



FOR IMMEDIATE RELEASE

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DOJ OIG Releases Management Advisory Memorandum Regarding Inconsistencies Between the FBI's Non-Retaliation Policy and its Retaliation Offense Code

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a management advisory memorandum regarding three significant inconsistencies in the Federal Bureau of Investigation's (FBI) policies protecting FBI personnel from retaliation and ensuring that FBI personnel are held accountable for retaliation. All three inconsistencies result from differences between the language used in FBI Policy Directive (PD) 0727D (Non-Retaliation for Reporting Compliance Risks) and FBI Offense Code 5.16 (Retaliation). The OIG identified these concerns during multiple investigations of allegations of retaliation by FBI personnel. We specifically found that:

- FBI PD 0727D purports to protect from retaliation all "FBI personnel" (which includes contractors, interns, task force officers, and detailees) who make reports of compliance concerns, while FBI Offense Code 5.16 only provides penalties for retaliatory actions taken against FBI "employee[s]";
- Although FBI Offense Code 5.16 protects FBI employees from retaliation when they make a protected disclosure or exercise "any other legitimate right authorized by the FBI," the scope of FBI PD 0727D appears to be more constrained because it requires FBI personnel to have reported a "compliance concern"; and
- Because FBI Offense Code 5.16 only provides a penalty for taking or threatening to take an "adverse employment action," its penalty coverage appears to be more limited than the policy articulated in FBI PD 0727D, which broadly prohibits "engaging or threatening to engage in conduct, direct or indirect, that adversely affects" FBI personnel who report compliance concerns.

Today's memorandum notes that these inconsistencies have resulted in gaps in protecting FBI personnel from retaliation and ensuring that FBI personnel are held accountable for retaliation.

The OIG made one recommendation to address the concerns we identified. The FBI has indicated that it does not object to modifying its Offense Codes and Penalty Guidelines in response to our recommendation and intends to do so in the near future.

Memorandum: Today's memorandum is available on [the OIG's website](#).

Please contact us at OIG.Media@usdoj.gov if you have any questions.

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