

Truth Be Told

The Federal Science Employee's
Guide to Whistleblowing



Government Accountability Project

1612 K Street NW, Suite 1100

Washington, DC 20006

☎ 202.457.0034

➔ www.whistleblower.org

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¹ This guide applies broadly to federal non-intelligence agency employees. Intelligence employees have their own protections and procedures for blowing the whistle on misconduct, which are beyond the scope of this resource.

Introduction

No one goes into public service to become a whistleblower. But sometimes other government employees don't live up to the calling. Instead they violate laws, waste taxpayers' money, threaten public health and safety, or engage in scientific censorship to drive politically-motivated policy decisions that are not in the public interest.

Most employees who witness wrongdoing stay silent. Some are silent because they fear reprisal. Even more believe that nothing will be done to address the problem. Both concerns are legitimate. Reporting wrongdoing is not without risk. Retaliation can occur in subtle to severe forms. For this reason, the United States has over 60 federal whistleblower protection laws on the books (and many state and local laws) that give employees the right to report wrongdoing free from reprisal. Whistleblower protection is a policy issue that has consistently garnered unanimous, bipartisan support.

Employees who do choose to speak out about misconduct—whistleblowers—often become the best, and sometimes the only, pathway toward regulatory compliance, protecting the public interest, and holding public servants accountable.

The Government Accountability Project (GAP) is the nation's leading whistleblower protection organization, having supported more than 7,000 whistleblowers since its founding in 1977. We have drafted, led the campaigns to pass and implemented most of the federal whistleblower protection laws that exist today. Some of the more notable whistleblowers GAP has represented have been federal scientists:

- **Rick Piltz** served as a senior associate in the Coordination Office of the US Global Change Research Program. During the second Bush Administration, Piltz became aware that a White House official was editing and watering down scientific findings on climate change in federal reports. With GAP's help, Piltz shared evidence of the hand-edited reports with the *New York Times*. The front-page story prompted the resignation of the offending official, a former oil lobbyist, and Piltz's disclosures helped expand whistleblower protections to federal employees who report scientific censorship.
- **Physicist Aldric Saucier** exposed gross mismanagement and waste associated with the Strategic Defense Initiative (also known as the Star Wars program), an anti-nuclear missile defense project which had been funded by misleading Congress about its efficacy. Saucier's disclosures substantially eroded support for the SDI program.

■ **FDA safety researcher Dr. David Graham's** research demonstrated that the painkiller Vioxx had caused heart attacks with a 30 to 40% fatality rate. Graham went to Congress after the FDA attempted to suppress his findings. His disclosures resulted in Merck pulling Vioxx off the shelves.

GAP has also been assisting Department of Interior employee Joel Clement, a biologist who filed formal whistleblower complaints challenging his reassignment from his post as Policy Advisor to the Secretary to an office that collects oil royalty checks. Clement had been speaking out on the dangerous climate change impacts on Alaskan Native communities. Though he has now resigned, his case is ongoing and serves as important example of an employee choosing to exercise his whistleblower rights to challenge gross mismanagement and serious environmental dangers.

These truth-tellers' commitment to scientific integrity challenged improper political and corporate influence on science that directly affected public health, the environment and taxpayer dollars. Their whistleblowing not only exposed gross violations of public trust, but benefited the public at large.

GAP serves as a lifeline for employees like these scientists. We have helped whistleblowers hold government and corporate institutions accountable by presenting their verified concerns to public officials, advocacy groups and journalists, and seeking justice for them when they suffer reprisal. GAP has unique expertise minimizing risk and maximizing the effectiveness of whistleblowing.

Journalists and other advocacy organizations are increasingly encouraging employees to come forward with information, a welcome recognition of the value whistleblowers play in promoting accountability and protecting democracy. But unlike an experienced attorney, who will prioritize protecting the whistleblower while assessing avenues and strategies for effective disclosure, a reporter or a public interest group may prioritize the information over the person, inadvertently putting the employee source at risk. Given that most employees are neither activists nor media-savvy, consulting with an experienced attorney about how to raise concerns safely and effectively is always a wise first step.

