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May 17, 2005

The Honorable David M. Walker
Comptroller General of the United States
Government Accountability Office
441 G Street N.W.
Washington, DC 20548

Dear Mr. Walker:

This letter is in response to the Government Accountability Office Report (#GAO-04-36), dated March 2004, on case management-related operations of the U.S. Office of Special Counsel. We are pleased to provide this follow-up to your initial report.

Upon taking office as the new Special Counsel, two major problems confronted the Office of Special Counsel (OSC): a serious backlog of cases in all of the units within the agency and a cumbersome structure of three separate Investigation and Prosecution Divisions (IPDs). It was not patently clear whether the problems stemmed from faulty organization structures or procedural inefficiencies, lack of adequate personnel, or a combination of these. Moreover, the agency seemed to lack a vision and needed performance goals and standards. Personnel did not seem strategically placed to solve agency challenges. Agency structure was process oriented, not results driven.

The backlog had plagued the agency for several years. The OSC Annual Report to Congress repeatedly discussed this problem. I viewed this as a problem that struck at the heart of the agency. If OSC could not timely address its own case load, Congress may task other agencies to assume the responsibilities of OSC. Moreover, it was my belief that chronic backlogs prevented OSC from "dispensing justice." I often repeated the adage, "justice delayed is justice denied."

Since I have been on board, much has been done to investigate and remedy these problems. I created a comprehensive plan to substantially reduce the chronic case backlog and also to ensure these persistent case backlogs do not occur again. The plan consisted of reorganizing several OSC offices, creating several new offices and streamlining internal OSC procedures.

Backlog Reduced

Because of the success of this plan, I am happy to report that OSC has reduced the overall case backlog by 82 percent, from 1121 to 201 cases, by the end of Calendar Year (CY) 2004. During this time the number of whistleblower disclosure cases in backlog was reduced to 82 from 674 in CY 2004. Moreover, during CY 2004, OSC reduced the backlogged prohibited personnel practice (PPP) cases in the Complaints Examining Unit from 447 to 119. Furthermore, during the backlog reduction project period, OSC increased by 22% the internal referral rate of meritorious cases for further action in the investigation and prosecution unit.

I will next discuss the role of each OSC office that assisted in the backlog efforts starting with the Complaints Examining Unit. In addition, I will also discuss four new OSC entities that will ensure no enormous backlogs occur again, the Special Project Unit, the Document Control Unit, the Training Office and the Customer Service Office.

Complaints Examining Unit

The Complaints Examining Unit (CEU) is the foundation of OSC. It is responsible for screening approximately 1,700 PPP cases per year. The cases that have merit and within OSC's jurisdiction are referred to the Investigation and Prosecution Division (IPD). The cases without merit on their face or not within OSC's jurisdiction are closed. It is the largest undertaking of the agency and is where it all begins. The unit has a strong sense of esprit de corps. The importance of this unit can not be over stated. If the CEU does not do a good job separating the good cases from the bad, it will have a direct effect on the efficiency of the IPD. If the CEU is too selective, OSC cannot accomplish its mission of "dispensing justice" and isn't serving the interest of the merit system. If it's not selective enough, the IPD would be bogged down with non-meritorious or seriously flawed cases and may ultimately have their own back log problems. The CEU must strike a delicate balance between these opposing ideals.

The CEU is a very well organized and efficient unit. The unit has a good mix of personnel between the lawyers and the human resource specialists. The lawyers bring analytical skills to the table and the human resource specialist brings much needed knowledge of federal human resources regulations.

Being that CEU is a screening unit for the IPDs, it must also strike a balance in the amount of work that is performed on each individual case between the two units. If each unit is duplicating the other's work, the benefit gained in the economy of scale (the CEU) is lost in inefficiency. Under this scenario there would be no reason to have a screening unit. Therefore, finding and eradicating duplication and overlapping work on each referral is very important to the success of the overall OSC mission.

