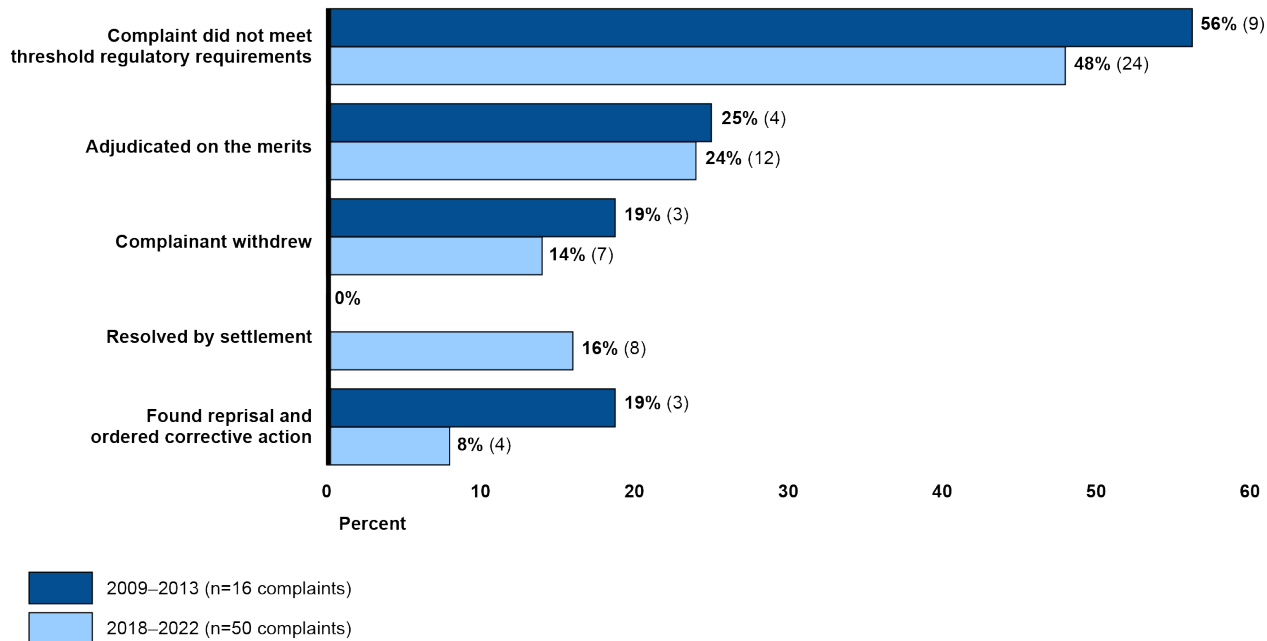
Figure 2 provides more information on the outcomes of complaints closed by the adjudicating and appeals offices.

³⁹In addition, if an individual undergoes a security clearance review and the DOJ Office of the Inspector General determines retaliation has not occurred, the individual may appeal to the Intelligence Community Inspector General or the Director of National Intelligence. Department of Justice, Department of Justice Instruction 1700.00.01: *Department of Justice Appeal Process for Denial or Revocation of Eligibility For Access to Classified Information or Eligibility to Hold a Sensitive Position* (July 30, 2024).

⁴⁰[GAO-15-112](#).

Figure 2: FBI Whistleblower Retaliation Complaint Outcomes Closed by Department of Justice (DOJ) Adjudicating and Appeals Offices from 2009 through 2013 and 2018 through 2022

Outcomes



Source: GAO review of FBI whistleblower retaliation complaints closed by DOJ Office of Attorney Recruitment and Management and Office of the Deputy Attorney General. | GAO-25-106547

Accessible Data for Figure 2: FBI Whistleblower Retaliation Complaint Outcomes Closed by Department of Justice (DOJ) Adjudicating and Appeals Offices from 2009 through 2013 and 2018 through 2022

Outcomes	2009 – 2013 (percent)	2018 – 2022 (percent)
Complaint did not meet threshold regulatory requirements	56.25	48
Adjudicated on the merits	25	24
Complainant withdrew	18.75	14
Resolved by settlement	0	16
Found reprisal and ordered corrective action	18.75	8

Source: GAO review of FBI whistleblower retaliation complaints closed by DOJ Office of Attorney Recruitment and Management and Office of the Deputy Attorney General | GAO-25-106547

Note: Complaints may have multiple outcomes. For example, we included in “settled cases” cases in which any aspect of the case was settled, including where implementation of the corrective action order was settled. As a result, the percentages above do not equal 100 percent.

Since our last review, DOJ closed a higher volume of complaints within similar time frames. As shown in table 1, the investigating offices continued to close most complaints within a year and the adjudicating and appeals offices closed less than half of the complaints within a year.

Table 1: Department of Justice (DOJ) Complaints Closed in Less Than a Year^a

	Complaints closed in less than a year: 2009–2013	Complaints closed in less than a year: 2018–2022
Investigating Offices	80 percent (37 of 46)	83 percent ^b (estimate)
Adjudicating and Appeals Offices ^c	44 percent (7 of 16)	42 percent (21 of 50)

Source: GAO analysis of FBI whistleblower retaliation complaints closed by DOJ. | GAO-25-106547

^aFor the investigating office’s review, the table reflects the time between the date the investigating office received the complaint and the date the office closed the complaint (i.e., sent a termination report to the complainant, the complainant withdrew, etc.).

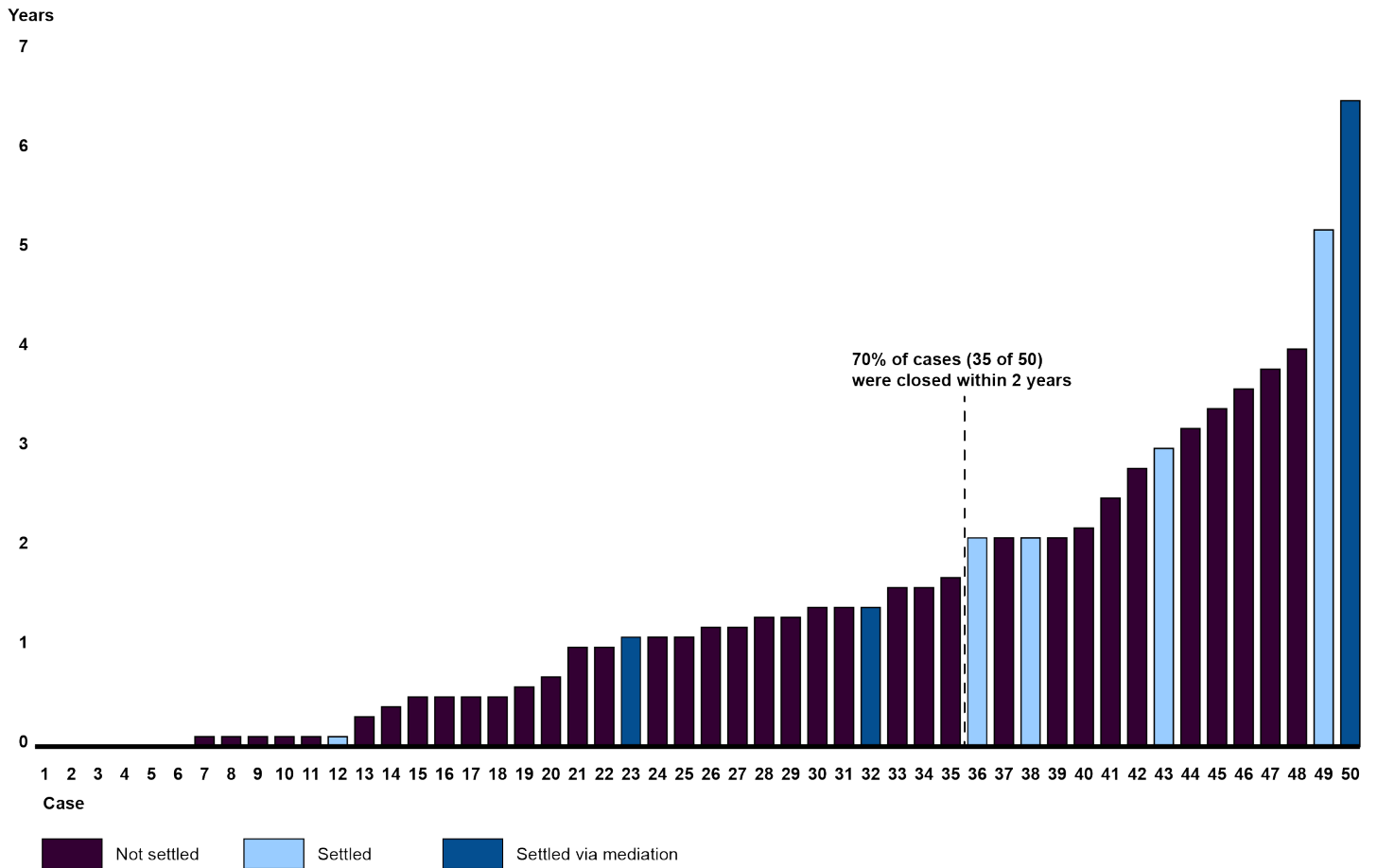
^bWe reviewed a representative sample of the 272 investigating office complaints from 2018 through 2022, so results are presented as estimates for the population. This estimate has a margin of error of plus or minus 8 percentage points, at the 95 percent confidence level.

^cFor determinations by the adjudicating and appeals offices, the table reflects the time between the date the complainant filed a request for corrective action and the final decision or corrective action order, whichever was later.

As shown in figure 3, the adjudicating and appeals offices closed 50 complaints between 2018 through 2022, lasting between 1 day and approximately 6.5 years.⁴¹ The shortest complaint was filed prematurely and the lengthiest complaint was resolved via mediation after going to both the adjudicating and appeals offices.

⁴¹Of the 50 complaints closed from 2018 through 2022 by the adjudicating and appeals offices, 70 percent (35 of 50) went only to the adjudicating office and 30 percent (15 of 50) went to both the adjudicating and appeals offices.

Figure 3: Length of FBI Whistleblower Retaliation Complaints Department of Justice (DOJ) Adjudicating and Appeals Offices Closed from 2018 through 2022



Source: GAO analysis of FBI whistleblower complaints closed by DOJ. | GAO-25-106547

Accessible Data for Figure 3: Length of FBI Whistleblower Retaliation Complaints Department of Justice (DOJ) Adjudicating and Appeals Offices Closed from 2018 through 2022

Case	Years
1	0
2	0
3	0
4	0
5	0
6	0
7	0.1
8	0.1
9	0.1
10	0.1
11	0.1

Case	Years
12	0.1
13	0.3
14	0.4
15	0.5
16	0.5
17	0.5
18	0.5
19	0.6
20	0.7
21	1
22	1
23	1.1
24	1.1
25	1.1
26	1.2
27	1.2
28	1.3
29	1.3
30	1.4
31	1.4
32	1.4
33	1.6
34	1.6
35	1.7
36	2.1
37	2.1
38	2.1
39	2.1
40	2.2
41	2.5
42	2.8
43	3
44	3.2
45	3.4
46	3.6
47	3.8
48	4
49	5.2
50	6.5

Source: GAO analysis of FBI whistleblower complaints closed by DOJ. | GA0-25-106547

Note: Cases 1 through 6 were not settled and were closed within 14 days. Not settled refers to cases that DOJ did not close with a settlement agreement, but due to other reasons, such as the complaint not meeting threshold regulatory requirements. We included in “settled” cases in which any aspect of the case was settled, including where implementation of the corrective action order was settled.

