



THIS WEEK'S FEATURE

Protecting Servicemember and Veteran Whistleblowers **in the FBI**

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WPI Agenda Topic: "FBI Employee Protections"

Almost a year ago, here on Capitol Hill, Senator Grassley spoke about FBI's political weaponization, and misuse of National Security Powers with respect to targeting elected officials.

He posed the question:

"If they would do this to United States senators and members of Congress, what would they do to you?" ...the American citizen.

I can answer that question. My family has endured five years on the business end of the FBI's secretive national security powers, and there's no way to defend against it.

It completely circumvents the careful balance of the judiciary.

My family's spotless record, awards, and collective 50 years of service to this country, which included our family enduring multiple combat tours, were not enough to protect us.

The worst part was this:

The FBI took my husband's military service, something that should have been honored, and used it as a weapon against his career, his clearance, and our future.

- I am former FBI special agent Emily Fertitta. I come from a family with a history of service. Every time this nation called, we answered.
- From my grandfather completing the longest march across Europe in WWII, to my father's voluntary service in Vietnam,
- to my husband's multiple tours in Iraq and Afghanistan, and my collective 19 years of service to the country from The Social Security Administration, to the Pentagon's Military Family Readiness council, and then to the FBI.

After my husband Val, also a special agent in the FBI, reported misconduct within the bureau, the FBI:

1. **Weaponized his military service and VA disabled-veteran status to question his employability.**
2. **Used me, his spouse, as leverage to intimidate and pressure him.**
3. **Used its national security powers to conceal unclassified documents it claimed were evidence of misconduct in a national security investigation - while denying the existence of the same documents in federal litigation.**
4. **Used our family's Jewish faith and community involvement, which it previously exploited, as a basis to sow suspicion and continued investigation.**



In fact, after we made our legally protected whistleblower disclosures to Congress here on Capitol Hill, the FBI used its own internal secretive whistleblower court process, that is ostensibly supposed to protect the whistleblower, to attempt to compel us to turn over the name of every single congressional staffer and elected official we talked to.

- If any of those staffers are here today, don't worry, we withdrew from the byzantine process before divulging your names to the FBI.
- This is a good time to note that this secretive Whistleblower court, in its annual report to Congress routinely publishes that its rulings find in favor of the employee and order corrective action less than one percent of the time.

You may be thinking to yourself that we must have uncovered something huge to kick off over five years of retaliation, coercion, and the misuse of national security powers...Well not really –

At the origin of our story is nothing political, no great scandal but a mere complaint on a straightforward employment issue that reflects the FBI's pattern of discrimination against military reservists, veterans, and women serving in the bureau. But when my husband's 2022 complaint threatened to expose greater misconduct, and routine violations of policy, law, and the constitution by the FBI, we received the full lesson on how the FBI treats those who raise concerns from within its own ranks.

In fact, we have observed that the more legitimate your complaint, the harsher the treatment and the harder the fight.

When my husband refused to back down from standing up for his rights as a military reservist and veteran serving in the FBI, the FBI identified him as a threat to the unchecked internal power structure.

“We read criminals their rights, but FBI HQ could not tell me under what authority their actions were justified or lawful.”

As Val's case progressed through discovery and depositions the FBI used the excuse of “national security” to make a mockery of the judicial process to intimidate and prevent witnesses from answering questions and concealing the existence of unclassified documents.

In 2024, after a contentious deposition of an FBI HQ official by my husband's attorney, that same FBI HQ official turned around one month later and ordered me to report to Patriot Plaza in DC to sit for three, eight-hour days of interrogation.

I was told the subject of the interrogation would be my husband and his suitability to hold a Top-Secret clearance. I was further admonished I could not have the aid of an attorney, had no spousal privilege, and the FBI refused to record the interrogation. – To me no less than a modern-day version of the “Star Chamber”.

When I asked if I would be free to leave, I was threatened with disciplinary action and adverse action against MY clearance – Essentially the FBI was saying “if you do not comply we will make you unemployable”.

When I asked for the policies and laws that supported their assertion that I had no rights, FBI HQ refused to provide any legal justification. – We read criminals their rights, but FBI HQ could not tell me under what authority their actions were justified or lawful – Just “national security”.

Seeing there was no way for a deposed party in my husband's federal litigation to be an impartial investigator, I could view my unrecorded 24 hour interrogation in no other way than something my career and clearance would not survive regardless of how cooperative I was or what statements I made. Left with no option, and with the FBI EEO office telling me I had no reprisal protection, I resigned the day before the interrogation.

That brings me to a critical issue for FBI whistleblowers: the use of security-clearance processes as a tool of retaliation.



- In 2015, the FBI made the ability to hold a Top Secret/SCI clearance a job requirement for every special agent. This sounds good in theory; these agents can then have access to the most sensitive intelligence this country produces to support their mission.
- The reality is that a security clearance is a highly subjective process beyond the purview of virtually any court and that allows the agency to do an end run around basic employee protections, and place an employee on **indefinite unpaid leave** while the agency “reviews” the eligibility of that employee for, as we have seen - years.
- While the FBI employee is on unpaid leave they are still subject to the FBI prohibition on outside employment.
- IF they take any type of job while out on unpaid indefinite leave due to a clearance review, the FBI can immediately fire them for breaching the terms of their employment.
- The system the FBI has set up places the employee on the horns of an unmitigated dilemma.
- This is outlined in the May 2024 DOJ IG Memo and illustrated by FBI employees vindicated over just the last two years; a case in point is FBI analyst Marcus Allen, a Marine, and several other FBI WBs who reported highly questionable FBI activities to Congress.
- Indeed, the FBI was quick to use this new tool in 2016 when former FBI Special Agent Michael Zummer, also a Marine, reported what he believed to be prosecutorial misconduct and conflicts of interest by a judicial official who Zummer believed was requiring sexual favors for leniency.