Unlike many other investigative entities or agencies, OSC must, as a general rule, conduct an inquiry after receipt of complaints alleging the commission of a prohibited personnel practice.¹ The nature of the inquiry ranges from the CEU screening process to the IPD full field investigations, but one must be conducted after a complaint is filed. Complaints received by OSC can and often do involve multiple allegations, some of which can involve different prohibited personnel practices. In all such matters, an OSC inquiry requires the review of, and a legal determination about, each allegation and prohibited personnel practice.

The CEU Problem

When I took over at OSC, CEU was one of the “bottlenecks” was case processing. Too often cases were being stalled because of internal inefficiencies. Moreover, CEU morale needed to be improved because CEU employees were considered “second-class citizens.” The low morale was hurting case processing times which contributed to the OSC-wide case backlog.

The CEU Solution

To streamline CEU operations and reduce any future case bottlenecks, OSC created three processes that will make CEU more efficient. First, all CEU referral memos are now limited to one and a half pages of facts, with relevant legal analysis. Previously, CEU referral memos were an exhaustive rehashing of facts and law that was of minimal value to the Agency. Much attorney and investigator time was spent on something that could be completed in days rather than weeks. Moreover, the old CEU referral memos were one of the primary reasons for the CEU slow case processing times. In addition, our investigation showed that when the case was referred to the IPD, the lawyer would simply end up duplicating this effort.

Second, OSC has addressed internal CEU personnel concerns. The CEU examiners said they felt like “second class citizens” and are under appreciated within the agency. This was directly attributed to the lower pay scale. Moreover, as a screening unit, the CEU file work is

² Compare, for example, 5 U.S.C. § 1214(a)(1)(A) (“The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.”) with 5 U.S.C. app. 3, § 6(a) (“[E]ach Inspector General ... is authorized-- ... (2) to make such investigations and reports relating to the administration of the programs and operations of the [agency] as are, in the judgment of the Inspector General, necessary or desirable[.]”) and § 7(a) (“The Inspector General may receive and investigate complaints or information from an employee of the [agency] concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.”).

OSC cannot, however, investigate complaints over which it has no jurisdiction, with the result that some complaints are closed without further action after receipt and review. In addition, discrimination based on race, color, religion, sex, or national origin, age, or handicapping condition is illegal under laws enforced by the Equal Employment Opportunity Commission (EEOC), and is also a prohibited personnel practice under 5 U.S.C. § 2302(b)(1). However, since procedures for investigating discrimination complaints have already been established in the agencies and the EEOC, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiate an independent investigation. 5 C.F.R. § 1810.1.

more cursory which does not allow the employees to showcase their legal talents. Their feelings of second-class status and lower pay potential may lead to future OSC leaders leaving the agency. We must retain our good people in the CEU. Therefore, OSC is exploring ways to increase the promotion potential of CEU employees, such as having all CEU employees being at the GS-14 working level, as opposed to the current GS-13 level, and allowing for CEU employees to be detailed to the IPD for more extensive investigations and legal experiences. In the past, the lower morale within CEU also contributed to the OSC-wide case backlog.

Third, OSC has addressed CEU procedural problems that were delaying case processing. On partial referrals, the CEU was forced to keep the cases until the “16 day letter” process was completed. Partial referrals are cases CEU refer for investigation but CEU recommends closing other issues within the same claim. This would cause a delay of up to 25 days on many referrals. Lastly, there was no process that allowed the examiner to demand more clarity when the complainants would not follow the OSC Form 11² and/or forwarded voluminous non-catalogued documents. These problems caused overlapping of services and delays in processing. OSC resolved these problems by having the IPDs, not the CEU keep cases on partial referrals. This will avoid the above-mentioned lengthy delays. In addition, CEU will not accept any complaints that did not have a completed OSC Form 11.

While these CEU processes will help reduce future case backlogs, OSC is 100% committed to ensure all cases receive a full and fair resolution. To this end, the CEU referral rate, the rate in which CEU refers cases for further investigation was the same percentage in FY 2004 as FY 2003, 10%. Thus, OSC did not superficially close meritorious cases during the backlog reduction efforts. In fact, the PPP referral rate went up dramatically during the Special Project Unit (SPU) process of attacking the backlogged cases (from April-September 2004), the referral rate more than doubled to 22%.

