Financial Support for the City and Citizens of New Orleans, Louisiana
Affected by the Devastation Originated by Hurricane Katrina

WHEREAS, Blacks In Government (BIG) was organized in 1975 and incorporated as a non-profit organization under the District of Columbia jurisdiction in 1976 to address the collective needs of African Americans in public service and to organize around issues of mutual concern and use collective strengths in confronting workplace and community issues; and

WHEREAS, BIG is the nation’s oldest and largest public service employee advocacy organization dedicated to the eradication of all vestiges of racism and disparate treatment practices perpetrated upon people, and its goals are to promote equity in all aspects of America life, excellence in public service, and opportunity for all Americans; and

WHEREAS, in 2008, Blacks In Government held its 30th annual national training conference in the city of New Orleans, Louisiana and visited the areas affected by Hurricane Katrina and found that the city is still dealing with affects of having more than 80% of its housing stock destroyed or severely damaged, with the ruined residential properties and empty lots heavily concentrated in areas still severely impacted by the flooding following Hurricane Katrina; and

WHEREAS, The City of New Orleans, Louisiana continues to work with less than its promised Federal funding allocation for its recovery projects, primarily due to an overwhelming delay in the processing of applications to receive this funding; and

WHEREAS, it was determined that this catastrophe caused damages exceeding $50 billion dollars and generated six times as much debris as the 911 disaster while taking the lives of more than 1,800 people; and

WHEREAS, it is estimated that three years after the storm, nearly 40,000 former New Orleans families are still living outside of Louisiana, many as far as California, Oregon, Montana, Texas, Illinois, New York, Washington, D.C., etc. with minimal or no finances for transportation to return to their home city, and thousands of displaced residents in Mississippi and Louisiana are still living in trailers, and approximately 85,000 former New Orleans residents are still displaced throughout the state; and

WHEREAS, it is estimated that it will take approximately 20 years for the city to fully recover without the funding that is immediately necessary to expeditiously return New Orleans residents to their neighborhoods, communities, and homes; and
WHEREAS, it is unthinkable that the citizens of an American city should experience the level of suffering wrought upon New Orleans without the Federal government meaningfully demonstrating its unwavering commitment to the citizens, taxpayers and business owners who call that place home,

BE IT RESOLVED, during the 2008 National Delegates Assembly, we expressed our concern for the city of New Orleans, its residents (present and displaced) and all advocacy groups and stakeholders who are still working to help guide rebuilding efforts and for developing action plans to address the underlying issues of poverty, inequality, and weak social infrastructures that have been persistent in the city for generations, and

BE IT RESOLVED, any funds so appropriated for the City of New Orleans should be made subject to accountability and transparency provisions similar to those included in the American Recovery and Reinvestment Act of 2009. Specifically, any agency obligating or expending covered funds should be required to submit quarterly recipient reports that would, among other things, include a detailed list of all projects or activities for which funds were expended or obligated, an evaluation of the completion status of the project or activity, and an estimate of the number of jobs created or former residents restored by the project or activity. Moreover, the Governor, Mayor or other appropriate chief official would be required to certify that each proposed obligation has been fully vetted and reviewed and that the chief executive officer accepts full responsibility that the expenditure is an appropriate use of taxpayer dollars. Finally, a separate recovery and transparency board, similar to the one established under the aforementioned Act, will be established for the City of New Orleans to, among other things, identify and earmark residual funds for projects of a critical need to help citizens relocate back to New Orleans.

FURTHER BE IT RESOLVED, that within 90 days after this resolution is passed, the National President of Blacks In Government will send a letter to the President of the United States, Majority Leader of the Senate and the Speaker of the House of Representatives on behalf of Blacks In Government’s 2009 Delegates Assembly showing our overwhelming support for Congress to pass legislation that will immediately provide the City of New Orleans’ Office of Recovery and Development Administration, State and other local entities with the appropriate funding levels necessary to rejuvenate, restore, and return this American city residents to their homes.

Submitted by:

New Kemet Harambe Chapter, Region 5
EPA - William D. Barber, Jr., Chapter, Region 11
Blacks In Government®

Supported by:

Blacks In Government Regional Council, Region 5
Blacks In Government Regional Council, Region 11
Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

USA Patriot Act

WHEREAS, Blacks In Government (BIG) was organized in 1975 and incorporated as a non-profit organization under the District of Columbia jurisdiction in 1976 to address the collective needs of African Americans in public service and to organize around issues of mutual concern and use collective strengths in confronting workplace and community issues; and

WHEREAS, BIG is the nation’s oldest and largest public service employee advocacy organization dedicated to the eradication of all vestiges of racism and disparate treatment practices perpetrated upon people, and its goals are to promote equity in all aspects of America life, excellence in public service, and opportunity for all Americans; and