These two individuals, like many other WBs, who are also veterans, exemplify the moral courage imbued in them by their military service to this nation. Military service, and its significant training on moral, ethical, and constitutional matters offer a counterbalance to the culture of silence in the FBI, **while remaining firmly bound by allegiance to this country, not to a single organization.**

But service members often have a unique Achilles Heel by having a VA disability rating. A 2022 report by the US Census Bureau found that nearly 40% of service members carry a VA rating.

Just days after my husband filed a formal complaint, the FBI used his VA rating, disclosed to the agency four years earlier, to order him to a mental evaluation and sign a release granting the FBI full and continuing access to all of his VA records. To us this was a clear fishing expedition designed to threaten his employability and intimidate him into silence.

As we worked through these several years, we have learned my husband was not the only one to have his record of service and VA care weaponized by the FBI.

Maintaining and protecting this class of citizen inside the FBI ranks is not only *the right thing to do* but also serves the national security interest of the nation as a bulwark against FBI overreach. If you are the type of person who signs a blank check, up to and including the cost of your life to your country, you are also probably the type of person who has the courage to stand up to insurmountable odds and speak up when others fall silent.

“The FBI must not be permitted to go down in history as another warning from a great society that failed to restrain its own Praetorian guard.”

There is a law that should have protected him and others like him from discrimination and retaliation. The Uniformed Services Employment and Reemployment Rights Act more commonly called USERRA. Think of it as EEO protections but for service members and veterans. There’s just one catch. Unlike those protected by EEO law, or the Rehab Act, FBI employees and others in the greater US Intelligence Community cannot seek judicial enforcement of their rights.



Congress gave the FBI and the Intel community a pass on fully protecting service members. My question to Congress is this: If you can provide judicially enforceable rights to those in the FBI and the intel community based on their religion, sex, disability, or color of their skin, why are service members less protected?

More broadly, FBI employees need exceptional protections that MATCH the agency's exceptional law enforcement and intelligence powers.

A protection that requires the whistleblower to spend years and hundreds of thousands of dollars to enforce, while facing professional ruin and financial devastation, is not a real protection. It is protection in name only.

While there has been much fanfare in the press over the Trump administration's overt action in firing FBI agents and managers, I can tell you firsthand, the actions taken against whistleblowers under previous administrations, while more subtle and often invisible to the public, were no less devastating to those of us that were affected.

Yet the FBI has never been meaningfully checked, regardless of which party controls the White House or Congress. Why? I suspect it is because the power of the FBI is tempting to whoever holds power. Like Tolkien's "One Ring to rule them all," each side may believe it can control the tool when it is their turn.

The FBI has a history of placing its thumb on the political scales of this nation, whether it be Dr. King and Vietnam war protestors in COINTELPRO in the 60s, to subverting a sitting president in the 2020s, this institution has a highly combustible combination of powers that can threaten this Republic as much as protect it.

America's strength depends on the integrity of its institutions. And the integrity of the FBI may yet determine whether this American Experiment can survive terrorism, malign foreign influence, and the more insidious danger of a free society tearing itself apart from within. The FBI must not be permitted to go down in history as another warning from a great society that failed to restrain its own Praetorian guard.

That is why this issue should not belong to one political party.

If you are on the left and believe law enforcement and intelligence powers are being weaponized now, this should matter to you. If you are on the right and believe those powers were weaponized against you before, and may be again if political power shifts, this should matter to you too.

There is common ground here: Congress must provide meaningful checks on the extraordinary power of the FBI by protecting those who bring honest concerns forward.

RESOURCES

- **Conference:** <https://www.workplacepromiseinstitute.org/wpi-conference>
- **Protect Servicemember and Veteran Whistleblowers in the FBI:**
<https://drive.google.com/file/d/1EPUNiRPpOcQtpUO1ywo6aA-bE07aoUyl/view>

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Emily Fertitta is a former FBI Special Agent and proud military spouse whose life and career have been defined by public service. Over a 19-year career in government, including more than six years with the FBI, she earned numerous awards for her work. Her dedication extended far beyond the Bureau. She served as a deployment family readiness volunteer and was selected as a Family Readiness Representative for the entire U.S. Marine Corps, serving on the Department of Defense Family Readiness Council to ensure military families received critical support during challenging times. Emily and her husband, a decorated Marine Corps Officer and fellow FBI Special Agent, faced years of retaliation after reporting misconduct within the FBI. This experience gave her a firsthand understanding of the deep personal cost of integrity. Today, she translates that perspective into advocacy, writing and speaking on USERRA reform, whistleblower rights, and institutional accountability. All articles are posted on [LinkedIn](#) and online at walkthetalkfoundation.org. The Star Chamber podcast is available on [Apple](#), [Spotify](#), and [YouTube](#).

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