Table 1: Complaints Examining Unit Cases, CY 2004

Calendar Year ³	Beginning Inventory	Cases Received	Total Caseload	Processed Cases	Ending Inventory
2004	447	1837	2284	2165	119

Table 1 shows that OSC received 1837 new PPP cases in calendar year 2004 and were able to reduce their caseload to 119 by the end of CY 2004.

Investigation and Prosecution Division

² OSC Form 11 is filled out by complainants and sent to OSC detailing their prohibited personnel practice allegation.

³ FY numbers are not available. OSC recently changed its database to collect the data from this point forward.

After receiving a case referral from the CEU, working together with investigators, IPD staff attorneys determine whether OSC's investigation has established any violation of law, rule or regulation, and whether the matter warrants corrective or disciplinary action, or both. The IPD conducts investigations to review pertinent records and to interview complainants and witnesses with knowledge of the matters alleged. Matters undergo legal review and analysis to determine whether the matter warrants corrective action, disciplinary action, or both.

At any time during its processing of a case, the OSC may seek a stay of any personnel action if the available evidence provides reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a PPP. The OSC may obtain a stay upon direct request to the agency concerned, or by filing a request for a stay with the MSPB under § 1214(b)(1).

If OSC believes a prohibited personnel practice has been committed and initiates discussions with an agency, the matter is often resolved through negotiation. Before OSC may initiate an enforcement proceeding seeking corrective action (relief intended to make an aggrieved employee whole) at the MSPB, the Special Counsel must make a formal request to the agency involved, reporting on its findings and recommendations. Only when the agency has had a reasonable period of time to take corrective action and fails to do so, may OSC proceed to petition the MSPB for corrective action.⁴ When an agency refuses to grant appropriate corrective action, OSC generally proceeds to file a complaint with the MSPB.

If OSC determines that disciplinary action (the imposition of discipline on an employee who has committed a violation) is warranted, it can file a complaint directly with the MSPB.⁵ Should the agency agree to take appropriate disciplinary action on its own initiative, then the matter can be settled without resort to an MSPB proceeding.

The IPD Process

The large number of backlogged and pending cases was due to several factors. First, the three IPD structure was too top heavy and too "stove piped." All three IPDs seemed to work independent of each other, with no central oversight. Each IPD seemed to have its own internal process for case handling. Also, there was a real possibility that OSC's prosecutorial discretion could be used inconsistently.

Second, within the IPD structure, there was a real concern for how the Field Offices (FOs) were being underutilized. Although OSC statistics showed that the FOs were very successful in case handling, there was a strong perception, with supporting statements from employees, that the FOs were not getting their share of good cases. Moreover, cases forwarded to headquarters from the Dallas and San Francisco Field Offices were languishing without movement and little could be done to rectify the problem. If OSC was going to continue to deploy FOs, they needed to be equal members of the team and fully engaged in the mission of the agency.

⁴ 5 U.S.C. § 1214(b)(2)(C).

⁵ 5 U.S.C. § 1215.

Third, it was clear the IPD structure had been too rigid in its approach to the backlog of cases in other units within the agency. Other units within the agency have seen an explosion of claims in the past few years, the Disclosure Unit (DU), the Hatch Act Unit (HAU), and the Freedom of Information Act Unit (FOIA). OSC has had ever increasing backlogs, yet shifting resources to these units from the IPDs have been rare and were resisted due to a lack of support from the previous OSC Administration.

The IPD Strategy to Reduce the Backlog

I created four mechanisms that substantially reduced the PPP case backlog and will ensure this large backlog will not occur again.

First, we created a one IPD structure. Previously we had three IPDs but no one person was in charge. This led to inefficiencies and inconsistent policies and procedures. It is also troubling that no one person is charged with objectively determining what is best for OSC as it relates to the IPDs. Each division head became an advocate for their own unit. Their focus was on their unit and meeting the demands of that unit, not on the overall mission of OSC. This is likely why little was done to shift personnel to address backlogs in other units over the past several years (coupled with a lack of cross-training that is one of OSC's new initiatives).