GAP attorneys have prepared this guide for federal employees who are unfamiliar with the complex terrain of whistleblowing and wish to get a better sense of available protections and avenues for action if they observe wrongdoing. While the guide is neither comprehensive nor should be construed as offering legal advice, it is a starting point to help federal employees feel more empowered to exercise their legal rights, and perhaps the call of professional integrity and civic duty, to report serious abuses of public trust.

Whistleblowers: Myths vs Facts

Cultural biases have generated several common misperceptions about whistleblowers. GAP's experience working with thousands of employees of conscience refutes these beliefs with several important truths:

MYTH #1: Whistleblowing is a crime.

FACT: Disclosing evidence of wrongdoing is not a crime. It is a legally protected right.

The aggressive prosecution of intelligence community (IC) employees who have released classified information to expose government illegality and abuses of authority has fueled a widespread belief that whistleblowing is a crime. It's not.

Whether or not you agree with the actions taken by Edward Snowden, Reality Winner, or Chelsea Manning, national security employees who have released classified information dominate the public narrative about whistleblowing. Like Daniel Ellsberg, these were civil disobedience whistleblowers who, because of ineffective internal avenues for disclosure and limited legal protections available for intelligence community ("IC") employees and contractors, chose to commit a crime to report a crime.

Intelligence community whistleblowers are unique. *Most whistleblowers are not forced to risk breaking the law by disclosing classified information to expose wrongdoing.* Only a small percentage of whistleblowers work in the intelligence community.

As a rule, unless public release is barred by statute, whistleblowers who disclose evidence of illegality, financial fraud, environmental violations, or public health and safety threats are engaging in *legally-protected* activity, not committing crimes by reporting evidence of crimes or other wrongdoing. Disturbingly, recent mandatory "anti-leak" training for federal employees can give the false impression that "unauthorized disclosures" of non-classified information are not allowed. This is untrue; whistleblower protections still apply, and gag orders or non-disclosure policies that fail to acknowledge employees' whistleblower rights are illegal.

MYTH #2: Whistleblowers are too quick to run to the press with their grievances.

FACT: Almost all whistleblowers raise concerns internally first.

First, it is important to note that employees who raise serious concerns internally to managers or through other internal channels are considered whistleblowers under nearly all whistleblower protection laws.

The vast majority (over 95%) of whistleblowers try to solve the problem internally first.² Most employees have faith that raising legitimate concerns to their supervisors, an ombudsman or through other internal mechanisms will resolve the issue. Some employees spend months in frustration while diligently attempting to achieve corrective action in-house. Typically, it is only after attempts to address a problem are met with inadequate action or reprisal does an employee decide to “blow the whistle” externally.

MYTH #3: Many whistleblowers are in it for the money.

FACT: Whistleblowers are motivated by a strong sense of professional, civic, ethical and/or legal duty influenced by the seriousness of the misconduct or degree of harm.

When employees do speak up, it is most often because they feel they are just doing their job.

The majority of whistleblowers do not typically speak up for self-preservation or enrichment. They speak out because they have witnessed misconduct they feel must be addressed.

Some whistleblower laws, like the False Claims Act and the Dodd-Frank Act, do offer whistleblowers a percentage of the portion of money recovered as an incentive for reporting. While these laws have been very successful in encouraging reports of fraud, not only are the chances of winning an award very small, they are also not the norm: most non-financial whistleblower protection laws do not have award provisions.

In our experience, most employees who feel compelled to speak out about wrongdoing explain that they had to act in order to remain true to themselves. As one explained, “I have to keep looking at myself in the mirror.”

2 See Ethics Resource Center, “[Inside the Mind of a Whistleblower: A Supplemental Report of the 2011 National Business Ethics Survey](http://www.ethics.org/nbes/files/reportingFinal.pdf)” (2012). <http://www.ethics.org/nbes/files/reportingFinal.pdf>.

Federal Employees Have the Right to Report Serious Abuses of Public Trust Free from Retaliation³

What activity is protected?