WHEREAS, The USA PATRIOT Act, commonly known as the "Patriot Act", is a statute enacted by the United States Government, signed into law on October 26, 2001 by President George W. Bush. The contrived acronym stands for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001; and

WHEREAS, BIG understands and supports the needs for protecting any and all classified documentation and information pertaining to the United States government and its affiliations against terrorism; and

WHEREAS, BIG believes the intent of Congress based on the Patriot Act has been compromised to the extent, that issues having nothing to do with terrorism and foreign threat are being used to invade U.S. citizen’s civil liberties; and

WHEREAS, BIG also recognizes the disproportionate number of individuals by race, national origin and religion that are removed from federal employment by those federal agencies that may abuse the authority and the scope of the Patriot Act. These background checks invade individual privacy rights. The checks are being used specifically to rescind or deny federal employees’ security clearances; and

WHEREAS, the authority and decision to terminate an employee remains non-transparent, when clearance investigations are conducted, they disproportionately affect Blacks. The statute does not include any control mechanisms, checks and balances, or metrics to govern its implementation, which therefore fails to prevent abuse of civil liberties and disparate adverse impact; and
WHEREAS, the USA Patriot Act lacks provisions for Congressional or judicial oversight. The USA Patriot Act created sweeping changes to U.S. law wherein the effects of the Act with enhanced electronic surveillance and authority to compel the production of financial records disproportionately yields abuses to civil rights and civil liberties; and

WHEREAS, many legal challenges have been brought against the Act, and federal courts have ruled that a number of provisions are unconstitutional, no one has fully concluded what should be considered removable actions from federal employment except person(s) making termination decisions based specifically on credit worthiness, a narrow designation for termination, therefore ignoring the complexities of our human experiences.

BE IT RESOLVED, During the 2009 National Delegates Assembly, we agree to contact our 111th Congress and petition for an inquiry into the misuse and abuse of the provisions under the Patriot Act and an investigation regarding federal employees who have been terminated or forced to resign because of security clearance issues. Furthermore, the terminations and forced resignations due to security clearances are not an appropriate use of the Patriot Act if used against American citizens who have proven to be good long-time public servants. The Act is intended to safeguard our nation’s citizens and not to persecute them.

FURTHER BE IT ALSO RESOLVED, That within 90 days after this resolution is passed the National President of Blacks In Government will send a letter to the President of the United States, Majority Leader of the Senate, the Speaker of the House of Representatives and the Director of the U.S. Office of Personnel Management, on behalf of Blacks In Government’s 2009 Delegates Assembly showing our support for this resolution.

Submitted by:

Yolanda M. Brown-Harris
Chair, Legislative and Review Committee
Regional Council Secretary, Region 5

Supported by:
Blacks In Government® Regional Council, Region 5
Blacks In Government® Regional Council, Region 11
Blacks In Government®
2009 National Delegates Assembly
Baltimore, Maryland

BIG signs on to ‘Make It Safe Coalition’ Petition to U.S. Congress & President Barack Obama supporting the ‘Whistleblower Protection Enhancement Act of 2009’
(U.S. House of Representatives Bill H.R. 1507 & U.S. Senate Bill S. 372)

WHEREAS, The National Organization of Blacks In Government (BIG), was incorporated in 1976 as a non-profit organization to advocate and educate and, today, BIG seeks to represent 3.4 million public and private civil servants by continuing to address discrimination in the workplace and its effect on public service; and

WHEREAS, the United States government, utilizing both public and private industry employs over 2.5 million people according to OPM statistics; and

WHEREAS, understanding such a massive workforce known as the Federal Government administered by three branches of government known as Executive, Legislative and Judicial and each having co-equal United States Constitutional authority were designed as a system of checks and balances to “provide for the common defense, promote the general welfare and secure individual liberty” in accordance with the Declaration of Independence; and

WHEREAS, Federal workers are uniquely situated to provide essential information to Congress that allows the Legislative branch to perform its oversight functions and conduct congressional investigations; and

WHEREAS, those Federal workers who dare to expose waste, fraud and abuse commonly known as “Whistleblowers” do so at great personal risk to their careers, livelihoods, familial standings and personal safety and it’s in the public interest to protect these courageous patriots who risk all to inform Congress and protect the public good; and

WHEREAS, this year Congress introduced separate versions of the Whistleblower Protection Act (WPA) officially known as the ‘Whistleblower Protection Enhancement Act of 2009’ identified as H.R. 1507 in the House of Representatives and S. 372 in the U.S. Senate providing specific protections for Scientific Whistleblowers and Baggage Screener Whistleblowers. H.R. 1507 extends protections to National Security Whistleblowers and Contractor Whistleblowers; and