Moreover, the three IPD structure has led to inconsistent internal procedures. The administrative staff is required to memorize and implement a wide variety of procedures on cases that have the same underlying allegations. Having inconsistent procedures also causes problems when professional staff is detailed to a different IPD. Different procedures can be beneficial when attempting to find the best practices; it's good to test out different methods. However, OSC has been in business long enough that we can settle on one case handling procedure. Rare exceptions may be granted to accommodate personnel staffing matters.

Part of the inconsistent practices of the IPDs has been the contradictory use of investigators. Some units emphasized the use of investigators and others did not. OSC must decide the proper role of the investigator. Previously, investigators and attorneys were placed together to work as teams. Cohesive units were created that had worked well in many cases.

Second, OSC is creating a new policy to either prosecute or resolve cases within two years of receipt. Many of the backlogged cases were found in the three IPDs. Numerous cases were gathering dust for over two years without any action. This is unjust and not consistent with OSC's mission of protecting the merit system. With this new policy, Federal workers will know the result of their complaint within two years of filing a case with OSC.

Third, the Agency FO's will be better integrated into OSC. The FO's had procedures and policies that work well in resolving the cases they receive, but were not being effectively used. As previously mentioned, cases that were in the field for several years were not moving forward. They languished under the rubric of inaction often due to a bottleneck of paperwork that they had

forwarded to headquarters for approval and also due to a lack of reasonable professional autonomy. Moreover, the field offices didn't have an effective advocate for their interests and were considered "second-class citizens".

The new system of powering down from Washington, DC, will provide better knowledge, clout and case management with OSC headquarters. Senior managers in the field can better resolve caseload management that has been a field concern.

The expanded use of FOs is in keeping with the team concept that was implemented in the last agency reorganization. This team concept and cohesive modular unit approach is retained and emphasized in this reorganization. In keeping with the field office concept, OSC opened a new field office in Detroit, MI on March 20, 2005. The Detroit Field Office will provide a presence in the upper Midwest to protect Federal workers and inform them of their legal rights.

Fourth, to provide more access to senior management for Agency investigators, OSC is creating a senior investigator position that will attend senior staff meetings. This will provide investigators with a "voice at the table". The senior investigator will be able to recommend procedural changes that can make OSC run more efficiently. In the past investigators had excellent ideas to streamline OSC cumbersome procedures but those recommendations went nowhere because they had no voice with senior management. Moreover, OSC investigators were not utilized efficiently. On many occasions OSC attorneys were both investigating and prosecuting cases, when investigations were clearly the responsibility of the investigator. OSC attorneys were wasting valuable time investigating cases when they should be resolving legal issues.

Hatch Act Unit

The Hatch Act prohibits federal employees, employees of the District of Columbia (D.C.) government, and some employees of state and local governments from engaging in certain types of political activity. Amendments enacted in 1993 permit most federal and D.C. employees to take an active part in partisan political management and in partisan political campaigns. Nevertheless, there continue to be important restrictions on the political activities of federal employees, including partisan candidacy, solicitation of political contributions, and political activity while on duty.

The Hatch Act Unit, is responsible for a nation-wide program that provides federal, state and local employees, as well as the public at large, with legal advice on the Hatch Act. Specifically, the Hatch Act Unit has the unique responsibility of providing Hatch Act information and legal advice to White House staff, Congressional staff, the national press, senior management officials throughout the federal government, and state and local government officials. The Hatch Act Unit provides all of OSC's advisory opinions, which enable individuals to determine whether they are covered by the Act, and whether their contemplated activities are permitted under the Act.

The Hatch Act Unit also enforces compliance with the Act by receiving complaints alleging Hatch Act violations, conducting preliminary inquiries into complaint allegations and, where warranted, further investigating allegations or referring the complaints to OSC's IPD section for further investigation. Depending on the severity of the violation, the Hatch Act Unit will either issue a warning letter to the employee, attempt to informally resolve the violation, prosecute the case before the MSPB or send it to an IPD to prosecute before the MSPB.

The volume of Hatch Act investigative matters and advisory requests have significantly increased during the last several years due to growing public awareness related to OSC's enforcement efforts and national press attention. In addition, the very nature of their work causes a wide variation of their file count. Every two years they will have a significant change in the number of claims. This causes problems when making decisions on permanent staffing. Staffing for the "high water mark" would mean down time during the off years. Alternatively, OSC could train reserve staff to work in the HAU during the peak years.