The Whistleblower Protection Act of 1989 (WPA) and the Whistleblower Protection Enhancement Act of 2012 (WPEA)⁴ are the primary laws that give non-intelligence federal employees the right to blow the whistle—to report serious wrongdoing—free from reprisal. Most federal employees have the right to disclose information, both **internally** (to co-workers, managers, organizational hotlines, an agency Inspector General, etc.) and **externally** (to lawmakers, regulators, the media, watchdog organizations, etc.), that he or she reasonably believes evidences:

- a violation of law, rule or regulation;
- gross mismanagement;
- a gross waste of funds;
- abuse of authority;
- a substantial and specific danger to public health or safety; or
- censorship related to research, analysis or technical information that is, or will cause, any of the above forms of misconduct.

In addition, federal employees are protected from retaliation if they:

- file a complaint, grievance or appeal;
- testify or help another person with exercising any of their rights;
- cooperate with or disclose information to the Office of Special Counsel (OSC) or an agency Inspector General; or

3 Non intelligence-agency federal contractors also have whistleblower protections. Some of these are found in the National Defense Authorization Act for Fiscal Year 2013 (NDAA), which allows employees of contractors, subcontractors, and grantees to file a whistleblower retaliation complaint with the Office of Inspector General (OIG) for certain disclosures relating to contracts and grants awarded on or after July 1, 2013. Others are found in employee protection provisions embedded in many federal statutes, including environmental, consumer safety, financial accountability and other legislation.

4 See Whistleblower Protection Act of 1989, 5 U.S.C. § 2302(b)(8) & (b)(9); Whistleblower Protection Enhancement Act of 2012, Pub. L. No. 112-199, § 110(b).

- **refuse to obey an order that would require the individual to violate a law, rule or regulation.**⁵

A disclosure is protected even if:

- the employee is not "right" (i.e., completely correct) about the concerns but rather has a "reasonable belief" that the disclosure evidences serious wrongdoing;
- it is made to a supervisor or person who participated in the wrongdoing;
- it reveals information that was previously disclosed;
- the employee may have other motives for making the disclosure;
- it is made when the employee is off duty;
- it concerns events that occurred in the past;
- it is made in the normal course of an employee's duties.

A disclosure is NOT PROTECTED under the WPA or WPEA if:

- it **reflects only a disagreement with a policy or a decision** that is not otherwise unlawful or does not constitute gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or scientific censorship that would result in such misconduct;
- an **executive order mandates that the information be kept secret in the interest of national defense or the conduct of foreign affairs;**
- **disclosing the information is prohibited by law** (e.g., if public release of the information is barred by a statute, such as the Trade Secrets Act or the Privacy Act. An agency rule or regulation does not qualify as a bar to disclosure.)

Disclosures of classified or other information barred from public release may be made through alternative, lawful channels, including the Office of Special Counsel or an agency Inspector General. But disclosing such information outside of those channels, such as to the press or a non-profit organization, could result in prosecution.

5 Employees are safest if they first carry out what they believe to be an illegal order and then report the problem internally or externally, unless the order would violate a statute, physically endanger the employee, or cause irreparable harm.

Reprisal is Prohibited

While some managers respond appropriately when employees raise concerns, attacking the messenger rather than addressing the problem that has been disclosed is a frequent enough response by employers to have warranted legislation prohibiting reprisal for whistleblowing. The Whistleblower Protection Act prohibits employers from **taking, failing to take, or threatening to take, personnel actions** against an employee for engaging in any of the protected whistleblowing activity described above. Prohibited personnel actions include:

- an appointment or failure to appoint
- a promotion or failure to promote
- a detail, transfer or reassignment
- disciplinary or corrective action⁶
- a poor performance evaluation
- a change in pay, benefits or awards
- a decision regarding training or education if it would lead to a personnel action such as an appointment, promotion or personnel action
- a change in duties, responsibilities, or working conditions
- ordering a psychiatric exam
- gag orders or non-disclosure agreements that do not include an exception for whistleblower rights and protections under the WPA or WPEA
- threatening an employee with any of the above.

In addition to retaliation being prohibited, recently enacted legislation, the [Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017](#)⁷ mandates that supervisors found to have committed a prohibited personnel action be disciplined, with a minimum suspension for the first offense and with proposed removal for a second offense.

6 Disciplinary actions recognized under the WPA include a demotion; a reduction in pay or grade; a furlough; removal from federal employment; a suspension; being put on administrative leave; a warning letter; a reduction in force; a reprimand.

