

(such as fraud), gross waste of funds, gross mismanagement,³ abuse of authority, or a substantial and specific danger to public health or safety, without disclosure of the employee's identity (except with the employee's consent) and without fear of retaliation.

OSC Policy

In furtherance of the merit system principles specified in the CSRA, the OSC's principal responsibility has been and continues to be the receipt and investigation of complaints of alleged prohibited personnel practices, especially reprisal for whistleblowing. Although it has not been demonstrated that such reprisals are an endemic problem of massive proportions in the federal service, the OSC regards any reprisal for whistleblowing as unacceptable. Accordingly, the OSC's priorities are --

- to treat allegations of reprisal for whistleblowing as its highest priority;
- to review allegations of reprisal for whistleblowing intensively for any feasible remedial or preventive action, whether by means of stays, corrective actions, or disciplinary actions; and
- to use every opportunity to make a public record of the OSC's aggressive pursuit of corrective action (especially in whistleblower reprisal cases), both to encourage other whistleblowers, and to affirm the emphasis given to corrective actions by the OSC.

Shared Responsibility for Protecting Whistleblowers

As the General Accounting Office (GAO) noted in its 1985 report on the OSC's handling of reprisal allegations, the adequacy of whistleblower protections should not be viewed solely by reference to the matters handled by the OSC, since responsibility for establishing and maintaining a climate in which employee disclosures of waste, fraud or abuse are supported, and in which reprisals for such disclosures are not tolerated, is shared by the government as a whole -- including the President, the Congress, agency heads, managers and supervisors, appellate systems, and the Inspectors General.

For example, §2302(c) makes the head of each federal agency responsible for the prevention of prohibited personnel practices (including reprisals for whistleblowing), and for compliance with and enforcement of civil service laws, rules and regulations. The same responsibility devolves by law on federal supervisors exercising delegated personnel

³ The WPA added the requirement that disclosures of such information evidence "gross" mismanagement. Previously, the law required that disclosures of such information only evidence mismanagement.

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authorities. The Inspectors General share a responsibility with the OSC under §7 of the Inspector General Act of 1978 (5 U.S.C. App.) for the protection of employees in their agencies who provide information evidencing violations of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health and safety.

As for the OSC, the office operates at all times within the framework of the law, as interpreted and applied by the MSPB and the courts. It is the same legal framework that applies to claims of reprisal raised by federal employees in appeals of adverse actions before the MSPB and the courts. The OSC has seen no evidence that its dispositions of allegations of reprisal are significantly different from outcomes achieved by employees in those tribunals. Based on its review of a statistical sample of reprisal allegations contained in OSC files closed over a two-year period, the GAO concluded that the OSC evaluated and acted upon reprisal allegations reasonably, appropriately and in accordance with the law. The GAO also confirmed that the complainants in its sample did not fall victim to lack of investigatory effort by the OSC. Since that report by the GAO, the OSC has given particularly close scrutiny to all allegations of reprisal for whistleblowing.

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