The HAU Backlog

The HAU was not being run efficiently or effectively. Its operating procedures bogged down case processing and contributed to the large number of backlogged cases. Moreover, there were not enough OSC employees to assist the HAU during their election year surges.

Table 2. Hatch Act Cases Case Inventories, Fiscal Year 2003 vs. Fiscal Year 2004

Fiscal Year	Beginning Inventory	Cases Received	Processed Cases	Ending Inventory
2003	260	196	201	255
2004	255	248	357	146

Table 2 shows that the Hatch Act Unit had an increase in caseload from FY 2003 because of a busy 2004 election season. Typically, the Hatch Act Unit receives about 14 complaints per month on average. In 2004, however, OSC received 43.5 complaints per month from August through October 2004, and received 48 in November 2004 alone. In addition, OSC issued 3,913 advisory opinions (in response to telephone, written and e-mail inquiries) in FY 2004 compared to 3,284 in FY 2003. In other words, the unit was still able to process nearly twice as many cases in that time frame while handling 600 more advisory opinions.

HAU Strategy to Reduce the Backlog

I used six mechanisms to reduce the HAU case backlog. First, we are creating a cadre of Hatch Act knowledgeable employee's on-standby to be used when the Hatch Act unit becomes overwhelmed with cases. Starting in March 2005, Hatch Act employees will be training other non-Hatch Act OSC employees on Hatch Act matters. Moreover, to make matters easier for this reserve Hatch Act employees, the Hatch Act is automating all of its advisory opinions and Hatch

Act advisory and log book procedure so that it can be used by other attorneys to do Hatch Act research. Thus, any increase in Hatch Act cases could be handled by this Hatch Act trained employees that will assist the unit during case surges.

Second, I have powered-down decision-making authority to the capable HAU attorneys. HAU attorneys can now sign their own letters and pleading on routine matters. Previously, either the HAU Chief or the Division Head signed all letters and pleadings generated by the unit, no matter how insignificant, which caused significant delays in each case.

Third, I streamlined its internal procedures on referring cases to the IPDs. The Hatch Act Unit now refers cases to the IPDs with one short memorandum. Previously, OSC guidance required three separate memoranda and four additional meetings whenever a HAU case is sent to the IPDs for investigation and prosecution. All of these meetings and memos were to be vetted by the HAU Chief. These meetings and memos caused several weeks delay in case processing.

Fourth, the HAU is creating an electronic filing form that can streamline needless processing time by requiring the complainant to answer specific questions on the form. Moreover, this will reduce return phone calls from HAU attorney and diminish the number of non-meritorious claims. Previously, the HAU had no electronic filing mechanism. The HAU attorney would have to call the complainants about information that was not in their correspondence. With this new electronic filing form, the HAU attorneys can receive all of their relevant information in one place without delay.

Finally, the HAU is indexing advisory opinions and log book entries so they will be available for legal research, by hard copy or on line. Previously, an OSC attorney needed individual recall of specific legal cases to use this research tool. In the future, with the emphasis on cross-training, lawyers outside the Hatch Act will need this resource during surges such as election years.

The Whistleblower Disclosure Unit

In addition to its investigative and prosecutorial mission, the OSC provides a safe channel through which federal employees, former federal employees, or applicants for federal employment may, under 5 U.S.C. § 1213(a), disclose information they reasonably believe evidences a violation of law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety.

The Disclosure Unit is responsible for reviewing the information submitted by whistleblowers, and advising the Special Counsel whether it shows that there is a substantial likelihood that the type of wrongdoing described in § 1213(a) has occurred or is occurring. Where a substantial likelihood determination is made, the Special Counsel must transmit the disclosure to the head of the relevant agency for further action. The agency is required to conduct an investigation and submit a report to OSC describing the results of the investigation and the steps taken in response to the investigative findings. Under § 1213(e), the whistleblower

is also provided with a copy of the report for comment. The Special Counsel is then required to review the report in order to determine whether it meets the requirements of the statute and its findings appear reasonable. Finally, the report is forwarded to the President and appropriate Congressional oversight committees.