7 Public Law No: 115-73, S. 585, Section 104 (2017).

Remedies for Retaliation

Anyone who has experienced any of the actions listed above as a result of a **disclosure, cooperation with an investigation** with an Office of Inspector General or the Office of Special Counsel, or **refusal to disobey a law**, can file a reprisal claim.

To prove a reprisal claim for whistleblowing, an employee must establish by a preponderance of the evidence that:

- he or she **engaged in protected activity** (i.e., disclosure of information he or she reasonably believed evidenced a violation of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; a substantial and specific threat to public health or safety; or scientific censorship that would result in any of these forms of misconduct);
- **a personnel action was taken, threatened or not taken** after the protected activity;
- **the employer had knowledge of the protected activity;**
- **that the protected activity was a contributing factor that prompted the retaliatory personnel action.**

If the employee can establish these elements of a reprisal claim, the burden shifts to the employer to prove, by clear and convincing evidence (a very high standard of proof), that it would have taken the personnel action against the employee even if the employee had not blown the whistle.

Who can you contact about retaliation?

Office of the Special Counsel (OSC)

<https://osc.gov/Pages/about.aspx>

Employees who have experienced **retaliation on a smaller scale**, such as a change in responsibilities or a suspension of fewer than 14 days, must go to the OSC before utilizing the resources of the Merit Systems Protection Board (MSPB). Employees may initiate a reprisal claim with the OSC for larger forms of retaliation as well. The OSC will conduct an independent investigation, and will use best efforts to maintain confidentially if requested by the employee. If the OSC finds that the agency engaged in reprisal, it can seek a stay of the adverse action, or it may seek to use mediation to resolve the claim (which has a very high success rate for resolution). If the OSC decides to take no action, finds against the employee, or delays issuing a finding, the employee can request a hearing with the MSPB by filing an individual right of action (an "IRA"), either sixty days

after receiving a determination by the OSC, or 120 days after filing a complaint if no action has been taken. A case that has moved before the MSPB allows for discovery (but within very strict deadlines), a hearing before an MSPB judge, and a written decision that can be appealed to the full Board and then to the U.S. Court of Appeals.

Merit Systems Protection Board (MSPB)

<https://www.mspb.gov/>

Employees who experience **retaliation on a larger scale**, such as suspension for over 14 days or termination of employment, or tenured federal employees with additional civil service protections, may go directly to the MSPB for expedited discovery and a hearing before an administrative judge. The case will go before an administrative judge, and before a Federal Circuit Court of Appeals judge if appealed. Unfortunately, the MSPB typically makes **determinations unfavorable to whistleblowers**, deciding against them in the majority of cases.

Union Representative

For employees that belong to a union, the labor agreement may dictate a distinct process for resolving whistleblower retaliation claims. Since these processes can vary, consult with the union representative and/or an attorney regarding available options under the union labor agreement.

It is important to note that an employee must **choose only one venue** (i.e., the OSC, MSPB, or the union grievance procedure) to pursue a claim. The optimal path to pursue depends on the facts of each case. The deadlines and rules for filing are different for each path, so it is always wise to seek advice from an experienced whistleblower attorney as soon as you suffer an adverse personnel action for engaging in protected activity so they can help assess your case and advise you on the best path for seeking a remedy for reprisal.

Survival Tips: How to Report Wrongdoing Safely & Effectively

No matter how right you may be about an observed wrongdoing, and even though retaliation for blowing the whistle is prohibited, employees who speak out often suffer reprisals rather than thanks. Weighing the most effective legal options can be complicated and confusing, making it all the more important to secure case-specific legal advice.

Pre-Disclosure Precautions & Practices

Before making any type of disclosure, it is wise to take the following precautions:

- 1. Consult with a lawyer**, specifically one who has **experience helping whistleblowers**. Most lawyers aren't well-versed in whistleblower law, which is extremely complicated. No single law protects all whistleblowers; instead, a patchwork of more than 60 federal statutes and numerous state and local laws provide redress. Determining which legal remedies might be available depends on evaluating the type of employee making the disclosure (federal, federal contractor, corporate, etc), the subject of the disclosure, to whom the disclosure was made, and the type and timing of the reprisal. The attorney-client privilege will also ensure that your communications will remain protected and confidential.
- 2. Create a paper trail**. Keep a log that is a timeline of all relevant developments: what happened, when and to whom you complained, and any resulting retaliation. Record all dates and note the details of any supporting emails, memos or other documentary evidence.
- 3. Print or save any relevant documents you possess**, such as meeting notes, memos or emails. One can also record meetings secretly in one-party consent states (including 39 states and Washington, DC).
- 4. Keep evidence in a safe place such as home**. Authorities usually are not limited in access to your workplace, but it is far more difficult to search a private home.
- 5. Be careful to avoid being accused of stealing** any documents. In instances where it is not practical to take evidence home, tactics like taking cellphone pictures or mislabeling and misfiling records in your office, to be found later, can prevent their destruction.
- 6. Before doing anything, make a plan**. For example, decide whether and when to blow the whistle internally or externally. When does it makes sense to give up on internal channels? What documents, if any, should be shared with whom? Try to predict how those in the agency or department will react and respond to a disclosure.

7. **Converse with family members** and loved ones before blowing the whistle. Consider the impact on family members should retaliation occur. Develop alternate employment options. The old adage applies here: plan for the worst, but hope for the best.
8. **Avoid creating any other reason to be fired for cause.** Maintain good poor job performance and follow workplace rules.
9. **Test the waters with work colleagues and attempt to garner their support.** Determine which colleagues would corroborate your observations or possibly even participate actively in blowing the whistle.
10. **Seek outside support,** including journalists, politicians and NGOs.

Avenues for Reporting

Below are some considerations about possible avenues for reporting information about serious abuses.

Reporting Internally

Management and Agency Officials

This is usually the first place whistleblowers turn, attempting to solve the problem in house for the good of their organization. While legally protected, in some cases, whistleblowers face retaliation after they go to their supervisors, rather than seeing the problem corrected. If you take this route, document any actions and management responses to your disclosures.

The Office of the Special Counsel (OSC)

In addition to reviewing claims of reprisal, the OSC also accepts disclosures unattached to a complaint of retaliation. The OSC will review complaints submitted to them in order to determine if it is likely that a validly disclosable violation occurred. If so, they will require the agency head to conduct an investigation into the matter and issue a report regarding the issue investigated and what steps were taken, or will be taken, to address the problem. The whistleblower is then allowed to weigh in on the report and provide further evidence. Then the OSC submits the report, along with its own comments, to the President, congressional leadership, and appropriate congressional committees.

The OSC attempts to keep you anonymous, but if your disclosure is judged to be an imminent threat to public health or safety, your anonymity may be compromised. Another weakness is that the OSC often doesn't meet deadlines. It is supposed to review a whistleblower's disclosure within 15 days, but a backlog of cases often prevents this from happening. Finally, the OSC is weak. It can offer recommendations, but can't force a government agency to do anything.

The Office of the Inspector General (OIG)

Each agency has an inspectors general office that investigates complaints of fraud, waste and abuse internally. You have a right to report problems to them confidentially as well as anonymously. Inspectors General are more reactive than proactive. They are more likely to investigate based on external controversy than an internal whistleblower's disclosure.

Inspectors General offices don't guarantee anonymity, aren't transparent, have no deadlines and can ignore complaints. Also, their funding is controlled by the head of the agency of which they are a part, meaning they can be compromised by office politics. Even if they do take action, they only have power to offer recommendations. While some OIGs are strong and principled, in worst case scenarios, they can be used as a tool of retaliation against whistleblowers, investigating them instead.

Reporting Externally

Congress

Whistleblowers may disclose information to a member of Congress or a congressional committee. Be aware there is no guarantee of anonymity when disclosing to a member of Congress, and a single member of Congress has no direct authority over the executive branch. Complaints sent to Congress members usually are sent back to the agency with questions, which could alert them to a whistleblower in their midst who prompted the inquiry.

On the other hand, members of Congress can bring powerful attention to an issue, creating momentum for change and offering a shield for whistleblowers against retaliation.

Congress isn't primarily an investigative outfit, but it has some investigatory powers. The Government Accountability Office (GAO) is a formal investigative arm, and a member of Congress can initiate a GAO probe. Individual congress members can request information from agencies and publicize it. Individual members of Congress and their staff have various levels of expertise and interest in investigating concerns.