The FBI Whistleblower Mediation Program, implemented in 2014, is one change DOJ officials identified to improve complaint time frames.⁴² In addition to mediation, DOJ officials identified other changes to help address timeliness challenges such as hiring additional staff, centralizing functions, utilizing report writing templates, and tracking whistleblower retaliation complaints in case management systems. As each complaint is unique in complexity and circumstances, it is difficult to assess whether these changes had their intended effect on improving time frames. Nevertheless, DOJ officials see them as an improvement.

DOJ Investigating Offices Closed Fewer Complaints for Disclosing to the Wrong Entity

Of the 272 complaints closed from 2018 through 2022, the investigating offices closed an estimated 4 percent in part because the complainant did not disclose to a designated official or entity. For example, some complainants had disclosed information to DOJ’s Equal Employment Opportunity staff.⁴³ For additional information on reasons the investigating offices closed complaints from 2018 through 2022, see appendix III. For complaints closed from 2009 through 2013, the investigating offices had closed 50 percent (19 of 38) of complaints, in part because the complainant made his or her disclosure to an official or entity not listed in the regulations.⁴⁴ Of these 19, in at least 14 cases, we determined that these complaints were closed, in part, because a disclosure was made to someone in the employee’s chain of command or management. At that time, under the statute and DOJ regulations, disclosure to these officials were not protected disclosures. The FBI WPEA of 2016 amended 5 U.S.C. § 2303 to now allow protected disclosures to supervisors and others in FBI employees’ direct chain of command.

DOJ Investigating Offices Continue to Not Meet 15-Day Time Frame for Acknowledging Receipt of FBI Whistleblower Retaliation Complaints

Since our last report, the investigating offices continue to not meet the required time frame to acknowledge FBI whistleblower retaliation complaints. DOJ’s regulations require that the investigating offices provide written notice to the complainant acknowledging receipt of the complaint within 15 calendar days of either investigating office receiving it.⁴⁵ In reviewing the complaints closed from 2018 through 2022, we estimate that the investigating offices did not meet the 15-day requirement in 46 percent of complaints.⁴⁶ Our prior work found

⁴²The FBI Whistleblower Mediation Program is a voluntary, confidential, cost-free process in which the parties meet with a trained mediator. The complainant may request mediation (alternative dispute resolution) at any stage in the process.

⁴³We reviewed 169 complaints (all 50 adjudicating office complaints and a sample of 119 of 272 complaints from the investigating offices) closed from 2018 through 2022. Estimates in this report based on the sample have a margin of error, at the 95 percent confidence level of plus or minus 10 percentage points or fewer, unless otherwise noted.

⁴⁴For our 2015 report, GAO reviewed 62 complaints closed from 2009 through 2013. We reported on the complaints where documentation was sufficient. For example, some case files did not provide sufficient information to determine the reason DOJ determined that one or more of the complainant’s allegations did not meet threshold regulatory requirements. See [GAO-15-112](#).

⁴⁵The office that will investigate the complaint must provide this notice within 15 days of the date either of the investigating offices receives the complaint. In addition, the written notice must state the name of the person within the office who will serve as the point of contact for the complainant. 28 C.F.R. § 27.3(c).

⁴⁶This estimate has a margin of error of plus or minus 6 percent, at the 95 percent confidence level.

that in 65 percent of the complaints closed from 2009 through 2013 that we reviewed (37 of 57)⁴⁷, the investigating offices did not consistently comply with the 15-day regulatory requirement.⁴⁸

Officials from DOJ's Office of the Inspector General and Office of Professional Responsibility have identified some challenges in timely routing and review of complaints that can contribute to delays in acknowledging receipt of complaints. In particular:

- According to a senior official at the DOJ Office of the Inspector General, their office receives approximately 14,000 complaints per year, including whistleblower complaints. The official noted that the overall complaint volume poses a challenge.
- Additionally, there can be delays if the office responsible for acknowledging receipt of the complaint is not the same office that initially received the complaint. For example, there can be delays if the DOJ Office of the Inspector General routes complaints to the Office of Professional Responsibility. A senior Office of Professional Responsibility official noted that sometimes the DOJ Office of the Inspector General does not assign a complaint to the Office of Professional Responsibility until after the 15 days have passed so it cannot meet the requirement.

The investigating offices said they have taken some steps to address delays we previously identified in 2015.⁴⁹

- An Office of the Inspector General official noted that the Hotline Operations Branch established timeliness metrics in November 2021 to ensure complaints were accurately and timely entered in the case management system. However, according to data reported by the Office of Professional Responsibility on complaints opened in 2023, the Office of the Inspector General routed 19 percent (9 of 47) of the complaints to the Office of Professional Responsibility after 15 days. The Office of the Inspector General official acknowledged delays in the intake processing of complaints. Delays at the Office of the Inspector General, which routes the complaints, can in turn cause delays for the Office of Professional Responsibility.
- Separately, the Office of Professional Responsibility assigned responsibility to the Senior Associate Counsel for sending the notification letter. A senior official at the Office of Professional Responsibility attributed improved timeliness in 2023 to this assignment. In particular, the Office of Professional Responsibility reported meeting the 15-day requirement for 68 percent of the complaints (32 of 47) in 2023, compared to 19 percent of complaints (4 of 21) closed from 2009 through 2013 that we reviewed. However, according to data reported by the Office of Professional Responsibility, it did not meet the 15-day notification requirement for 32 percent (15 of 47) of complaints opened in 2023.

Further, these efforts do not address the identified delays that can occur if the office responsible for acknowledging receipt of the complaint is not the same office that initially received the complaint. The offices have not analyzed time frames for their respective roles in the process to identify issues that affect timely communication with complainants. By identifying and addressing issues with meeting the regulatory notification

⁴⁷In some complaints, the office may have met the requirement but not retained documentation in the case file.

⁴⁸[GAO-15-112](#).

⁴⁹[GAO-15-112](#).

requirements, the Office of the Inspector General and Office of Professional Responsibility can better ensure complainants receive information and the investigating offices make decisions in a timely manner.⁵⁰

DOJ Took 7 Years to Promulgate FBI Whistleblower Protection Regulations

In December 2016, Congress passed the FBI WPEA of 2016.⁵¹ Among other things, the act allowed FBI employees to seek corrective action when they allege retaliation for making a protected disclosure to supervisors and others in their direct chain of command. After experiencing delays for over 7 years, DOJ updated its regulations to address the FBI WPEA of 2016, among other things, in February 2024.⁵² From December 2016 to February 2024, DOJ's regulations were not consistent with statute, but DOJ personnel utilized the statute when reviewing complaints.

As shown in figure 4, DOJ policy provides an overview of steps DOJ components should take before the Attorney General signs a new regulation and it is published in the Federal Register.⁵³

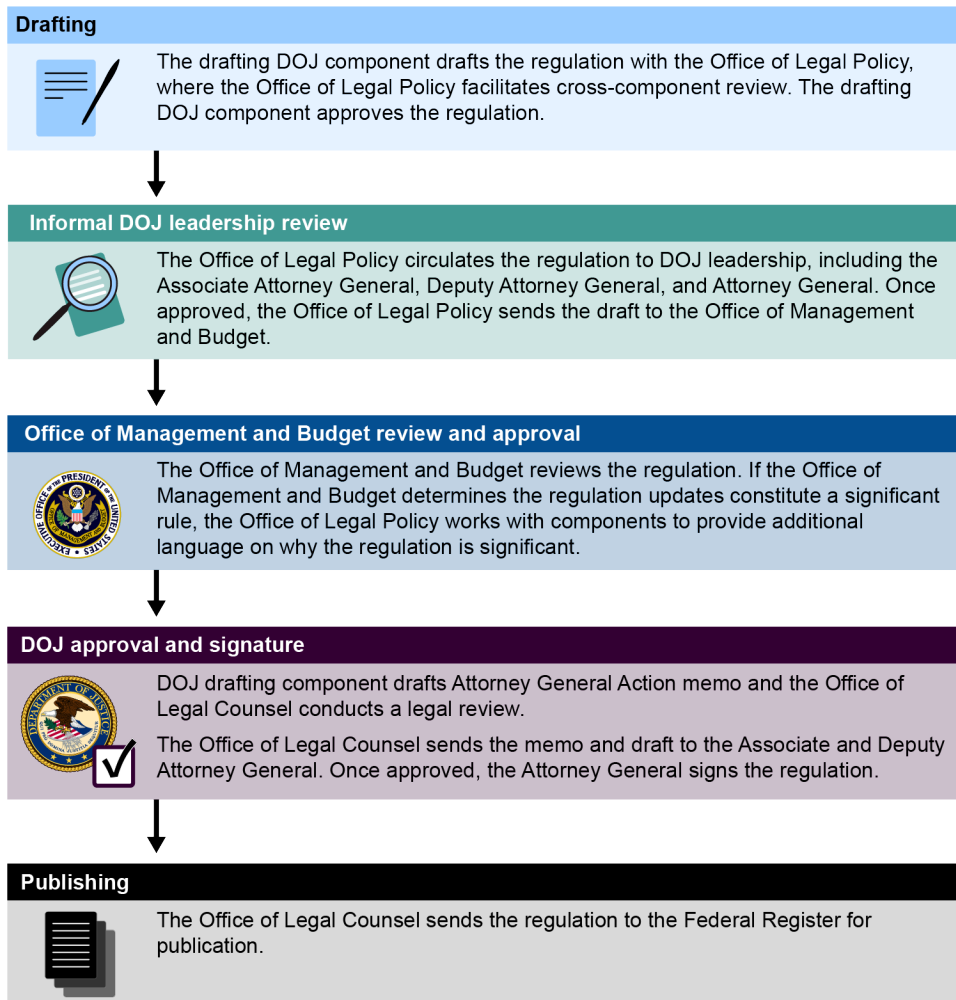
⁵⁰We are making recommendations to DOJ's Office of the Inspector General in a separate report.

⁵¹Pub. L. No. 114-302, 130 Stat. 1516 (codified as amended at 5 U.S.C. § 2303).