The Disclosure Unit's caseload has been increasing due to growing public awareness of the Unit's work. In recent years, it has handled several high profile cases that have received widespread national press attention. In addition, after the terrorist attacks of September 11, 2001, more federal whistleblowers came to OSC with national security allegations and concerns. Many cases handled by the Disclosure Unit involve complex issues; some involve classified material and must be handled according to federal requirements.

The Disclosure Unit's more complex cases are very labor-intensive and often require the attention of more than one attorney. These cases can take more than a year to complete for a number of reasons—agencies routinely request additional time to conduct the investigation and write the report, whistleblowers request additional time to prepare their comments, and Disclosure Unit attorneys and the Special Counsel must review the report to determine whether it contains the information required by statute, its findings appear reasonable, and to prepare any comments the Special Counsel may have on the report. Finally, it is important to note that the backlog of cases in the Disclosure Unit further lengthens and delays this process.

The DU Backlog

This unit had severe backlog issues. At the end of FY 2003, DU had 690 cases in its inventory. With so many cases sitting in backlog, justice was not being given to Federal whistleblowers. Although a majority of these cases were slated for closure by my predecessor as lower priority cases as far as severity of potential harm, we nearly doubled the number of referrals in FY2004. Moreover, the Agency referrals increased from 14 in FY2003 to 26 in FY2004.

The DU Backlog Reduction

The DU case inventory was significantly reduced by the end of FY 2004, as demonstrated by the following table.

Table 3: Whistleblower Disclosure Case Inventories, Fiscal Years 2003 vs. 2004

Fiscal Year	Beginning Inventory	Cases Received	Total Caseload	Processed Cases	Ending Inventory
2003	556	535	1091	401	690
2004	690	572	1262	1154	108

Table 3 shows that OSC substantially reduced the DU backlog from 690 cases in FY 2003 to 108 in Fiscal Year 2004, an 85% reduction. Moreover, DU achieved this large backlog reduction while processed almost three times as many cases in FY 2004 as compared to Fiscal Year 2003. In addition, the FY 2004 ending inventory for DU was over 600% less than FY 2003, 108 cases vs. 690 cases.

Moreover, the Agency referrals (to Agency Head or IG) increased from 14 in FY 2003 to 26 in FY 2004.

The DU Backlog Reduction Strategy

I created four mechanisms that substantially reduced the whistleblower disclosure backlog and ensured that this large backlog will not occur again. First, DU is now using the correct definition of substantial likelihood. The primary procedural delay in processing DU cases stemmed from the legal standard previously used by the DU in defining “substantial likelihood.” The DU previously used the following standard:

Substantial likelihood is a determination that the allegation is reliable and credible and supported by evidence leading to the conclusion that a strong probability exists that the alleged governmental wrongdoing or misconduct occurred.

Theoretically this standard was similar to “preponderance of evidence.” However, in practice, DU was using a higher standard than “preponderance of evidence”, akin to a “clear and convincing evidence” standard. Using this higher evidentiary standard has two major disadvantages. First, it causes delays when DU members search for information to meet this high standard, which was not necessary. Second, being that the federal agencies which would eventually perform a full investigation after the OSC referral use “preponderance of evidence,” OSC was not referring cases that ultimately may be substantiated by the agency if the case had been referred.

Using such a high standard, in practice and in theory, seems to fly in the face of OSC’s clear statutory mandate. Congress did not give OSC the right to investigate these disclosures. Consequently, OSC will now use the following definition:

Substantial likelihood is the determination that the agency is more likely than not to find the allegation substantiated at the conclusion of its whistleblower disclosure investigation.

Second, we put in place the “3B” pilot project screening unit. The 3B cases are those that are not a substantial and specific danger to public but are still low priority disclosures. In other words, they are important disclosures but not as important as other disclosures such as airplanes falling out of the sky or an Army rocket system not working. We will be adding staff to the DU screening unit later this fiscal year. The goal of this “screening unit” within the DU will be to

resolve 3B cases as efficiently as possible, and free DU personnel to concentrate on the higher level cases as mentioned above.