WHEREAS, a coalition of public interest organizations and groups reflecting a bi-partisan constituency advocating and promoting government accountability known as the Make It Safe Coalition (MISC) is spearheading Whistleblower Protections in Congress, and issued a press release on July 29, 2009 praising the hard work of Democratic and Republican leaders of the
Homeland Security and Governmental Affairs Committee by Senators Daniel Akaka (D-HI), Susan Collins (R-ME), Joseph Lieberman (I-CT), George Voinovich (R-OH), and Claire McCaskill (D-MO), along with White House, to move the Senate to a place it has never gone before in providing Whistleblower protections for federal workers; and

WHEREAS, the MISC press release further stated that several improvements in S. 372 brings it much closer to the current “best-practices” House version H.R. 1507 by giving many federal workers access to a jury of their peers should the administrative process fail to settle their claims of retaliation, and this legislative coverage is extended to federal scientists and transportation security officers (airport passenger and baggage screeners), and we pray that equal due process rights will be extended to national security employees through strong language included in the House bill (H.R. 1507); and

WHEREAS, members of various groups supporting the MISC petition including Blacks In Government, Region XI Heritage Chapter have worked for years to secure vital legal protections for whistleblowers and currently, a majority of whistleblower cases have not been allowed to be heard by an impartial jury and the current flawed federal judicial process has rarely brought justice or vindication for brave acts of whistleblowers who expose misconduct or fraud and abuse in the federal workplace; and

WHEREAS, to date MISC has secured the names of 324 organizational leaders and corporations from all across America in bi-partisan support of a final bill incorporating best-practices whistleblower protections, as included in H.R. 1507.

THEREFORE BE IT RESOLVED, the National President of Blacks In Government will sign onto the Make It Safe Coalition petition (attached) addressed to Congress and the President of the United States, not to exceed 30 days, following the BIG National Delegates Assembly and National Training Conference in support of a final and meaningful Whistleblower Protection Bill expected to be signed into law by the 111th Congress and the President of the United States of America.

Submitted by:

MATTHEW F. FOGG
Matthew F. Fogg
President, Heritage BIG Chapter, Region XI
August 7, 2009

Attachments:

Make It Safe Coalition sign on letter

Information Paper from the National Whistleblowers Center, Government Accountability Project

Website - http://www.makeitsafecampaign.org/
324 Organizations and Corporations Support Swift Action to Restore Strong, Comprehensive Whistleblower Rights

August 10, 2009

An Open Letter to President Obama and Members of Congress

The undersigned organizations and corporations write to support the completion of the landmark, nine year legislative effort to restore credible whistleblower rights for government employees. We offer our support to expeditiously pass legislation that includes the critical reforms listed below. Whistleblower protection is a foundation for any change in which the public can believe. It does not matter whether the issue is economic recovery, prescription drug safety, environmental protection, infrastructure spending, national health insurance, or foreign policy. We need conscientious public servants willing and able to call attention to waste, fraud and abuse on behalf of the taxpayers.

Unfortunately, every month that passes has very tangible consequences for federal government whistleblowers, because none have viable rights. Last year, on average, 16 whistleblowers a month lost initial decisions from administrative hearings at the Merit Systems Protection Board (MSPB). Since 2000, only three out of 53 whistleblowers have received final rulings in their favor from the MSPB. The Federal Circuit Court of Appeals, the only court which can hear federal whistleblower appeals of administrative decisions, has consistently ruled against whistleblowers, with whistleblowers winning only three cases out of 202 since October 1994 when Congress last strengthened the law.

It is crucial that Congress restore and modernize the Whistleblower Protection Act by passing all of the following reforms:

- Grant employees the right to a jury trial in federal court;
- Extend meaningful protections to FBI and intelligence agency whistleblowers;
- Strengthen protections for federal contractors, as strong as those provided to DoD contractors and grantees in last year’s defense authorization legislation;
- Extend meaningful protections to Transportation Security Officers (screeners);
- Neutralize the government’s use of the “state secrets” privilege;
- Bar the MSPB from ruling for an agency before whistleblowers have the opportunity to present evidence of retaliation;
- Provide whistleblowers the right to be made whole, including compensatory damages;
- Grant comparable due process rights to employees who blow the whistle in the course of a government investigation or who refuse to violate the law; and
- Remove the Federal Circuit’s monopoly on precedent-setting cases.

We know you share the commitment of every group signing the letter below to more transparency and accountability in government. Please let us know how we can participate to make this good government reform law to protect federal whistleblowers and taxpayers.