⁵²DOJ published a Notice of Proposed Rulemaking in the Federal Register in March 2023. Whistleblower Protection for Federal Bureau of Investigation Employees, 88 Fed. Reg. 18,487 (Mar. 29, 2023). In February 2024, that rule was finalized. Whistleblower Protection for Federal Bureau of Investigation Employees, 89 Fed. Reg. 7,277 (Feb. 2, 2024).

⁵³Department of Justice, *Office of Legal Policy: Outline Rulemaking Process for Justice Department Rules* (Feb. 7, 2022).

Figure 4: Department of Justice (DOJ) Office of Legal Policy’s Outline for Rulemaking Process



Source: GAO analysis of DOJ Office of Legal Policy documents; Agency logos; GAO icons. | GAO-25-106547

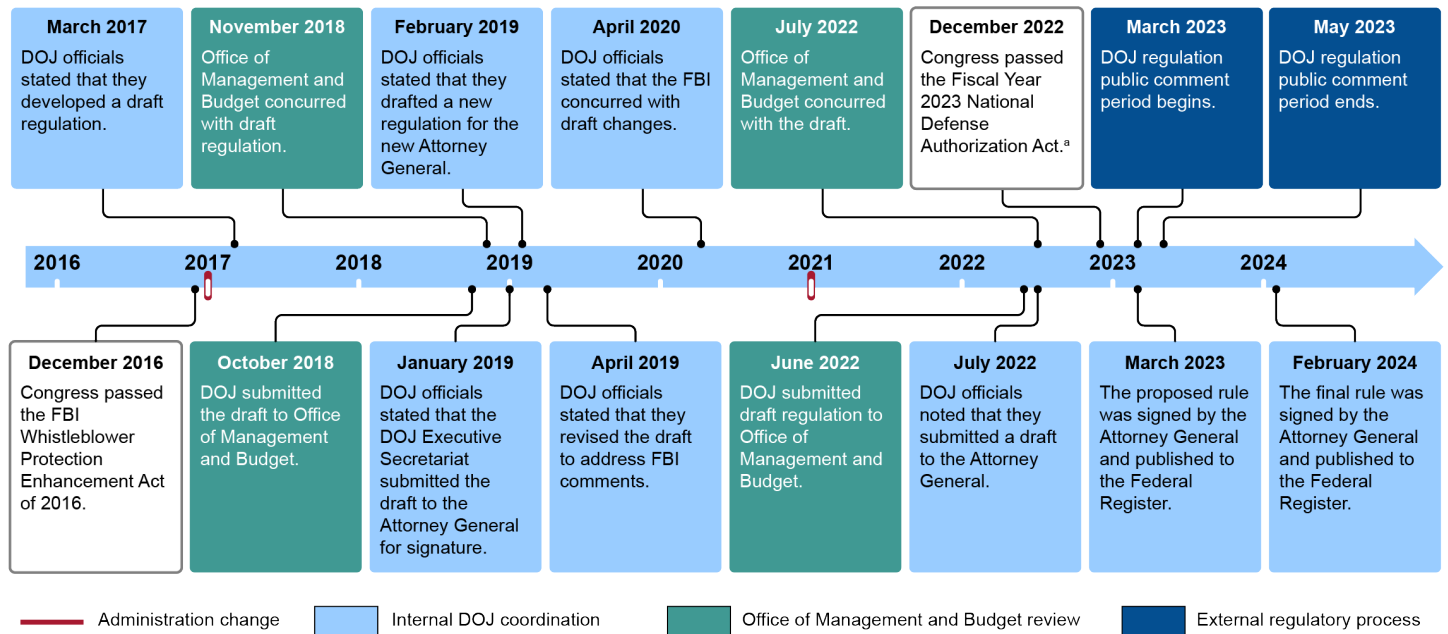
Note: The outline of this process is DOJ’s general process. However, the formal clearance process varies depending on the DOJ components affected by the rule. For example, the Associate Attorney General is not always included for reviewing the memo, and not all regulations are signed by the Attorney General. If the Office of Management and Budget determines the regulation is significant, the Office of Management and Budget will circulate the rule to other federal agencies for review. The Office of Legal Policy then works with the Office of Management and Budget to resolve any agency comments. Significant rules include those which have an annual effect on the economy of \$200 million or more or create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, among other things.

DOJ officials reported that no one DOJ component was solely responsible for updating the regulations to address the FBI WPEA of 2016. DOJ officials noted that the process was led by the Office of the Deputy Attorney General’s working group, which consisted of a group of DOJ components, including the FBI, Office of the Inspector General, Office of Professional Responsibility, and Office of Legal Policy, among others.

DOJ officials said that 7 years was an unusually long time to update the regulations and attributed the delays in addressing the FBI WPEA of 2016 to various reasons. Specifically, DOJ officials noted that the drafting process was unique, in part, due to significant review and analysis that required circulating numerous drafts among multiple DOJ components. DOJ officials noted that additional delays related to coordinating with the Office of Management and Budget. However, as our analysis shows, coordination with the Office of

Management and Budget occurred twice in November 2018 and July 2022 and took fewer than 30 days each time. DOJ officials also noted that delays occurred during the change in administrations, resulting in evolving priorities. Consequently, DOJ officials stated that they resubmitted a draft regulation for signature after the confirmation of a new Attorney General in February 2019. DOJ officials also noted that DOJ’s Office of Legal Policy maintained a high workload. See figure 5 for additional information on the delays.

Figure 5: Steps Department of Justice (DOJ) Officials Took to Update FBI Whistleblower Regulations



Source: GAO analysis of DOJ information. | GAO-25-106547

Note: The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 amended 5 U.S.C. § 2303 to provide for additional rights for FBI whistleblowers to file with and appeal to the U.S. Merit Systems Protection Board, external to DOJ.

Project Management Institute guidance states that organizations, such as federal agencies, should show who is responsible, accountable, consulted, or informed of and are associated with activities, decisions, and deliverables. Further, regardless of who is accountable and responsible for specific progress, a collective team or office takes ownership of outcomes.⁵⁴ Additionally, individuals assigned to lead the collective team responsible for achieving deliverables, such as a project manager, have responsibility for evaluating progress toward achieving deliverables. DOJ did not identify one component within the working group to take the lead in drafting the regulation and coordinating with DOJ’s Office of Legal Policy to move the regulation through DOJ’s process.

⁵⁴GAO recently examined the National Highway Traffic Safety Administration’s process for developing required rulemakings and compared policies and practices to leading schedule management practices identified by the Project Management Institute in *A Guide to the Project Management Body of Knowledge*. Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017. The *Project Management Body of Work* is a trademark of Project Management Institute, Inc. Project Management Institute is a not-for-profit association that provides global standards for, among other things, project and program management. These standards are utilized worldwide and provide guidance on how to manage various aspects of projects, programs, and portfolios. GAO, *Traffic Safety: Implementing Leading Practices Could Improve Management of Mandated Rulemakings and Reports*, GAO-22-104635 (Washington, D.C.: Apr. 26, 2022).

The guidance also states that organizations, such as federal agencies, should follow leading schedule management practices to, among other things, establish the criteria and the activities for developing, monitoring, and controlling the schedule and arrive at an understanding of how and when the agency anticipates completing each stage of the process, a practice which can be useful in managing project time frames and reducing delays. DOJ did not establish anticipated time frames for completing each stage of the process, such as a time frame to complete cross-component review of the draft regulation.

DOJ policy does not reflect leading schedule management practices because it does not ensure that an entity has primary responsibility for individual rulemakings in cases where multiple components contribute to drafting. In addition, DOJ policy does not ensure an understanding of how and when each stage of the rulemaking process is anticipated to be completed because it does not require that anticipated time frames be established for each stage.

With respect to delays in addressing FBI WPEA of 2016 amendments, DOJ officials noted that they took steps to update other FBI whistleblower protection guidance in 2017. Specifically, the Office of Attorney Recruitment and Management updated publicly available guidance on to whom FBI whistleblowers could make a protected disclosure. The Office of Attorney Recruitment and Management also followed the statute, pending the finalized regulation, when adjudicating complaints. However, we found that some FBI whistleblower retaliation complainants experienced difficulties when making protected disclosures to supervisors in their direct chain of command after 2017. For example, one complainant alleged that their supervisor attempted to prevent them from making a protected disclosure by saying that they were not reporting to an appropriate entity. Another complainant made a protected disclosure to the wrong entity and attached the old version of DOJ's regulations to their complaint, which indicated they did not know about the change in the statute at the time of their disclosure.

While DOJ has updated its regulations, updating DOJ's policy to align with leading schedule management practices could help ensure that future rulemakings are more timely. Identifying an office primarily responsible for each rulemaking, particularly for rulemakings involving multiple components, helps ensure that personnel are accountable for activities, decisions, and deliverables. Further, identifying anticipated time frames for the stages of the rulemaking process—as called for in leading schedule management practices—could help ensure that regulations are issued in a timely manner, particularly in instances where statutory changes need to be reflected and individuals need to be made aware of their rights.

Ambiguities in Fiscal Year 2023 Statutory Amendments Have Resulted in Limited Steps Taken to Address New FBI Whistleblower Rights

With the enactment of the FBI WPEA of 2016 and NDAA for Fiscal Year 2023, FBI, federal government, and Intelligence Community employee whistleblower statutory protections are more comparable. Appendix IV compares select protections for FBI, federal, and Intelligence Community employees.

However, the amendments made to 5 U.S.C. § 2303 contain provisions that pose challenges for their implementation.

In December 2022, the NDAA for Fiscal Year 2023 amended 5 U.S.C. § 2303, adding new provisions concerning rights of FBI whistleblowers to seek relief from the U.S. Merit Systems Protection Board.^a

NDAA for Fiscal Year 2023 Amendments to 5 U.S.C. § 2303

- Paragraph (d)(1): “An employee of the Federal Bureau of Investigation who makes an allegation of a reprisal under regulations promulgated under this section may appeal a final determination or corrective action order by the Bureau under those regulations to the U.S. Merit Systems Protection Board pursuant to section 1221.”
- Paragraph (d)(2): “If no final determination or corrective action order has been made or issued for an allegation described in paragraph (1) before the expiration of the 180-day period beginning on the date on which the allegation is received by the Federal Bureau of Investigation, the employee described in that paragraph may seek corrective action directly from the U.S. Merit Systems Protection Board pursuant to section 1221.”

Source: 5 U.S.C. § 2303(d). | GAO-25-106547

Note: Pub. L. No. 117-263, div. E, tit. LIII, subtit. A, § 5304(a), 136 Stat. 3250 (codified at 5 U.S.C. § 2303(d)).

