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NTEU Amicus Brief Supports Park Police Chief, Warns of Growing Atmosphere of Suppression

Washington, D.C.—In the face of a growing atmosphere of suppressing of employee voices in the Department of Homeland Security (DHS), the National Treasury Employees Union (NTEU) has asked an independent federal agency to uphold the right of federal workers to speak freely about matters impacting public safety and security.

The union's friend-of-the-court brief comes only a few weeks after DHS, responding to legal objections by NTEU, abandoned a requirement that its employees sign broad non-disclosure agreements and only days after NTEU filed a federal court suit against DHS, alleging that new personnel regulations planned to be implemented by the department are illegal.

The regulations which are the subject of NTEU's suit create a one-sided personnel system in which virtually all power rests in the hands of DHS management and not only significantly muffle the voices of DHS employees, but purport to limit independent third-party review of decisions by DHS managers.

In the amicus brief filed with the Merit Systems Protection Board (MSPB), NTEU supports the petition of former U.S. Park Police Chief Theresa Chambers to overturn the decision of the administrative judge that comments Chambers made to the media are not covered by the

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Whistleblower Protection Act (WPA)—or protected by the First Amendment.

NTEU's brief warns that the administrative judge's decision not only frustrates the purpose of the WPA, it "endangers the public health and safety, as well as the national security, by stifling the voices of employees who are on the front lines of the war on terror."

Chambers, a veteran of 27 years in law enforcement—including six years as a police chief—was fired by the Department of the Interior after the Washington Post published her comments about the dangers to people and public monuments in the Washington area because of inadequate staffing, misallocation of resources and insufficient funding for the Park Police.

The brief notes that NTEU represents some 15,000 DHS employees who, like Chief Chambers, perform law enforcement work. It strongly supports the reversal of the administrative judge's decision, saying that "empowering federal agencies to punish law enforcement employees when they alert the public to security and safety risks that they observe in their jobs is anathema to the public policies served by (WPA) and the values embodied in the First Amendment."

Moreover, NTEU argues, there are only limited circumstances—not present in the Chambers case—in which public disclosure of such information is not protected by the WPA, including where there is a legal prohibition on disclosure or where it is required by executive order to be kept secret in the interests of national security.

"Congress has already determined in the WPA that reducing public awareness does not promote national security," the brief says. "It undermines it."

NTEU is the largest independent federal union, representing some 150,000 employees in 30 agencies and departments.