Sincerely,
Marcel Reid, Chair
ACORN 8

Adele Kushner, Executive Director
Action for a Clean Environment

David Swanson, co-founder
AfterDowningStreet

Pamela Miller, Director
Alaska Community Action on Toxics

Dan Lawn, President
Alaska Forum on Environmental Responsibility

Cindy Shogun, Executive Director
Alaska Wilderness League

Ruth Caplan
Alliance for Democracy

Nan Aron, President
Alliance for Justice

Susan Gordon, Director
Alliance for Nuclear Accountability

Rochelle Becker, Executive Director
Alliance for Nuclear Responsibility

Gil Mileikowsky, M.D.
Alliance for Patient Safety

Linda Lipsen, Senior Vice President for Public Affairs
American Association for Justice (AAJ)

Mary Alice Baish, Director, Government Relations Office
American Association of Law Libraries

F. Patricia Callahan, President and General Counsel
American Association of Small Property Owners

John W. Curtis, Ph.D., Director of Research and Public Policy
American Association of University Professors

Christopher Finan, President
American Booksellers Foundation for Free Expression

Caroline Fredrickson, Director, Washington Legislative Office
American Civil Liberties Union

Michael D. Ostrolenka
American Conservative Defense Alliance

Dr. Paul Connett, Executive Director
American Environmental Health Studies Project, Inc.

John Gage, National President
American Federation of Government Employees

Charles M. Loveless, Director of Legislation
American Federation of State, County & Municipal Employees (AFSCME)

Mary Ellen McNish, General Secretary
American Friends Service Committee

Roy Speckhardt, Executive Director
American Humanist Association

Caitlin Love Hills, National Forest Program Director
American Lands Alliance

Jessica McGilvray, Assistant Director
American Library Association

Tom DeWeese, President
American Policy Center

Alexandra Owens, Executive Director
American Society of Journalists and Authors

Charlotte Hall, President
American Society of Newspaper Editors

Patricia Schroeder, President and CEO
Association of American Publishers

Patricia A. Friend, international President
Association of Flight Attendants-CWA, AFL-CIO
Prudence Adler, Associate Executive Director
Association of Research Libraries

Ms. Bobbie Paul, Executive Director
Atlanta WAND (Women's Action for New Directions)

Samuel H. Sage, President
Atlantic States Legal Foundation, Inc.

Jay Stewart, Executive Director
Better Government Association

Jay Feldman, Executive Director
Beyond Pesticides

Edva Harbin-Battle, Executive Vice-President
Blacks in Government
Heritage Chapter

Shahid Buttar, Executive Director
Bill of Rights Defense Committee

Diane Wilson, President
Calhoun County Resource Watch

Jane Williams, Executive Director
California Communities Against Toxics

Peter Scheer, Executive Director
California First Amendment Association

Terry Franke, Executive Director
Californians Aware

Ms. L. Wilson, Founder and Executive Director
C.A.S.O.O.
Citizens Against Sexually Oriented Offenders

Rearce Rushing, Director of Regulatory and Information Policy
Center for American Progress

William Snape, Senior Counsel
Center for Biological Diversity

Charlie Cray, Director
Center for Corporate Policy

Gregory T. Nojeim, Senior Counsel and Director, Project on Freedom, Security & Technology
Center for Democracy and Technology

J. Bradley Jansen, Director
Center for Financial Privacy and Human Rights

Joseph Mendelson III, Legal Director
Center for Food Safety

Paul Kurtz, Chairman
Center for Inquiry

Robert E. White, President
Center for International Policy

Robert S. Lawrence, MD, Director
Center for a Livable Future, Johns Hopkins Bloomberg School of Public Health

Lawrence S. Ottinger, President
Center for Lobbying in the Public Interest

Michael Jacobson, Ph.D., Executive Director
Center for Science in the Public Interest

John Richard
Center for Study of Responsive Law

Linda Lazarus, Director
Center to Advance Human Potential

Craig Williams, Director
Chemical Weapons Working Group & Common Ground

Mike Tidwell, Director
Chesapeake Climate Action Network

Phil Formaci, Counselor
C.H.O.I.C.E.S.

Leonard Akers
Citizens Against Incineration at Newport

Evelyn M. Hurwich, President and Chair
Circumpolar Conservation Union

David B. McCoy, Executive Director
Citizen Action New Mexico

Doug Bandow, Vice President for Policy
Citizen Outreach

Deb Katz, Executive Director
Citizens Awareness Network
Barbara Warren, Executive Director
Citizens' Environmental Coalition

Elaine Gimeno
Citizens for Environmental Safeguards

Don Kraus, Chief Executive Officer
Citizens for Global Solutions

James Turner, Chairman of the Board
Citizens for Health

Michael McCormack, Executive Director
Citizens for Health Educational Foundation

Gerard Beloin
Citizens for Judicial Reform

Laura Olah, Executive Director
Citizens for Safe Water Around Badger

Anne Hemenway, Treasurer
Citizen's Vote, Inc.

Rick Plitz
Climate Science Watch

John Judge
Coalition on Political Assassinations

Zena Crenshaw, 2nd Vice-Chair
3.5.7 Commission on Judicial Reform

Sarah Dufendach, Vice President for Legislative Affairs
Common Cause

David Deal, CEO
Community IT Innovators

Greg Smith, Co-Founder
Community Research

Clarissa Duran, Director
Community Service Organization del Norte

Neil Cohen, Publisher
Computer Law Reporter, Inc.