The amendments incorrectly state that the FBI issues final determinations or corrective action orders, and that the FBI receives complaints alleging whistleblower retaliation. In particular, the first new provision, (d)(1), provides that an FBI employee may appeal a final determination or corrective action order by the FBI. However, the FBI does not issue final determinations or corrective action orders. Other entities within DOJ—not the FBI—are responsible for final determinations and corrective action orders.⁵⁵ Furthermore, the statutory language does not make clear at which point in the process a determination or corrective action order would be final or appealable. As such, officials in multiple DOJ components, including the investigating and adjudicating offices, noted that the provisions are subject to differing interpretations. While some DOJ components interpret (d)(1) as providing an appeal right from an Office of Attorney Recruitment and Management (adjudicating office) determination, other components interpret (d)(1) as providing an appeal right from an investigating office determination by the DOJ Office of the Inspector General or Office of Professional Responsibility. This means that there are multiple offices within DOJ that could be responsible for issuing the final determination or corrective action order under (d)(1).⁵⁶

The next provision, (d)(2), allows FBI whistleblower retaliation complainants to seek corrective action directly from the U.S. Merit Systems Protection Board 180 days after the allegation has been received by the FBI if there has not yet been a final determination or corrective action order issued for that allegation. Because allegations are not made to FBI, and it is unclear when such determinations or orders would be considered issued, no DOJ component has been able to determine when the 180 days starts.⁵⁷ Accordingly, it is unclear when a complainant would be able to exercise the rights described in (d)(1) and (d)(2).

DOJ officials stated that it is not DOJ’s role to develop regulations defining FBI whistleblower’s right of appeal at the U.S. Merit Systems Protection Board or describing the board’s jurisdiction or procedures. They said the differing interpretations should be resolved through litigation or through regulations promulgated by the U.S.

⁵⁵In practice, final determinations and corrective action orders are issued by the adjudicating and appeals offices (DOJ’s Office of Attorney Recruitment and Management and the Deputy Attorney General).

⁵⁶Another potential office that could be considered to have issued final determination or corrective action orders under (d)(1) is the Office of the Deputy Attorney General, which has full discretion to review and modify corrective action ordered by the Office of Attorney Recruitment and Management. 28 C.F.R. § 27.5(a).

⁵⁷Allegations are received by the investigating offices (Office of the Inspector General and Office of Professional Responsibility). As discussed above, it is unclear whether final determinations or corrective action orders are issued by the investigating offices, the Office of Attorney Recruitment and Management, or the Office of the Deputy Attorney General.

Merit Systems Protection Board. DOJ officials also noted that, without further clarification on how and when FBI whistleblower retaliation complainants can specifically exercise the rights to appeal to or seek corrective action from the U.S. Merit Systems Protection Board, DOJ can only provide notice to FBI whistleblower retaliation complainants that 5 U.S.C. § 2303(d) exists. To this end, DOJ has referenced the new rights to appeal to and to seek corrective relief from the U.S. Merit Systems Protection Board in the regulation it finalized in February 2024 and in its publicly available policies.⁵⁸ DOJ's adjudicating office has also provided the statutory language to complainants. In addition, DOJ officials stated DOJ's Office of the Inspector General and Office of Legislative Affairs provided technical assistance in May 2024 to Congress to address the ambiguities in the provisions.

In July 2023, the U.S. Merit Systems Protection Board took steps to update publicly available guidance and shared information with its administrative judges about the new right to appeal.⁵⁹ U.S. Merit Systems Protection Board officials noted that the board is in the process of reviewing its regulations to determine how best to address the additional jurisdiction conferred by the statute. As of yet, the board has heard few cases arising under 5 U.S.C. § 2303(d).⁶⁰ Officials further noted that DOJ's regulations provided additional guidance. As noted above, however, these regulations provide only that FBI whistleblowers may seek relief from the U.S. Merit Systems Protection Board in accordance with 5 U.S.C. § 2303(d) and do not otherwise clarify how or when FBI whistleblowers may exercise these rights.⁶¹

Because DOJ components with roles in the FBI whistleblower complaint process have been unable to consistently interpret and address 5 U.S.C. § 2303(d) given the challenges posed by the statutory text, DOJ is unable to provide clear information to FBI whistleblowers regarding their rights to seek relief from the U.S. Merit Systems Protection Board. Further, some FBI whistleblowers may not be able to either appeal to the U.S. Merit Systems Protection Board or seek corrective action directly from the board due to ambiguities in the statute. Amending 5 U.S.C. § 2303(d) to clarify when FBI whistleblower retaliation complainants should be able to seek corrective action from the U.S. Merit Systems Protection Board will help ensure that FBI whistleblower retaliation complainants are informed of and can appropriately exercise their rights to seek relief from the U.S. Merit Systems Protection Board. Specifically, the statute could be clarified to include when determinations and corrective action orders are considered final under (d)(1), and when the 180 days begin for the purposes of establishing U.S. Merit Systems Protection Board jurisdiction under (d)(2).

⁵⁸Department of Justice, *Office of Attorney Recruitment and Management Procedures for FBI Whistleblower Reprisal Claims Brought Pursuant to 28 C.F.R. Part 27* (Mar. 4, 2024). Department of Justice, *Office of the Deputy Attorney General Procedures for FBI Whistleblower Reprisal Appeals* (Mar. 4, 2024).

⁵⁹In July 2023, the U.S. Merit Systems Protection Board provided additional guidance to administrative judges acknowledging the right to appeal to the board under 5 U.S.C. § 2303(d), discussing the relevant DOJ regulation, and stating that any such appeals should be docketed as 5 U.S.C. § 1221 cases, due to the present lack of an alternative filing mechanism.

⁶⁰As of September 2024, U.S. Merit Systems Protection Board judges had heard and dismissed two cases involving the new right to appeal, one of which was later reopened by the board. According to the board, it is in the process of reviewing the reopened case and its regional offices are in the process of reviewing two pending cases as of September 2024.

⁶¹Due to the statutory ambiguities, U.S. Merit Systems Protection Board officials noted that FBI whistleblower complainants may be misfiling appeals with the Office of Special Counsel. The Office of Special Counsel does not have a role in the statutory process, and agency officials noted that they received and closed one complaint involving FBI whistleblower retaliation. Office of Special Counsel officials also noted that they have not received additional complaints as of September 2024. In addition, the Office of Special Counsel updated its website and online filing portal to clarify that it lacks jurisdiction over complaints involving FBI whistleblower retaliation.

DOJ and FBI Have Processes to Address Retaliatory Security Clearance and Access Determinations, but they Do Not Fully Inform Complainants of Rights

DOJ and FBI Have Processes to Address Complaints Alleging Retaliatory Security Clearance and Access Determinations

DOJ and FBI have separate processes to review FBI whistleblower retaliation complaints alleging personnel actions and security clearance and access determinations. This is because the processes are governed by two different statutes—5 U.S.C. § 2303 and 50 U.S.C. § 3341(j).⁶² Appendix V describes some statutory differences in the processes.

As previously mentioned, within FBI, the FBI Security Division conducts background investigations, continuous evaluations, and security clearance investigations. If the FBI Security Division receives a credible complaint alleging a security concern, it may initiate a security clearance investigation. According to the FBI, while a security clearance investigation is pending, an employee's security clearance may be suspended to mitigate the risk to national security.

DOJ has a review process for individuals alleging retaliatory security clearance or access determinations.⁶³ Under DOJ policy, after receiving an interim determination (e.g., security clearance suspension lasting longer than 1 year) or a final determination of a security clearance revocation or denial, an individual may file a complaint with DOJ's Office of the Inspector General alleging that the determination has been made in retaliation for making a protected disclosure.⁶⁴ If DOJ's Office of the Inspector General determines that no retaliation occurred, the individual may appeal to the Inspector General of the Intelligence Community or the Director of National Intelligence.⁶⁵ In addition, regardless of whether retaliation is alleged, any individual at the FBI may request reconsideration of an adverse security clearance or access determination and then appeal that reconsideration decision to DOJ's Access Review Committee.

Figure 6 provides information on the review of security clearance and access determinations.

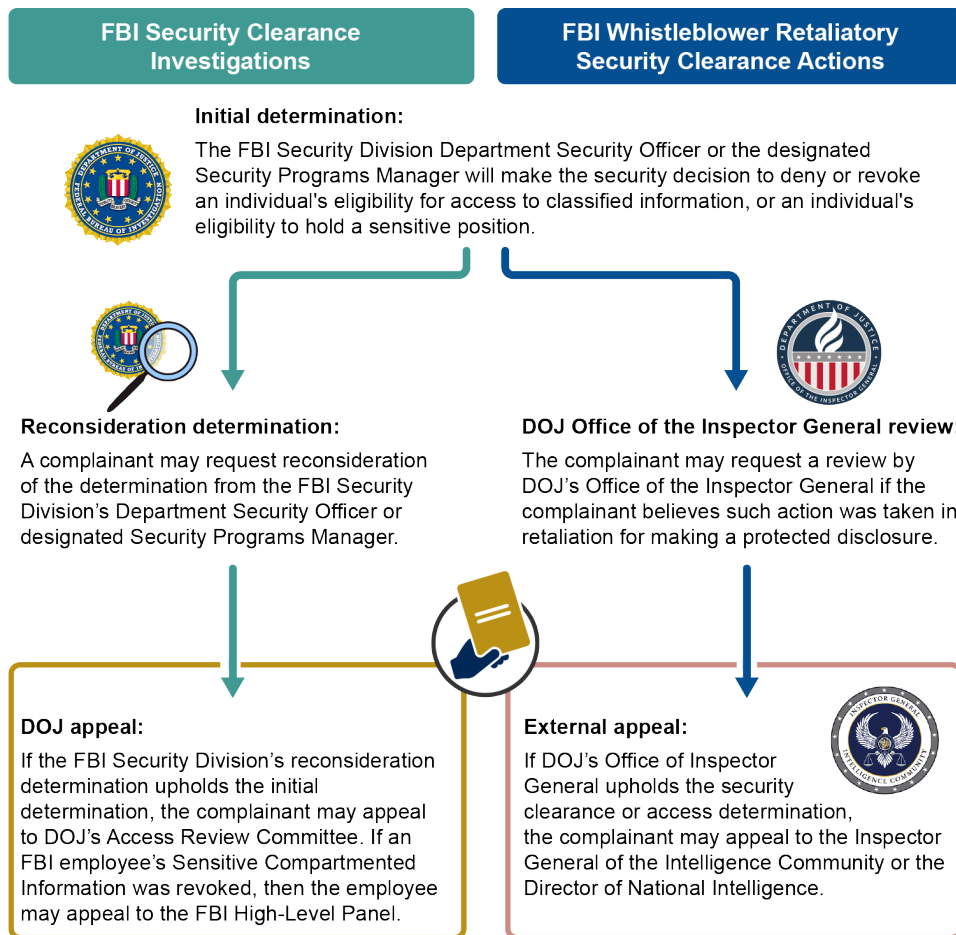
⁶²5 U.S.C. § 2303(a) prohibits FBI retaliatory personnel actions and 50 U.S.C. § 3341(j)(1), Presidential Policy Directive-19(B), and Security Executive Agent Directive 9 prohibit FBI retaliatory security clearance and access determinations.