Whistleblower advocacy organizations can help you determine which members of Congress to reach out to, taking into account their interests, expertise and whether you are their constituent.

Reporters

You can legally work with reporters to publicize wrongdoing, as long as the information is not barred from public disclosure. This is often one of the best ways to get the ball rolling to fix wrongdoing, helping you build public pressure and shame the agency into doing right.

Press attention can also sometimes help prevent retaliation, because the spotlight will be on you and your employer would understand that retaliation would make the news. It can also

help establish that the employer was aware of the employee's disclosure, critical to proving the "knowledge" element of a whistleblower reprisal claim if retaliation does occur.

Make sure you research the reporter you intend to provide information to, so you know that they're serious and have expertise in the subject matter. Figure out if they're a beat reporter, who might have more subject matter expertise, or an investigative reporter, who will have more leeway to pursue a long investigation.

Journalists will also have to vet you and verify your concerns. Having documentation of what happened will help this process.

Be aware that journalism is often slow, especially investigative journalism, and big stories can take journalists months or even years. Journalists should be transparent about whether they're still pursuing the story, but you shouldn't undermine a journalist by going to a different one simply because you feel they're taking too long. You should just check in with them and see where they are.

If there is a deadline before which you believe the disclosure needs to be made public, let the reporter know. Just understand that they may not judge the same things important that you do and may be unable to meet your deadlines. In fact, the article may not turn out exactly as you expect, because journalists will have different judgment than you do.

If you do seek anonymity, be sure you trust the journalist and the news organization to protect your identity. Work out an agreement with the reporter as early as possible.

While reporters as professionals are committed to protecting their sources, with many being willing to go to jail rather than divulge a source in response to a subpoena, there is no federal shield law or reporter's privilege that applies to all journalists' communications; protections vary state by state.

Further, even with a reporter's willingness to defy a subpoena to reveal his or her source, often the identity of a source can be sussed out by an employer, either because of the likelihood that the employee first informally raised concerns internally, because of the nature of the information disclosed that would point to job responsibilities and expertise, or because the employee may have used work equipment for communications.

Non-profit Organizations

Non-profit watchdog organizations may have experience with the issue about which you are concerned or your agency and can be important allies in ensuring that information about government corruption and wrongdoing is used effectively to address abuses of power and protect public interests. Environmental, food safety, science integrity, immigration, fiscal

responsibility, and other social and economic justice groups are knowledgeable and influential advocates for reform.

However, while a few organizations like GAP represent whistleblowers, most do not. Non-profit organizations typically have limited experience working with whistleblowers and do not understand the complicated legal landscape and risks involved with disclosing serious concerns. Well-meaning but inexperienced non-profit organizations may appreciate the value of inside information and promise to keep their sources anonymous. But like with journalists, because most employees have either raised concerns internally before going outside of their agency, or because their job responsibilities and expertise would associate them with the disclosure, these promises may be impossible to keep.

Further, unless the organization can explicitly offer legal advice about whistleblowing, your communications will not be protected by the attorney-client privilege.

Working with a lawyer or a non-profit organization like GAP that focuses both on protecting the employee and promoting accountability offers employees the best of both worlds: legal support in navigating internal and external avenues for disclosure and to address retaliation, as well as effective matchmaking with journalists, NGOs and elected officials to afford the greatest, and safest, opportunities to address the underlying problems.

A Note on Anonymity

Many whistleblowers want to disclose information but also maintain their anonymity. However, anonymity, as mentioned earlier, is not always possible to ensure if the information is used in public ways or through strategic discussions with government investigators, other whistleblowers, or advocacy groups.

Remaining anonymous may also not be the best strategy. For instance, trying to remain anonymous while the disclosure is public can make a legal case of reprisal more difficult, if not impossible. Under all whistleblower laws, an employee must show that the employer had knowledge of their whistleblowing. Thus going public, with the whistleblower serving as a human interest focal point for news stories, can sustain the whistleblower's viable legal rights. Public disclosure can even preempt reprisal by putting the employer on notice that the employee is engaging in protected whistleblowing. When a whistleblower experiences solidarity with a team of allies—advocacy groups, journalists, champions in Congress, a lawyer—focus can be put on the wrongdoing exposed by the whistleblower, thus defeating efforts to vilify the messenger. Surrounding the whistleblower with support not only can insulate the employee from retaliation, but it can amplify awareness of the underlying problems to demand reform.