Joni Arends, Executive Director
Concerned Citizens for Nuclear Safety

Lokesh Vuyyuru, MD, Founder
Concerned Citizens of Petersburg

Daniel Hirsch, Member, Executive Committee
Concerned Foreign Service Officers

Matthew Fogg, President
Congress Against Racism & Corruption in Law Enforcement (CARCLE)

Mitch Friedman, Executive Director
Conservation Northwest

Linda Sherry, Director of National Priorities
Consumer Action

Ellen Bloom, Director of Federal Policy
Ani Gadhia, Policy Counsel
Consumers Union

Bob Shavelson, Director
Cook Inlet Keeper

Neil Takemoto, Director
CoolTown Betta Communities

Tonya Hennessy, Project Director
CorpWatch

Louis Wolf, Co-Founder
CovertAction Quarterly

Erica L. Gordon
Council for Citizens Against Government Waste

John Issacs, Executive Director
Council for a Livable World

Anne Weismann, Chief Counsel
Citizens for Responsibility and Ethics in Washington (CREW)

Cathy Harris, Founder and Executive Director
Customs Employees Against Discrimination Association

Miho Kim, Executive Director
DataCenter

Melvina C. Ford, Executive Director
DC Employment Justice Center
Karen Murphy  
DC Charter Chapter of Federally Employed Women

Mary Elizabeth Beethoven, Director of Legislative Affairs  
Defenders of Wildlife

Sue Udry, Director  
Defending Dissent Foundation

Bob Fettik, President  
Democrats.com

Miles Rapoport, President  
Demos

Paul E. Almeida, President  
Department for Professional Employees, AFL-CIO

Courtney Dillard, Founder  
Dillard-Wineoff Boutique Hotel

Ben Smilowitz, Director  
Disaster Accountability Project

Dr. Shirley Moore, National President  
Discipline Watch

John DiBiase  
Divorced Men's Association of Connecticut

Dr. Patrick Campbell  
Doctors against Fraud

Dr. Disanmedha Amarasinghe  
Doctors for National Healthcare

James J. Murtagh, Jr., President  
Doctors for Open Government

Dr. John Raviotta  
Doctors for Reform of JCAHO

Marco Simons, Legal Director  
EarthRights International

Bruce Baizel, Senior Staff Attorney  
Earthworks

Larry Chang, Founder  
EcolocityDC

Thea Harvey, Executive Director  
Economists for Peace and Security

Lisa Walker, Executive Director  
Education Writers Association

Mike Ewoll, Founder and Director  
Energy Justice Network

Gregory Hile  
EnviroJustice

Chuck Broscious, President  
Environmental Defense Institute

Carol Werner  
Environmental and Energy Study Institute

Judith Robinson, Director of Programs  
Environmental Health Fund

Eric Shaeffer, Executive Director  
Environmental Integrity Project

Peter Montague, Ph.D, Director  
Environmental Research Foundation

Jason Zuckerma  
The Employment Law Group

Rob Weissman  
Essential Information

George Anderson  
Ethics in Government Group (EGG)

Bob Cooper  
Evergreen Public Affairs

Gabe Bruno  
FAA Whistleblowers Alliance

Robert Richie, Executive Director  
FairVote

Chad Gist, President  
William Dunn, Florida President  
Fathers Supporting Fathers

Janet Kopenhaver, Washington Representative  
Federally Employed Women (FEW)
Steven Aftergood
Federation of American Scientists

Marilyn Fitterman, Vice President
Feminists for Free Expression

Ellen Donnett, Administrative Director
Fluoride Action Network

Andrew D. Jackson
Focus-On-Indiana for Judicial Reform

Wenonah Hauter, Executive Director
Food and Water Watch

Bob Darby, Coordinator
Food Not Bombs/Atlanta

Andy Stahl
Forest Service Employees for Environmental
Ethics (FSEE)

Tom Ferguson
Foundation for Global Community/Atlanta

Ruth Flower, Legislative Director
Friends Committee on National Legislation
(Quakers)

Brent Blackwelder, President
Friends of the Earth

Conrad Martin, Executive Director
Fund for Constitutional Government

Gail Naftalin, Owner
Gail’s Vegetarian Catering

Karyn Jones, Director
G.A.S.P

Gwen Marshall, Co-Chairman
Georgians for Open Government

Neil Tangri
Global Anti-Incinerator Alliance

Denny Larson, Executive Director
Global Community Monitor

Reede Stockton
Global Exchange

Paul F. Walker, Ph.D., Legacy Program Director
Global Green USA
(The US Affiliate of Green Cross International,
Mikhail Gorbachev, Chairman)