⁶³Executive Order 12968 and Title 28 of the Code of Federal Regulations, part 17 establish security clearance appeal procedures. DOJ has operationalized these procedures in Instruction 1700.00.01.

⁶⁴Individuals who are subject to agency security clearance or access determinations, including those at the FBI, cannot appeal suspensions made for the purpose of investigation for a minimum of 1 year. See 50 U.S.C. § 3341(a)(1)(C), (b)(7), (j)(4)(A).

⁶⁵Individuals may request appellate review of DOJ's Office of the Inspector General's determinations by either the Inspector General of the Intelligence Community or the Director of National Intelligence, pursuant to 50 U.S.C. §§ 3236, 3341(j)(5), and the Director of National Intelligence's Security Executive Agent Directive 9. Office of the Director of National Intelligence, *Security Executive Agent Directive 9: Appellate Review of Retaliation Regarding Security Clearance and Access Determinations* (Washington, D.C.: May 28, 2022). See Inspector General of the Intelligence Community Instruction 2020.0001.

Figure 6: Review of FBI Security Clearance and Access Determinations as of July 2024



Source: GAO analysis of Department of Justice (DOJ) and FBI guidance; Agency logos; GAO icons. | GAO-25-106547

Note: This is the process used as of DOJ's issuance of new guidance in July 2024. Previously, individuals alleging retaliation had to request a reconsideration determination prior to requesting DOJ Office of the Inspector General review and had to appeal to the Access Review Committee prior to appealing to the Inspector General of the Intelligence Community or the Director of National Intelligence. The FBI High-Level Panel may be convened when an FBI employee requests a hearing or an appeal of a final Sensitive Compartmented Information denial or revocation. Within these processes, the FBI Security Division is not involved in reviewing retaliatory security clearance and access determinations. FBI Security Division officials noted that division personnel have no visibility into who pursues whistleblower retaliation complaints at DOJ, which they said helps to ensure that whistleblowing activities have no bearing into security clearance determinations. An individual who experiences a retaliatory security clearance or access determination may appeal such actions to DOJ's Office of the Inspector General and could simultaneously appeal the same adverse actions through DOJ's reconsideration and Access Review Committee process.

Few Complainants Allege Retaliatory Security Clearance and Access Determinations

From 2018 through 2022, the FBI Security Division conducted 1,150 security clearance investigations and revoked 243 security clearances. DOJ's Office of the Inspector General closed four complaints from 2018 through 2023 in which an FBI whistleblower retaliation complainant alleged a security clearance or access

determination, such as revoking a security clearance, occurred in retaliation for making a protected disclosure.⁶⁶

None of the complaints in which a complainant alleged a retaliatory security clearance or access determination resulted in DOJ's Office of the Inspector General ordering corrective action. Specifically, in three of the four complaints, the Office of the Inspector General determined that the FBI Security Division would have taken the same action (e.g., revoking a complainant's security clearance) based on the complainants' actions, in the absence of a protected disclosure. For example, the three complainants violated multiple FBI offense codes, including unauthorized access of an FBI database, theft, and disclosure of classified information to an individual outside of the FBI. In the fourth complaint, DOJ's Office of the Inspector General determined that the alleged retaliatory action did not constitute a security clearance or access determination.

Mandatory Training Does Not Clearly Communicate that FBI Whistleblower Complainants May Seek Office of the Inspector General Review of Retaliatory Security Clearance and Access Determinations

Based on our analysis, we found that individuals at the FBI alleging retaliation do not always know they can pursue review by the Office of the Inspector General if they allege experiencing retaliatory security clearance and access determinations. FBI whistleblower retaliation complainants may allege that both a retaliatory personnel action and retaliatory security clearance and access determination occurred in response to their protected disclosure. For example, complainants may only be pursuing DOJ's review of retaliatory personnel actions when they could also pursue DOJ's Office of the Inspector General review of retaliatory security clearance and access determinations. We found one complainant who reported both kinds of retaliatory actions but only pursued DOJ's review of retaliatory personnel actions. For example, one complainant alleged retaliatory personnel actions (i.e., reassignment and lower performance appraisals) and a retaliatory security clearance or access determination (i.e., security clearance revocation) under DOJ's process for reviewing retaliatory personnel actions only.

In addition, another FBI whistleblower retaliation complainant misfiled their complaint involving an alleged retaliatory security clearance or access determination. The complainant sought review of a security clearance revocation under DOJ's process for reviewing complaints alleging retaliatory personnel actions. The complainant did not seek review of their complaint through DOJ's process for reviewing retaliatory security clearance or access determinations. Accordingly, the office adjudicating the complaint as part of the retaliatory personnel review process, dismissed the allegations. Further, this complainant argued that DOJ's Office of Attorney Recruitment and Management should apply 50 U.S.C. § 3341(j) and PPD-19(B)—which govern review of retaliatory security clearance and access determinations—to the complaint and alleged DOJ did not

⁶⁶We reviewed complaints involving alleged retaliatory security clearance and access determinations that DOJ's Office of the Inspector General received from 2018 through 2022 and closed. The last complaint was closed in January 2023. Additionally, DOJ's Office of Professional Responsibility reviewed one individual's allegations of retaliatory personnel actions, and that individual attempted to file a complaint alleging a retaliatory security clearance suspension. However, according to DOJ's Office of the Inspector General, it did not have jurisdiction to investigate the complaint because the individual attempted to appeal a security clearance suspension within 1 year, where that suspension was made for the purposes of conducting an investigation. See 50 U.S.C. § 3341(j)(4)(A). According to DOJ's Office of the Inspector General, the FBI fully reinstated the individual's security clearance within 1 year.

provide notice about the route to appeal such retaliatory actions, as required by PPD-19.⁶⁷ The Office of Attorney Recruitment and Management does not have jurisdiction over 50 U.S.C. § 3341(j) or PPD-19(B) appeals and therefore cannot apply this legal framework to complaints they review.

According to FBI policy, FBI personnel must understand whistleblower protection requirements.⁶⁸ To ensure personnel are aware of and understand these protections, FBI whistleblower protection training is used to educate all employees concerning their rights and responsibilities under 5 U.S.C. § 2303. The policy notes that the training is mandatory as specified by regulations.⁶⁹

However, the FBI whistleblower protection mandatory training, currently sponsored by the FBI, the Office of Equal Employment Opportunity Affairs, and DOJ's Office of the Inspector General, does not mention the review by DOJ's Office of the Inspector General of alleged retaliatory security clearance and access determinations.⁷⁰ Updating mandatory training to communicate that complainants may seek review by DOJ's Office of the Inspector General if they believe a retaliatory security clearance or access determination has been taken in response to a protected disclosure can help provide assurance that complainants know that they may utilize this process to seek corrective action.⁷¹

DOJ Updated its Policy for Reviewing Retaliatory Security Clearance and Access Determinations, but Further Revision is Needed

During the course of our review, we found that DOJ's 2018 policy concerning the review process for alleged retaliatory security clearance and access determinations was not consistent with 2014 statutory changes concerning how agencies should address such retaliatory actions against employees.⁷² We identified inconsistencies with the statute in the areas of corrective action, timeliness of appeals, and steps in the appeals process. Regarding timeliness of appeals, the statute gives FBI whistleblower retaliation complainants 90 days to internally appeal a security clearance or access determination, while DOJ's 2018 policy limits the time period of appeal to 30 days.⁷³ FBI officials said that they have been following the policy, not the statute. As a result, FBI Security Division personnel had been providing FBI whistleblower retaliation complainants with

⁶⁷As noted earlier in the report, 50 U.S.C. § 3341(j) and Presidential Policy Directive 19 (PPD-19) contain provisions prohibiting retaliatory security clearance or access determinations taken against employees for reporting waste, fraud, and abuse. PPD-19 states that it ensures that employees serving in the Intelligence Community or who are eligible for access to classified information can effectively report waste, fraud, and abuse while protecting classified national security information.

⁶⁸Federal Bureau of Investigation, *FBI Policy Directive 0971D: FBI Whistleblower Policy* (May 1, 2017).

⁶⁹Federal Bureau of Investigation, *Electronic Communication: Approval and Request to Launch Updated Whistleblower Protection Course* (Sept. 9, 2021) (citing 5 C.F.R. § 724.203(a), (c)).

⁷⁰According to a senior DOJ Office of the Inspector General official, the FBI consults with the DOJ Office of the Inspector General on the training for FBI employees but the DOJ Office of the Inspector General does not administer the training.

⁷¹We are making recommendations to DOJ's Office of the Inspector General in a separate report.

⁷²Compare 50 U.S.C. § 3341(j), with Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility For Access to Classified Information or Eligibility to Hold a Sensitive Position* (Mar. 7, 2018).

⁷³Compare 50 U.S.C. § 3341(j)(4)(A), with Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility For Access to Classified Information or Eligibility to Hold a Sensitive Position*, ¶ III.C. (Mar. 7, 2018).

incorrect information concerning the timeliness of appeals. In one complaint we reviewed, the FBI Security Division notified a complainant that they had only 30 days to internally appeal, rather than the 90 days provided by the statute.

Further, regarding steps in the appeals process, the statute states that the 90-day appellate period begins to run “after the issuance of” the security clearance or access determination. However, DOJ’s 2018 policy requires the individual to first request “reconsideration” of a security clearance decision before they may allege retaliation and appeal to the DOJ Office of the Inspector General. In one complaint we reviewed, the FBI Security Division similarly stated that this appeal could occur after “reconsideration.” Accordingly, FBI whistleblower retaliation complainants have been misinformed of their rights. The inconsistencies regarding corrective action are addressed below. In May 2024, we shared our findings on these inconsistencies with DOJ.

In a report issued in May 2024, DOJ’s Office of the Inspector General likewise found that DOJ’s 2018 policy was inconsistent with the 2014 statutory changes, among other things.⁷⁴ DOJ’s Office of the Inspector General identified inconsistencies with the statute in the areas of appealing suspensions of security clearances and maintaining employment during the security clearance review. For example, its report found that DOJ’s policy did not include an Office of the Inspector General appeal process for DOJ employees—including FBI employees—whose security clearances have been suspended for more than 1 year and who allege retaliation. Consequently, DOJ’s Office of the Inspector General issued four recommendations to DOJ to update the policy.⁷⁵

As a result of our review and DOJ’s Office of the Inspector General’s recommendations, DOJ updated its policy in July 2024.⁷⁶ We reviewed the updated policy and determined that it addressed several of the inconsistencies we identified.⁷⁷ We determined that the July 2024 policy is now consistent with the statute regarding timeliness of appeals and steps in the appeal process. Updating the policy to be consistent with the statute helps ensure FBI whistleblower retaliation complainants are accurately advised of their rights and can appeal adverse security clearance and access determinations.