Going public guarantees, however, that the employee will burn professional bridges. If a scorched earth, no-prisoners conflict did not already exist, that dynamic is a near-certainty once the whistleblower goes public. Many whistleblowers accordingly want to try to maintain anonymity.

Be aware, even with strong efforts at protecting a whistleblower's identity, the whistleblower is still at risk while an employer searches for the internal source. Harassing and expensive-to-defend defamation suits can be lodged against journalists and NGOs to force divulgence of sources. Because of limited privileges afforded to journalists and NGOs, whistleblowers should be wary of unqualified promises of absolute anonymity because it simply cannot be guaranteed. Brokering communications with external parties through an attorney with whom a whistleblower's communications are privileged can offer an important layer of protection for a whistleblower.

Best Practices for External Whistleblowing

1. Before you begin working with a reporter or an NGO, negotiate the scope of what you're willing to disclose, whether you need anonymity, and any other protections or concerns. It is easier for everyone to be clear on the rules.
2. Use secure means to communicate, including Secure Drop, Signal, Whatsapp, ProtonMail, PGP or snail mail with **no return address**.
3. Don't communicate with your contacts during your work hours, or use office equipment, like office phones, computers, or even paper.
4. Be aware that the best option for your safety may not necessarily be to remain anonymous, but to instead blow the whistle publicly with the help of a lawyer.
5. If you intend to leak documents anonymously, make sure that you are not the only person who possesses these documents so they can't be traced back to you. If possible send them out innocuously attached to legitimate listserv emails or upload them to an agency server or archiving system. Don't leave your fingerprints on anonymous disclosures through work. You can also send documents to other agencies.
6. Rather than printing secure documents, take pictures of them on your phone, because your access to the documents may be able to be tracked, and printing will narrow the pool of potential people who have accessed the documents. If you can't take a photo, make written notes.
7. Instead of providing documents, consider guiding reporters or NGOs in making a FOIA request. To do this, make sure problematic policies are in writing. Try to get your agency to spell them out, or do it in your own emails. Be careful that the FOIA isn't so specific that it tips off the agency that there is a whistleblower.
8. Strip metadata from any documents you send, such as photo locations, watermarks, or tracked changes.

Resources

Contact GAP

The Government Accountability Project (GAP) is happy to offer advice and support to employees who want to report wrongdoing.

✉ info@whistleblower.org

☎ 202.457.0034

Government Resources

Office of Special Counsel - Whistleblower Disclosure Hotline

<https://osc.gov> (800) 572-2249

Merit Systems Protection Board

<https://www.mspb.gov> (202) 653-7200

Inspectors General Directory (includes all OIGs for federal agencies)

<https://www.ignet.gov/content/inspectors-general-directory>

Other Organizations

Project On Government Oversight (POGO) - <http://pogo.org>

POGO is a nonpartisan, independent watchdog organization that promotes good government reforms by investigating and exposing corruption, misconduct and conflicts of interest. POGO frequently works with government whistleblowers to and other inside sources to document evidence of corruption, waste, fraud and abuse.

Public Employees for Environmental Responsibility (PEER) - <https://peer.org>

Public Employees for Environmental Responsibility (PEER) is a national alliance of local state and federal government scientists, land managers, environmental law enforcement agents, field specialists and other resource professionals committed to responsible management of America's public resources.

ExposeFacts - <https://whisper.exposefacts.org>

ExposeFacts is a journalism organization that aims to shed light on concealed activities that are relevant to human rights, corporate malfeasance, the environment, civil liberties and war. They offer some legal support to national security whistleblowers as well through their Whistleblower and Source Protection Program (WHISPeR).

Books/Articles on Whistleblowing

Devine, Tom and Tarek F. Maassarani. **The Corporate Whistleblower's Survival Guide: A Handbook for Committing the Truth**, Berrett-Koehler (2011)

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Information Security

Freedom of the Press Foundation, **Guides and Training**

<https://freedom.press/training/>

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