Bill Owens, President
The Glynn Environmental Coalition

Tom Devine, Legal Director
Government Accountability Project

Bill Hedden, Executive Director
Grand Canyon Trust

Molly Johnson, Area Coordinator
Grandmothers for Peace, San Luis Obispo
County Chapter

Alexis Baden-Mayer
Grassroots Netroots Alliance

Luci Murphy
Gray Panthers of Metropolitan Washington

Alan Muller
Green Delaware

Jenefer Ellingston
Green Party of the United States

Tracy Frisch
Greenwich Citizens Committee

James C. Turner, Executive Director
HALT, Inc. – An Organization of Americans
for Legal Reform

Tom Carpenter, Executive Director
Hanford Challenge

Arthur S. Shoor, President
Healthcare Consultants

Roberta Mikles, Director
Health Care Patient Advocates

Helen Salisbury, M.D.
Health Integrity Project

Vanessa Pierce, Executive Director
Healthy Environment Alliance of Utah
(HEAL Utah)
Gerry Pollet  
**Heart of America Northwest**

Ernie Reed, Council Chair  
**Heartwood**

Liz Havstad, Chief of Staff  
**Hip Hop Caucus**

Doug Tjapkes, President  
**Humanity for Prisoners**

Dr. Don Racheter, Founder  
**Iowa Wednesday Group**

Keith Robinson, Interim President  
**Indiana Coalition for Open Government**

Tom Goldtooth, Executive Director  
**Indigenous Environment Network**

Scott Armstrong, Executive Director  
**Information Trust**

Arjun Makhijani, Ph.D., President  
**Institute for Energy and Environmental Research**

Brenda Platt, Co-Director  
**Institute for Local Self-Reliance**

Donald Soeken, President  
**Integrity International**

Michael McCray, Esq., Co-Chair  
**International Association of Whistleblowers**

Mary Atashkar, Vice President  
**Iranian American Democratic Association**

Mark S. Zaid  
**James Madison Project**

John Metz, Executive Director  
**JustHealth**

Brett Krinberlin, Director  
**Justice Through Music**

Elizabeth Crowe, Director  
**Kentucky Environmental Foundation**

David Adams, Publisher  
**Kentucky Progress**

Tom FitzGerald, Director  
**Kentucky Resources Council, Inc.**

Kit Wood, Owner  
**Kit's Catering**

James Love  
**Knowledge Ecology International**

Josephine Carol Cicchini  
**LeapForPatientSafety**

Jonathon Moseley, Executive Director  
**Legal Affairs Council**

James Plummer  
**Liberty Coalition**

Greg Mello, Executive Director  
**Los Alamos Study Group**

Marie Dennis, Director  
**Maryknoll Office for Global Concerns**

John McBride  
**"MCS" Beacon Of Hope Foundation, New Jersey Chapter**

Dr. Janette Parker  
**Medical Whistleblower**

Ayize Sabater, Organizer  
**Mentors of Minorities in Education's Total Learning Cie-Tem**

Jill McElheney, Founder  
**Micah's Mission**

Ministry to Improve Childhood & Adolescent Health  

Ellen Smith, Owner and Managing Editor  
**Mine Safety and Health News**

Mary Treacy, Executive Director  
**The Minnesota Coalition on Government Information**

Helen Haskell  
**Mothers Against Medical Error**
Mark Cohn, President
MPD Productions, Inc.

James Landrith, Founder
The Multiracial Activist

Tiffiny Cheng
A New Way Forward

Larry Fisher, Founder
National Accountant Whistleblower Coalition

Matthew Ziemkiewicz, President
National Air Disaster Alliance/Foundation

Tinsley H. Davis, Executive Director
National Association of Science Writers

Jim L. Jorgenson, Deputy Executive Director
National Association of Treasury Agents

Dominick DellaSala, Ph.D., Executive Director of Programs and Chief Scientist
National Center for Conservation Science & Policy

Joan E. Bertin, Esq., Executive Director
National Coalition Against Censorship

Eileen Dannenmann, Director
National Coalition of Organized Women

Russell Hemenway, President
National Committee for an Effective Congress

Sally Greenberg, Executive Director
National Consumers League

Susan Scanlan, Chair
National Council of Women's Organizations

Terisa E. Chaw, Executive Director
National Employment Lawyers Association

Andrew Jackson
National Judicial Conduct and Disability Law Project, Inc.