However, our review determined that the July 2024 policy update did not address the inconsistency we identified with the statute regarding corrective action. The statute states that if an agency finds that an adverse

⁷⁴Department of Justice, Office of the Inspector General: Management Advisory Memorandum 24-067: Notification of Concerns Regarding the Department of Justice’s Compliance with Whistleblower Protections for Employees with a Security Clearance. (May 9, 2024).

⁷⁵The Department of Justice Office of the Inspector General made four recommendations to ensure consistency with the requirements of 50 U.S.C. § 3341. Specifically, the four recommendations are to (1) ensure that there is a process for employees to file a retaliation claim with the Office of the Inspector General when the security clearance suspension lasts longer than 1 year; (2) ensure employees are notified in writing to their right to file such an appeal; (3) ensure that employees who had their security clearances suspended, revoked, or denied, and have made a retaliation claim have an opportunity to retain their government employment status during a security investigation (all FBI employees are required to have a Top Secret security clearance); and, (4) put in place a process to review monthly reports of suspension cases exceeding 90 days. Department of Justice, Office of the Inspector General: Management Advisory Memorandum 24-067: Notification of Concerns Regarding the Department of Justice’s Compliance with Whistleblower Protections for Employees with a Security Clearance. (May 9, 2024).

⁷⁶Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility For Access to Classified Information or Eligibility to Hold a Sensitive Position*. (July 30, 2024).

⁷⁷The updated policy also addressed appealing suspensions of security clearances and maintaining employment during review.

security clearance or access determination has occurred in retaliation for making a protected disclosure, the agency “shall take specific corrective action” so that the FBI whistleblower retaliation complainant is returned to the position the complainant would have held absent the retaliation, “as nearly as practicable and reasonable.”⁷⁸ The updated policy, however, does not state that if DOJ’s Office of the Inspector General finds retaliation occurred, DOJ must take corrective action.⁷⁹ Rather, it states that if DOJ’s Office of the Inspector General finds retaliation occurred, and an individual’s security clearance or access eligibility is approved or reinstated or corrective action is taken, “the individual will be notified in writing.” It does not require that DOJ take corrective action to return the complainant, as nearly as practicable and reasonable, to the position they would have held absent the retaliation.

The policy further provides that, even if corrective action is recommended, the Department Security Officer or designated Security Programs Manager may determine that it is not practicable and reasonable to approve or reinstate an individual’s security clearance or access eligibility on the basis of national security. But the policy does not explicitly say that corrective action must be taken if there is no national security threat. DOJ officials stated that the policy implies that DOJ will follow recommendations for corrective action. However, they did not indicate where the policy requires DOJ to take corrective action to return the complainant, as nearly as practicable and reasonable, to the position they would have held absent the retaliation in accordance with the statute. Accordingly, our review of the July 2024 policy update indicates that DOJ’s policy is still inconsistent with the statute. Due to this inconsistency, DOJ policy does not ensure that FBI whistleblower retaliation complainants receive the corrective action mandated by statute if retaliation has occurred.

The 2014 statutory changes provide that DOJ must take specific corrective action when it is determined that an adverse security clearance or access determination has been made in retaliation for making a protected disclosure. While DOJ updated its policy in March 2018 and July 2024, the policy does not fully address the statute regarding when corrective action must be taken. As stated earlier, the FBI acknowledged that it followed DOJ policy, rather than the statute. Further updating the policy to accurately reflect the statute would help ensure FBI whistleblower retaliation complainants receive appropriate corrective action when DOJ’s Office of the Inspector General finds retaliation occurred.

Conclusions

Whistleblowers play an important role in safeguarding the federal government against waste, fraud, and abuse, but they risk retaliation from employers as a result of their actions. FBI whistleblowers may seek relief by pursuing complaints under DOJ’s separate processes for handling complaints of retaliatory personnel actions and retaliatory security clearance and access determinations. Since our last report on this issue in 2015, DOJ

⁷⁸50 U.S.C. § 3341(j)(4)(B).

⁷⁹Likewise, the 2018 policy did not state that if reprisal is found, corrective action shall be taken. Rather, it stated that the Department Security Officer or designated Security Programs Manager “will carefully consider” DOJ’s Office of the Inspector General recommendations for corrective action. Department of Justice, *Department of Justice Instruction 1700.00.01: Department of Justice Appeal Process for Denial or Revocation of Eligibility For Access to Classified Information or Eligibility to Hold a Sensitive Position*, ¶ III.C. (Mar. 7, 2018).

has made changes to its program including hiring additional staff and using case management systems. However, areas for improvement remain.

DOJ investigating offices do not consistently meet notification requirements to contact complainants within time frames required by DOJ's regulations. Identifying and addressing issues with meeting the regulatory notification requirements will help complainants and investigating offices receive information and make decisions in a timely manner.

DOJ took 7 years to update its regulations to address the FBI WPEA of 2016, which, among other things, provided that FBI employees could make a protected disclosure to a supervisor in their direct chain of command. During this time, when DOJ's regulations conflicted with statute, complainants experienced difficulties when making protected disclosures to supervisors in their direct chain of command. Clarifying DOJ guidance to identify an office responsible for each rulemaking, particularly for regulations that involve multiple components, and establish anticipated time frames for updating regulations to meet could help ensure that regulations—especially those required for consistency with statute and to inform individuals of their rights—are issued in a timely manner.

Few FBI whistleblower retaliation complainants alleged retaliatory security clearance and access determinations. However, individuals at the FBI may not know that they can pursue complaints involving alleged retaliatory security clearance and access determinations. Updating mandatory training about FBI whistleblower protections to communicate that employees may seek review by DOJ's Office of the Inspector General would help ensure individuals at the FBI know about the review process. Further, while DOJ updated its policy to reflect the relevant statute, further revision is needed to address an inconsistency between the policy and statute. Updating the policy would help ensure that FBI whistleblower complainants receive corrective action when DOJ's Office of the Inspector General finds retaliation occurred.

While the NDAA for Fiscal Year 2023 provides new rights to seek relief from the U.S. Merit Systems Protection Board, DOJ officials noted they are not able to notify FBI whistleblowers of these rights because of ambiguities in the provisions. By amending 5 U.S.C. § 2303(d), Congress can better ensure FBI whistleblowers are informed of and can appropriately exercise their rights to seek relief outside of DOJ that Congress intended.

Matter for Congressional Consideration

Congress should consider amending 5 U.S.C. § 2303(d) to clarify when FBI whistleblower retaliation complainants should be able to exercise their rights to seek corrective action from the U.S. Merit Systems Protection Board, including when determinations and corrective action orders are considered final under (d)(1) and when 180 days begins for the purposes of establishing U.S. Merit Systems Protection Board jurisdiction under (d)(2). (Matter for Consideration 1)

Recommendations for Executive Action

We are making a total of five recommendations to DOJ. Specifically:

The Deputy Attorney General should direct that the Counsel for Office of Professional Responsibility, in consultation with the Inspector General, identify and address issues with meeting regulatory notification requirements to contact the complainant within 15 days of receiving the complaint. (Recommendation 1)

The Assistant Attorney General for the Office of Legal Policy should ensure that DOJ guidance for developing regulations requires that an office is identified as primarily responsible for each rulemaking, particularly when regulations involve multiple components. (Recommendation 2)

The Assistant Attorney General for the Office of Legal Policy should ensure that DOJ guidance for developing future regulations requires that each rulemaking process establishes anticipated time frames for each stage of the process. (Recommendation 3)

The Director of the FBI, in consultation with the Inspector General, should update mandatory training to communicate that FBI complainants may seek additional review by the Office of the Inspector General if they believe a retaliatory security clearance or access determination has been taken in retaliation for a protected disclosure. (Recommendation 4)

The Assistant Attorney General for Administration should update DOJ's policy on security clearance or access determinations to align with statute regarding when corrective action must be taken. (Recommendation 5)

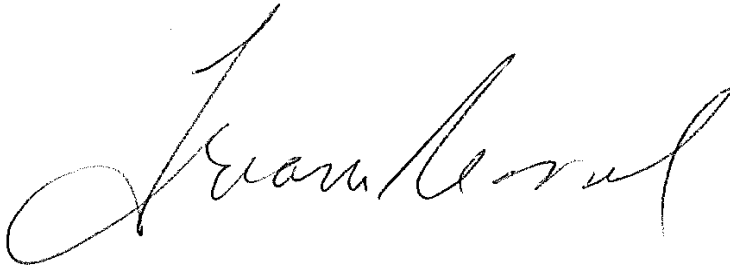
In addition, we are making two recommendations to DOJ's Office of the Inspector General in a separate report. The Office of the Inspector General, the Office of Professional Responsibility, and the Director of the FBI will need to consult to ensure that the issues we identified are fully addressed.

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ, DOJ's Office of the Inspector General, the Intelligence Community Inspector General, the U.S. Merit Systems Protection Board, and the Office of Special Counsel. They provided technical comments, which we incorporated as appropriate. In addition, in its written comments (reproduced in appendix VI), DOJ concurred with our recommendations.

We are sending this report to the appropriate congressional committees, the Attorney General, the Inspectors General of DOJ and the Intelligence Community, the Chairman of the U.S. Merit Systems Protection Board, and the Special Counsel of the Office of Special Counsel. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact Triana McNeil at (202) 512-8777 or McNeilT@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.



Triana McNeil
Director, Homeland Security and Justice

List of Requesters

The Honorable Charles E. Grassley
Ranking Member
Committee on the Budget
United States Senate
The Honorable Gary C. Peters
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
House of Representatives

The Honorable Burgess Owens
House of Representatives

Appendix I: Objectives, Scope, and Methodology for Case File Review of FBI Whistleblower Retaliation Complaints

This appendix discusses in detail our methodology for the case file review used in addressing the first objective regarding how the timeliness and outcomes of closed FBI whistleblower retaliation complaints (complaints) changed compared to our prior review in 2015.¹

We reviewed Department of Justice (DOJ) case files for FBI whistleblower retaliation complaints closed in the last 5 years (2018 through 2022). We focused on this time frame because it was the most complete and recent data available at the time of our review. We compared data from these case files to data from our prior review of complaints closed from 2009 through 2013. Specifically, we examined a generalizable stratified random sample (119 of the 272) of complaints closed from 2018 through 2022 by DOJ's Office of the Inspector General and the Office of Professional Responsibility (the investigating offices). We also reviewed all 50 FBI whistleblower retaliation complaints closed from 2018 through 2022 by DOJ's Office of Attorney Recruitment and Management (the adjudicating office) and Office of the Deputy Attorney General (the appeals office). In addition, we reviewed relevant regulations, guidance, and documentation from the four offices.

