

October 8, 2019

U.S. Office of Special Counsel, Disclosure Unit
1730 M St., NW, Suite 218
Washington, DC 20036

Subject: Whistleblower Disclosure, per 5 U.S.C. §1213(g)(1), against Christopher Wray, the Director of the Federal Bureau of Investigation (FBI), alleging non-compliance with his duties per 5 U.S.C. §2301(c).

Dear U.S. Office of Special Counsel (OSC) Disclosure Unit,

I am a federal agency employee, employed in the Department of Energy (DOE), so I make this whistleblower disclosure per 5 U.S.C. §1213(g)(1). This statute gives OSC complete discretion to refer it to Federal Bureau of Investigation (FBI) Director Wray for investigation. However, if it is referred, then FBI Director Wray:

“shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed.”

Additionally, his report becomes a permanent, publicly-available, record, per 5 U.S.C. §1219(a)(4).

5 U.S.C. §2301(c) details FBI Director Wray’s primary statutory duty to the employees of the FBI. By it (the following is a close quotation of the law, made specific to him, emphasis added):

*With respect to the FBI, Director Wray **shall**, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives which is consistent with the provisions of this title and he determines is necessary to ensure that personnel management in FBI is based on and embodies the merit system principles.¹*

In this whistleblower disclosure, made in good-faith and based on Congressional Oversight Committee hearings, Congressional communication with FBI, and communications with and about former FBI employees, I claim that FBI Director Wray is: 1) unable to demonstrate, on any objective basis, that “personnel management in FBI is based on and embodies the merit system principles,” and/or 2) failing or refusing to “take any action necessary” to rectify the situation.

Furthermore, I claim FBI Director Wray, even if he were willing “take any action necessary” to rectify the situation, would be unable to do so, because of the 40 year-long failure or refusal of

¹ See <https://www.mspb.gov/meritsystemsprinciples.htm> for a listing and elaboration of the nine merit system principles

the Merit Systems Protection Board (MSPB), contrary to its statutory duties at 5 U.S.C. §1204(a)(3), to: 1) conduct relevant “special studies” of the FBI, and/or 2) “report to the President and the Congress as to whether the public interest in a civil service (in any agency, including the FBI) free of prohibited personnel practices is being adequately protected.”²

My point is that FBI Director Wray’s inability to demonstrate compliance with his primary statutory duty to federal employees of FBI has a cause outside of his direct control - specifically MSPB’s 40 year-long failure or refusal to make the reports required by 5 U.S.C. §1204(a)(3). The result is that FBI Director Wray is “flying blind,” to a large degree, with respect to ascertaining what actions may be necessary for him to achieve and demonstrate compliance with his 5 U.S.C. §2301(c) responsibilities.

What FBI Director Wray could do - and, in my opinion, should do - to resolve my whistleblower disclosure is straightforward - request the Attorney General issue an opinion about the interpretation of 5 U.S.C. §1204(a)(3), given this law’s relevance to FBI Director Wray’s ability to discharge his duty per 5 U.S.C. §2301(c).³

Thank you for whatever consideration my good-faith, at least reasonably evidenced, whistleblower disclosure may receive. OSC has permission to share my identify with anyone interested and can contact me whenever it wishes.

Respectfully,

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copy:

FBI Director Christopher Wray
Attorney General William Barr
Department of Justice Inspector General Michael E. Horowitz
Senate Judiciary Committee
House Judiciary Committee

² Prohibited Personnel Practices (PPPs) are agency violations of one or more Merit System Principles, see <https://www.mspb.gov/ppp/ppp.htm> for a description and elaboration on PPPs.

³ My website “MSPB Watch,” https://whsknox.blogs.com/mspb_watch/, details my 15 year-long, futile, efforts to obtain any objective resolution of my whistleblower disclosure about 5 U.S.C. §1204(a)(3). My website www.merit-principles.org elaborates.