Kim Gandy, President
National Organization for Women

Paul Brown, Government Relations Manager
National Research Center for Women & Families

Sibel Edmonds, President and Founder
National Security Whistleblowers Coalition

Pete Sepp, Vice President for Policy & Communications
National Taxpayers Union

Colleen M. Kelley, National President
National Treasury Employees Union

Steve Kohn, President
National Whistleblower Center

Amy Allina
National Women's Health Network

Lewis Malby, President
National Workrights Institute

Terrie Smith, Director
National Nuclear Workers For Justice

Tim Hermal, President
Native Forest Council

Doug Kagan, Chairman
Nebraska Taxpayers for Freedom

Sr. Simone Campbell, SSS, Executive Director
NETWORK, A National Catholic Social Justice Lobby

Ron Marshall, Chairman
New Grady Coalition

Rick Engler, Director
New Jersey Work Environment Council

Douglas Meiklejohn, J.D., Executive Director
New Mexico Environmental Law Center

Caroline Heldman Ph.D., Director
New Orleans Women's Shelter

Marsha Coleman-Adebayo, Chair
No FEAR Coalition

Nina Bell, J.D., Executive Director
Northwest Environmental Advocates
Alice Slater, Director  
Nuclear Age Peace Foundation, New York

David A. Kraft, Director  
Nuclear Energy Information Service (NEIS)

Michael Mariotte, Executive Director  
Nuclear Information and Resource Service

Jay Coghlan, Executive Director  
Nuclear Watch New Mexico

Roz McAllister, President  
Ohio Family Rights

Gwen Lachel, Executive Director  
Oil & Gas Accountability Project

Sean Moulton, Director, Federal Information Policy  
OMB Watch

Nikuak Rai, Arts Director  
One Common Unity

Rob Kall  
Op Ed News

Patrice McDermott, Executive Director  
OpenTheGovernment.org

Paul Loney, President  
Oregon Wildlife Federation

Ellen Paul, Executive Director  
The Ornithological Council

P. Jeffrey Black, Co-Chair  
OSC Watch Steering Committee

Judy Norsigian, Executive Director  
Our Bodies Ourselves

Betsy Combier, President and Editor  
Parentadvocates.org

Ashley Katz, MSW, Executive Director  
Patient Privacy Rights

Blake Moore  
Patient Quality Care Project

Dianne Parker  
Patient Safety Advocates

Former Special Agent Darlene Fitzgerald  
Patrick Henry Center

Paul Kawika Martin, Organizing, Political and PAC Director  
Peace Action & Peace Action Education Fund

Bennett Haselton, Founder  
Peacefire.org

Rev. Paul Alexander, Ph.D., Director  
Pentecostals & Charismatics for Peace & Justice

Michael McCally, MD, PhD, Executive Director  
Physicians for Social Responsibility  
Dale Nathan, J.D., President  
POPULAR, Inc.

Vina Colley, President  
Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS)

Lisa Lavine Nagy M.D., President  
Preventive and Environmental Health Alliance

David Banisar, Director, FOI Project  
Privacy International

Evan Hendricks, Editor/Publisher  
Privacy Times

Robert Bulmash, President  
Private Citizen, Inc.

Ronald J Riley, President  
Professional Inventor's Alliance

Dr. Paul Lapides  
Professors for Integrity

Tim Carpenter, Director  
Progressive Democrats of America

Danielle Brian, Executive Director  
Project On Government Oversight
Alec McNaughton
Team Integrity

Janine Blaeloch, Director
Western Lands Project

Ken Paff, National Organizer
Teamsters for a Democratic Union

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Re: Due Process Rights for National Security Whistleblowers
From: National Whistleblowers Center, Government Accountability Project

The Make Is Safe Coalition believes that district court access and jury trials in whistleblower cases for national security and FBI employees is critical for employees to have a fair chance at justice when they assert their rights. Exclusively administrative remedies without full court access as a backup inherently are vulnerable to political pressure and in cases involving significant political abuses of power. Decades of experience with full court access for national security whistleblowers in other contexts demonstrates that predicted objections are bluffs, without empirical support where they have been tested.

**ADMINISTRATIVE PROCESS ALONE WON'T WORK**

The Merit Systems Protection Board (MSPB) is not a viable system for intel and FBI whistleblower cases as an exclusive fact finding forum. In 1994, the House Committee on Post Office and Civil Service concluded that jury trials in district court were needed to provide a healthy competition with the MSPB remedy, which already had a dismal track record on whistleblower cases.

Currently, attorneys representing federal employees consistently advise clients that filing a whistleblower claim is counterproductive, due to the Board’s consistent track record of approving almost any retaliation whistleblowers challenge. For decisions on the merits, its track record is 3-53 against whistleblowers since the millennium, and 1-44 under the current Chair.

Without court access as a backup, the Board or a less independent administrative scheme likely will be even more hostile to FBI/intel whistleblowers. The Board has most actively avoided complex cases, or politically charged disputes with national consequences. This is because it has neither the judicial independence nor the resources to credibly resolve conflicts over major government breakdowns for which the Whistleblower Protection Act is most important. Those vulnerabilities would be magnified for FBI/intel whistleblower cases.