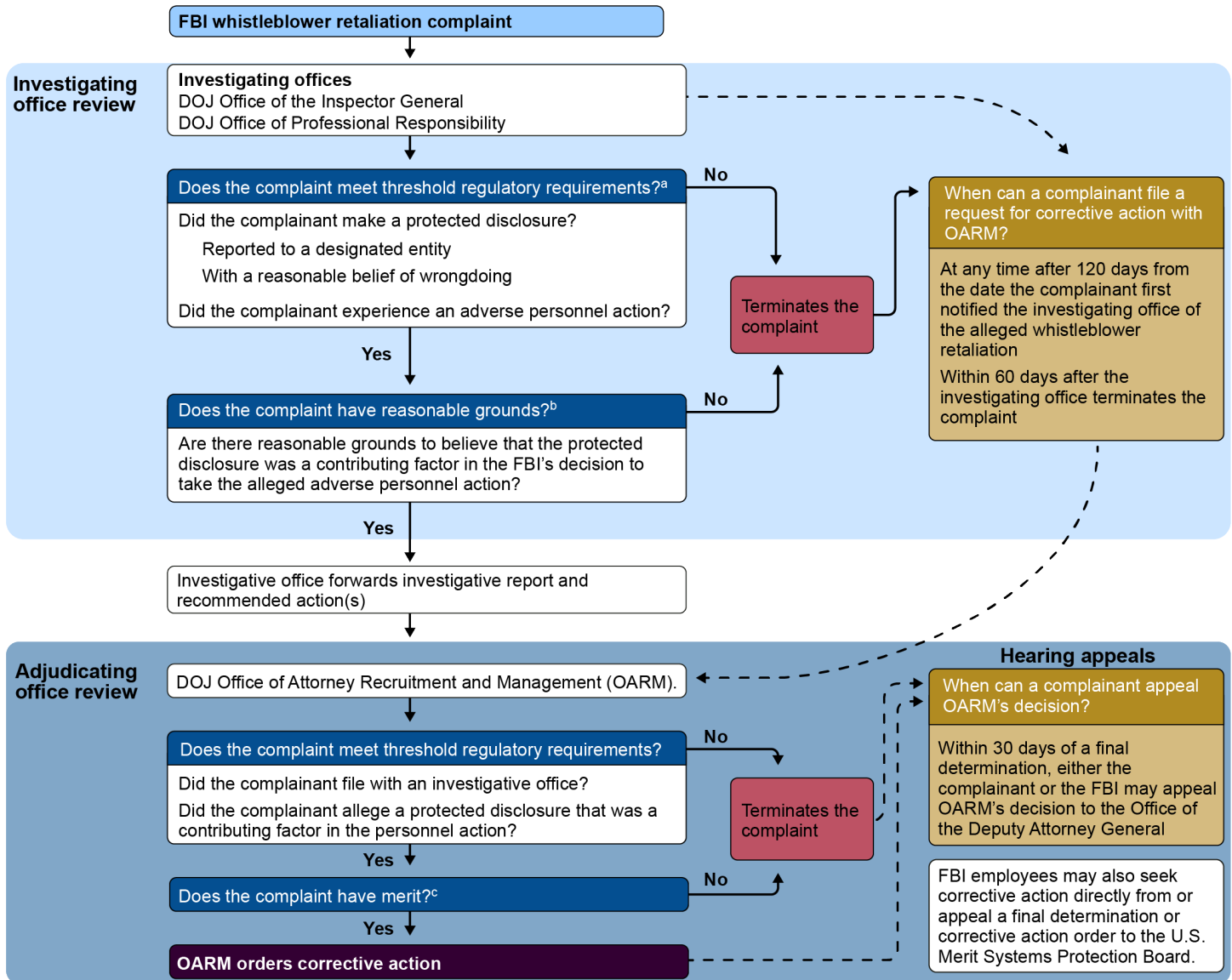
To identify all FBI whistleblower retaliation complaints closed by DOJ from 2018 through 2022, we interviewed senior DOJ officials from the four offices and determined that their respective case management and tracking systems contained sufficiently reliable information for this purpose. From the total population of 272 complaints closed by the investigating offices, we drew a stratified random sample of 119 complaints (62 from the Office of Professional Responsibility and 57 from the Office of the Inspector General). Results from this sample are presented as estimates to the population of all complaints closed by the investigating offices from 2018 through 2022. These estimates have a margin of error of plus or minus 10 percentage points, unless otherwise noted, at the 95 percent confidence level. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn.

¹GAO-15-112.

Appendix II: The Department of Justice's (DOJ) Process for Investigating, Adjudicating, and Hearing Appeals of FBI Whistleblower Retaliation Complaints

Figure 7, below, depicts DOJ's process for handling FBI whistleblower retaliation complaints.

Figure 7: The Department of Justice's (DOJ) Process for Investigating, Adjudicating, and Hearing Appeals of FBI Whistleblower Retaliation Complaints



Source: GAO analysis of DOJ regulations. | GAO-25-106547

^aThe complaint meets threshold regulatory requirements if the investigating office determines that the complainant made a protected disclosure and subsequently experienced an adverse personnel action. Under 5 U.S.C. § 2303, to be protected, a disclosure must be made to one of the officials or entities designated in the statute and the complainant must reasonably believe that the disclosure evidences any violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

^bDOJ's Office of the Inspector General and Office of Professional Responsibility are required by DOJ regulation to determine whether there are reasonable grounds to believe that retaliation has been or will be taken against the complainant.

^cDOJ's Office of Attorney Recruitment and Management determines whether, on the basis of a preponderance of the evidence, the employee made a protected disclosure, and if so, whether the disclosure was a contributing factor in the personnel action at issue. If the complainant meets that burden, then the Office of Attorney Recruitment and Management considers whether the FBI has demonstrated by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

Appendix III: Reasons Investigating Offices Closed FBI Whistleblower Retaliation Complaints from 2018 through 2022

The investigating offices may cite multiple reasons for terminating a complaint. For the complaints for which the investigating offices specified a reason from 2018 through 2022, the most frequent reasons, as noted in table 2, were that the disclosure did not evidence a violation of any law, rule, or regulation or other subject covered by the regulations (in an estimated 28 percent of complaints¹); and the complaint related to Equal Employment Opportunity matters and should be addressed through that process (in an estimated 19 percent of complaints).

In addition, in more than a quarter of the complaints (an estimated 26 percent) the Office of the Inspector General closed the complaint because it was declining to investigate the complaint and/or it was sending the complaint to the FBI Inspection Division.

Table 2: Reasons Investigating Offices Closed FBI Whistleblower Retaliation Complaints from 2018 through 2022

Reasons Investigating Office Closed Complaint	Estimated percentage ^a
The disclosure did not evidence a violation of any law, rule, or regulation or other subject covered by the regulations	28%
The complaint related to Equal Employment Opportunity matters and should be addressed through that process	19%
One or more of the alleged acts of retaliation did not meet the definition of a personnel action under 28 C.F.R. § 27.2(b) or the complainant did not claim to have experienced a personnel action related to the disclosure	15%
The personnel action would have occurred had the complainant not made the disclosure	12%
The evidence did not demonstrate that the disclosure was a contributing factor in the personnel action based on a preponderance of the evidence	8%
The evidence did not show that the alleged retaliator was aware of the disclosure	8%
The complainant did not have a reasonable belief of wrongdoing when making the disclosure	7%
The alleged retaliation occurred before the disclosure	4%
The complainant made the disclosure to an individual or entity not listed in the regulations	4%
The Department of Justice Office of the Inspector General closed the complaint because it was declining to investigate the complaint and/or it was sending the complaint to FBI Inspection Division	26%
Other	27%

Source: GAO review of Office of the Inspector General and Office of Professional Responsibility case files. | GAO-25-106547

^aIn some complaints we reviewed, the investigating offices cited multiple reasons for terminating a complaint. As a result, the percentages above do not equal 100 percent. We reviewed a representative sample of investigating office complaints from 2018 through 2022 so results are presented as estimates for the population. Estimates in this table have margins of error of plus or minus 9 percentage points or fewer, at the 95 percent confidence level.

¹The regulations state that the disclosure will be a “protected disclosure” if the employee or applicant making it reasonably believes that it evidences: (1) Any violation of any law, rule or regulation; or (2) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 28 C.F.R. § 27.1(a).

Appendix IV: Some Whistleblower Protections for FBI, Intelligence Community, and Federal Employees

Table 3 provides additional information on some whistleblower protections for individuals in the FBI, Intelligence Community, and federal government. Protections below include both those involving retaliatory personnel actions and retaliatory security clearance and access determinations.

Table 3: Some Whistleblower Protections for FBI, Intelligence Community, and Federal Employees

	FBI Employees	Intelligence Community Employees	Federal Employees^a
Authority	5 U.S.C. § 2303 50 U.S.C. § 3341 28 C.F.R. Parts 0 and 27 Presidential Policy Directive-19 Security Executive Agent Directive 9	50 U.S.C. § 3234 50 U.S.C. § 3236 50 U.S.C. § 3341 Presidential Policy Directive-19 Intelligence Community Directive 120 Security Executive Agent Directive 9	5 U.S.C. § 1214 5 U.S.C. § 1221 5 U.S.C. § 2302 5 U.S.C. § 7701 50 U.S.C. § 3341 5 C.F.R. Part 1201 Presidential Policy Directive-19
Selected designated officials or entities for receiving protected disclosures	(1) Department of Justice Office of the Inspector General (2) Office of Special Counsel (3) Department of Justice Office of Professional Responsibility (4) FBI Office of Professional Responsibility (5) FBI Inspection Division (6) Congress (7) supervisor in the direct chain of command of the employee, up to and including the Attorney General (8) employee of any foregoing entities when designated by any officer, employee, office, or division named in this subsection for the purpose of receiving such disclosures	(1) Inspector General of employing agency or Intelligence Community element (2) Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose) (3) Intelligence Community Inspector General (4) a congressional intelligence committee or a member of a congressional intelligence committee (5) supervisor in the direct chain of command, up to and including the head of the employing agency (6) a supervisor in the relevant agency with responsibility for the subject matter of the disclosure, up to and including the head of the agency or their designee (7) employee designated by the previously described officials	(1) Inspector General of employing agency (2) Office of Special Counsel (3) employee designated by the head of the agency to receive such disclosures (4) Congress ^b (5) other non-designated officials or entities, including a supervisor in the direct chain of command, up to and including the head of the employing agency
Selected protected disclosures	A disclosure of any violation of any law, rule, or regulation	A lawful disclosure of a violation of any federal law, rule, or regulation	A lawful disclosure of any violation of any law, rule, or regulation

Appendix IV: Some Whistleblower Protections for FBI, Intelligence Community, and Federal Employees

	FBI Employees	Intelligence Community Employees	Federal Employees^a
Selected protected disclosures	Gross mismanagement	Mismanagement	Gross mismanagement
Selected protected disclosures	Gross waste of funds	Gross waste of funds	Gross waste of funds
Selected protected disclosures	Abuse of authority	Abuse of authority	Abuse of authority
Selected protected disclosures	Substantial and specific danger to the public health or safety	Substantial and specific danger to the public health or safety	Substantial and specific danger to the public health or safety
Selected retaliatory personnel actions^c	Termination	Termination	Termination
Selected retaliatory personnel actions^c	Reassignment	Reassignment	Reassignment
Selected retaliatory personnel actions^c	Demotion	Demotion	Demotion
Selected rights to appeal	For retaliatory personnel actions, file an appeal of Department of Justice's Office of Attorney Recruitment and Management's ruling with the Deputy Attorney General.	Exhaust the applicable agency review process, either for personnel actions or security clearance or access determinations, and obtain a final decision.	Individual Right of Action to the U.S. Merit Systems Protection Board.
Selected rights to appeal	For retaliatory personnel actions, appeal a final determination or corrective action order to the U.S. Merit Systems Protection Board.	Request further review by the external review panel chaired by the Inspector General of the Intelligence Community, convened at the discretion of the Inspector General.	