**COURT ACCESS ALREADY EXISTS FOR INTEL AND FBI WORKERS UNDER OTHER LAWS**

For more than 18 years, all federal employees, including at the FBI and intelligence agencies, have had the right to go to federal district court on claims of retaliation, with jury trials and seek compensatory damages, under Title VII. Since 1974 all federal employees also have had district court access under the Privacy Act to seek damages, and they can go to district court for pre-enforcement injunctive relief against constitutional violations. Since 2005 Nuclear Regulatory Commission and Department of Energy employees have had the right to jury trials when retaliated for challenging violations of the Energy Policy Act. There are no exceptions for those DOE or NRC offices with intelligence functions. Since 2007 all defense contractors have had the right to jury trials, including those retained by offices whose primary duties are intelligence. In this year’s stimulus law all federal contractors have access to jury trials, including those hired by the FBI, CIA, NSA and any other government intelligence agency to perform government functions. FBI and intelligence employees in the District of Columbia can obtain injunctive relief against First Amendment violations as well.
NO RISK TO NATIONAL SECURITY IF COURT ACCESS PERMITTED

There is nothing in H.R. 1507 that permits a court or an employee to disclose classified information. In fact, the bill provides for a procedure to prevent the disclosure of classified information. If the government invokes the state secrets privilege on a material issue, the relevant Inspector General conducts associated fact finding for the court.

There is no evidence that under any of the laws (civil rights, Privacy Act, First Amendment, etc.) where national security and FBI employees have full access to federal court that it has led to exposure of evidenced that compromises national security. There is no empirical track record or analysis why this problem would occur from the same access under HR 1507.

One reason is that where national security is related to a case, district courts have many protective measures available to prevent disclosure of classified information. For example, in Title VII cases federal courts use pseudonyms and protective orders to protect national security interests. The rules of civil procedure and rules of evidence have protective procedures, such as in-camera proceedings, and redaction of classified information. For criminal cases, the Classified Information Procedures Act has detailed procedures to safely consider classified evidence.

GAO REPORT FROM 1996 CONFIRMS NO RISK TO NATIONAL SECURITY FROM COURT ACCESS

In 1996 the General Accounting Office studied this issue and found that intelligence agencies already have in place numerous safeguards to protect against the disclosure of classified information, and that these agencies are fully equipped to protect national security interests in employee cases that proceed to federal court and in jury trials.

The GAO concluded, “If Congress wants to provide CIA, NSA, and DIA employees with standard protections that most other federal employees enjoy, it could do so without unduly compromising national security.” It noted that --

  o information on “sensitive intelligence operations can be converted into unclassified publicly available documents.”

  o based on experience with these EEO laws “that intelligence agencies can provide their employees with standard protections against adverse actions.”

  o intelligence agency “adverse action files generally contain no national security information.” Of the files reviewed by GAO, 98% of the adverse action files contained no such information.

  o case files at federal courts demonstrate declassified and redacted documents were capable of providing sufficient information to litigate cases.

THE CONSEQUENCES OF NOT PROVIDING A STRONG ANTI-REPRISAL REMEDY

Employees in intel agencies and FBI will not report wrongdoing within their chains of command. Instead, they will continue relying on the option most safe currently – leaking data to the press.
Congress will not receive evidence about wrongdoing in intel/FBI areas. After 9/11 national security whistleblowers’ knowledge was needed to learn the causes of associated homeland security breakdowns. More recently, they know the truth about the extent of illegal government surveillance, secret prisons, torture and other human rights abuses. That knowledge is critical for the President’s policy for full disclosure of the truth, as an alternative to punishment. They are particularly significant currently, when there is public disagreement over the integrity of CIA congressional briefings.

Attorneys will continue to be reluctant to pursue cases if there is only an administrative remedy without court access. Attorneys will continue to advise clients that remaining silent or not fighting retaliation is the best legal option.

**OTHER INEQUITIES**

Contractor employees who work for intel agencies and the FBI will have more whistleblower rights than government employees who oversee the work of contractors. Contractor employees will have access to jury trials, but intel/FBI employees will not. This will hamper the reporting of wrongdoing in the intel/FBI agencies.

Under current law, alleged criminals and terrorists will have more rights to court for redress of government misconduct than our intelligence agency and law enforcement officers who blow the whistle on serious misconduct and fraud.

For nearly 140 years all state and local government employees, including those with the most sensitive law enforcement and intelligence duties, have had access to jury trials for violations of their constitutional rights.

Corporate workers have access to jury trials in twelve whistleblower laws, including all relevant federal statutes since 2002.

President Obama’s recent comments on reforming the state secrets privilege to provide for allowing litigation by redacting classified/privileged information, if enacted, will provide private citizens who sue the government more rights than intel and FBI employees. Private citizens who sue the government for infringement of constitutional rights (over wiretapping, etc.) will have access to courts with redacted information, etc. following reform of state secrets, but intel and FBI employees won’t.