Source: GAO analysis of statutes, regulations, and directives. | GAO-25-106547

^aFederal government employees are not limited to making protected disclosures to designated officials or entities in order for disclosures to be protected from certain kinds of retaliation. Rather, 5 U.S.C. § 2302(b)(8)(A) allows for disclosures to be protected regardless of to whom they are made, so long as those disclosures are "not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs."

^bPursuant to the limitations in 5 U.S.C. § 2302(b)(8)(C).

^cRetaliatory actions related to maintaining access to classified information are not adverse personnel actions. See the full list of covered personnel actions in 5 U.S.C. § 2302(a)(2)(A) and 50 U.S.C. § 3234(a)(3), respectively.

Appendix V: Statutes Governing Different Complaints Alleging FBI Whistleblower Retaliation

The Department of Justice and FBI have separate processes to review retaliatory personnel actions and retaliatory security clearance and access determinations, because the processes are governed by two different statutes—5 U.S.C. § 2303 and 50 U.S.C. § 3341(j).¹ See some statutory differences in the processes in table 4.

¹5 U.S.C. § 2303(a) prohibits FBI retaliatory personnel actions and 50 U.S.C. § 3341(j)(1), Presidential Policy Directive-19(B), and Security Executive Agent Directive 9(E)(1) prohibit FBI retaliatory security clearance and access determinations.

Appendix V: Statutes Governing Different Complaints Alleging FBI Whistleblower Retaliation

Table 4: Different Statutes Govern Different Complaints Alleging FBI Whistleblower Retaliation

	FBI Whistleblower Retaliatory Personnel Actions	FBI Whistleblower Retaliatory Security Clearance and Access Determinations^a
Authorities	5 U.S.C. § 2303	50 U.S.C. § 3341(j), Presidential Policy Directive-19(B), Security Executive Agent Directive 9 ^b
Who is protected	Employees and applicants. 5 U.S.C. § 2303(a)	Employees, applicants, and contractors, among others^c
Retaliatory actions	Personnel actions listed in 5 U.S.C. § 2302(a)(2)(A) , such as termination, reassignment, and demotion ^d	Actions related to security clearance and access determinations^e
Designated officials or entities for receiving protected disclosures	<ol style="list-style-type: none"> 1. Department of Justice Office of the Inspector General 2. Office of Special Counsel 3. Department of Justice Office of Professional Responsibility 4. FBI Office of Professional Responsibility 5. FBI Inspection Division 6. Congress^f 7. supervisor in the direct chain of command of the employee, up to and including the Attorney General 8. employee of any foregoing entities when designated by any officer, employee, office or division named in this subsection for the purpose of receiving such disclosures^g 	<ol style="list-style-type: none"> 1. Director of National Intelligence, or an employee designated by the Director of National Intelligence for such purpose 2. supervisor in the employee's direct chain of command 3. supervisor of the employing agency with responsibility for the subject matter of the disclosure, up to and including the head of the employing agency 4. Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures^h
Protected disclosuresⁱ	Disclosures which the individual reasonably believes evidence: Any violation of any law, rule, or regulation	Disclosures which the individual reasonably believes evidence: A violation of any federal law, rule, or regulation
Protected disclosuresⁱ	Gross mismanagement	Mismanagement
Protected disclosuresⁱ	Gross waste of funds	Gross waste of funds
Protected disclosuresⁱ	Abuse of authority	Abuse of authority
Protected disclosuresⁱ	Substantial and specific danger to public health or safety	Substantial and specific danger to public health or safety
Selected rights to appeal	File an appeal of Department of Justice's Office of Attorney Recruitment and Management's ruling with the Deputy Attorney General	File an appeal of Department of Justice's Office of the Inspector General determination with the Inspector General of the Intelligence Community or the Director of National Intelligence
Selected rights to appeal	Appeal a final determination or corrective action order to the U.S. Merit Systems Protection Board	na

Source: GAO analysis of statutes, regulations, and directives. | GAO-25-106547

^aText in bold indicates differences.

^b50 U.S.C. § 3341(j) partially codified and modified PPD-19(B). Where PPD-19(B) does not conflict with 50 U.S.C. § 3341(j), it remains in effect. Security Executive Agent Directive 9 prohibits retaliation and provides the Director of National Intelligence's appellate review process.

^c50 U.S.C. § 3341(j)(1), (9); PPD-19(B); Security Executive Agent Directive 9(D)(4); Instruction 1700.00.01 (applying to more individuals than expressly covered by the statute or directives).

^d5 U.S.C. §§ 2303(a), 2302(a)(2)(A); 28 C.F.R. § 27.2(b).

Appendix V: Statutes Governing Different Complaints Alleging FBI Whistleblower Retaliation

^e50 U.S.C. § 3341(j)(1); PPD-19(B); Security Executive Agent Directive 9(E)(1).

^fAs described in 5 U.S.C. § 7211. 5 U.S.C. § 2303(a)(1)(F).

^g5 U.S.C. § 2303(a)(1); 28 C.F.R. § 27.1(a).

^h50 U.S.C. § 3341(j)(1). Additionally, under certain circumstances, a disclosure may be made to the Inspectors General of the Department of Defense, Intelligence Community, DOJ, or to Congress. See 50 U.S.C. § 3341(j)(1)(C).

ⁱ5 U.S.C. § 2303(a)(2); 50 U.S.C. § 3341(j)(1); Security Executive Agent Directive 9(D)(5).

Appendix VI: Comments from the Department of Justice



U.S. Department of Justice
Justice Management Division

Washington, D.C. 20530

Triana McNeil
Director
Homeland Security and Justice Team
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

October 29, 2024

Dear Ms. McNeil:

The Department of Justice (the Department or DOJ) has reviewed the August 2024 final draft report from the Government Accountability Office (GAO) entitled “Whistleblower Protection: DOJ and FBI Need to Improve Employees’ Awareness of Rights.” The Department appreciates the GAO’s work in planning and conducting this review, as well as the opportunity to comment on the draft report.

The draft GAO report contains five Recommendations for Executive Action directed to the Department. This letter constitutes the Department’s formal comments to the draft report.¹

Recommendation 1: The Deputy Attorney General should direct that the Counsel for Office of Professional Responsibility, in consultation with the Inspector General, identify and address issues with meeting regulatory notification requirements to contact the complainant within 15 days of receiving the complaint.

The Department concurs with Recommendation 1 in that the Office of the Deputy Attorney General has directed the Counsel for the Department’s Office of Professional Responsibility, in consultation with the Inspector General, to identify and address issues with meeting the 15-day notification deadline specified in 28 C.F.R. § 27.3(c), and that work and consultation already has begun.

Recommendation 2: The Assistant Attorney General for the Office of Legal Policy should ensure that DOJ guidance for developing regulations requires that an office is identified as primarily responsible for each rulemaking, particularly when regulations involve multiple components.

¹ The Department does not respond on behalf of the Department’s Office of the Inspector General (OIG) in this letter.

The Department concurs with Recommendation 2. The Assistant Attorney General for the Office of Legal Policy will ensure that DOJ guidance for developing regulations requires that a lead component is identified as primarily responsible for each rulemaking, including those rules that involve multiple components.

Recommendation 3: The Assistant Attorney General for the Office of Legal Policy should ensure that DOJ guidance for developing future regulations requires that each rulemaking process establishes anticipated time frames for each stage of the process.

The Department concurs with Recommendation 3. The Assistant Attorney General for the Office of Legal Policy will ensure that DOJ guidance for developing future regulations requires that each rulemaking process establishes anticipated time frames for each stage of the process, as appropriate.

Recommendation 4: The Director of the FBI, in consultation with the Inspector General, should update mandatory training to communicate that FBI complainants may seek additional review by the Office of the Inspector General if they believe a retaliatory security clearance or access determination has been taken in retaliation for a protected disclosure.

The Department concurs with Recommendation 4. The FBI will provide GAO with a separate response regarding this recommendation.

Recommendation 5: The Assistant Attorney General for Administration should update DOJ's policy on security clearance or access determinations to align with statute regarding when corrective action must be taken.

The Department concurs with Recommendation 5. The Assistant Attorney General for Administration will ensure that DOJ Instruction 1700.00.00, Department of Justice Appeal Process for Denial or Revocation of Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position, is updated to align with 50 U.S.C. § 3341(j)(4)(B) regarding when corrective action shall be taken upon a determination by OIG that a security clearance or access determination was taken in reprisal for protected whistleblowing.

If I may be of further assistance to you, please do not hesitate to contact me. Your staff may also contact Louise M. Duhamel, Assistant Director, Audit Liaison Group at 202-514-4006.

Sincerely,

JOLENE
LAURIA

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JOLENE LAURIA
Date: 2024.10.29
18:19:13 -0400

Jolene Ann Lauria
Assistant Attorney General
for Administration

Accessible Text for Appendix VI: Comments from the Department of Justice

U.S. Department of Justice
Justice Management Division

Washington, D.C. 20530

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Director
Homeland Security and Justice Team
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

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Sincerely,

JOLENE LAURIA

Digitally signed by JOLENE LAURIA Date: 2024.10.29
18:19:13 -04'00'

Jolene Ann Lauria
Assistant Attorney General
for Administration

Appendix VII: GAO Contact and Staff Acknowledgements

GAO Contact

Triana McNeil, (202) 512-8777 or McNeilT@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kevin Heinz (Assistant Director), Khaki LaRiviere (Analyst-in-Charge), Keira Dembowski, James Ashley, Kyra Chan, Michele Fejfar, Kelly Miller, Heidi Neilson, Mary Offutt-Reagin, Tristan Shaughnessy, and Janet Temko-Blinder made key contributions to this report.

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