Third, we created streamlined DU standardized operating procedures that will delay and power-down to DU employees the ability to resolve cases and make referral and closure recommendations. Previously, the DU employees had several layers of discussion and review before making any recommendations. Moreover, the DU's revised operating procedures will allow for a more efficient DU, concentrating on the most challenging cases and matters.

New OSC Entities Created That Will Reduce Future Backlogs

During my tenure, I created four new OSC entities that will help reduce future backlogs, the Special Projects Unit, the Training Office, the Document Control Branch, and the Customer Service Office. Each will play a major role helping OSC become more efficient and effective.

Special Projects Unit

The Special Projects Unit (SPU), created in April 2004, managed Agency resources directed at the OSC-backlog reduction efforts. It also provided invaluable assistance in tackling the oversight of the backlog. The SPU was the "fireman" of the Agency. SPU directed that the more experienced litigators in the Agency from the investigation and prosecution divisions review and make final determinations on cases. During 2004, when backlog reduction efforts needed a boost, SPU filled in and helped, with manpower and hard work. Because of SPU exemplary efforts in helping reduce the OSC case backlog, they now are the Agency's official watchdog on case backlogs. SPU is keeping a watchful eye on the total PPP and DU cases and ensure that OSC will resolve any large inventory of cases before they become backlogged.

Training Office

A new training office was created to better serve Federal employees. Previously, training of new employees is performed on an ad hoc basis and OSC had no office or personnel that were principally dedicated to training. OSC personnel learned as they performed the mission of the agency. OSC needs to take the time and spend the resources to train personnel before they are thrown into the business of the agency. Eventually it will serve the best interest of the employee and the agency.

Moreover, this lack of a training office contributed to the case backlogs. OSC employees could not assist other units because they did not know that particular area of law. Therefore, when case backlogs began piling up, OSC did not have a "bench" to assist during a crisis. OSC needs to create a culture of cross-training. Once cross-trained, OSC employees will be a ready reserve when other units within the agency develop backlogs.

Document Control Branch

I created a Document Control Branch (DCB) to facilitate and better track Agency records. Previously, records management was performed by a patch-work of OSC employees, but always being a second thought. The old system was not efficient and did not work well. Misplaced or lost files and mail contributed to PPP and DU case backlogs. The DCB must be independent of any of the operational units. This office has four basic functions: (1) intake of all mail, (2) data entry on all mail and new files, (3) distribution of all mail and completed new files and, (4) archive of all closed files.

The key to successful records management is to have personnel that can quickly identify all mail and the different cases handled by OSC and then place them on the proper distribution track. This will require on-going training by the operational units, through the Training Office to explain their needs.

Customer Service Office

To better serve the merit system and the federal workforce, I created a Customer Service Office (CSO). This office will relieve OSC operational personnel from the responsibility of dealing with the general public (which is actually a support function). The CEU will no longer be tasked with telephone duty known as officer of the week duties, a time consuming task that helped contribute to CEU's backlog of cases. OSC employees, however, are still responsible for responding to inquires on their own cases, but will not be tasked with answering general questions from the public. The CSO will take all calls and inquiries from individuals and organizations that do not have pending claims in this agency.

This will have a positive effect on the general reputation of OSC, benefit our customers and our operational units. Having specific personnel assigned for this purpose will help OSC gain a reputation of better customer service within the federal workforce and better serve that community. Our customers will gain by having OSC personnel that are solely dedicated to their needs. Finally, the CSO should be able to cut down on non-meritorious claims by giving realistic advice before a claim is filed. Thus, our operational personnel will be free to focus on claims that truly affect the merit system.

Conclusion

With streamlined OSC PPP and DU procedures, powering-down decisions to the attorneys and investigators and away from Washington, DC, creating a new Training Office, a Document Control Branch and a Customer Service Office. I am pleased that OSC was able to nearly eliminate three separate unit's backlog of cases in one year, while increasing justice for employees and giving cases a closer look. With the new internal policy and procedure changes explained above, I am confident that OSC is ready to tackle the challenges and eliminate future backlogs. We look forward to working with federal employees and Congress to continue this important mission.

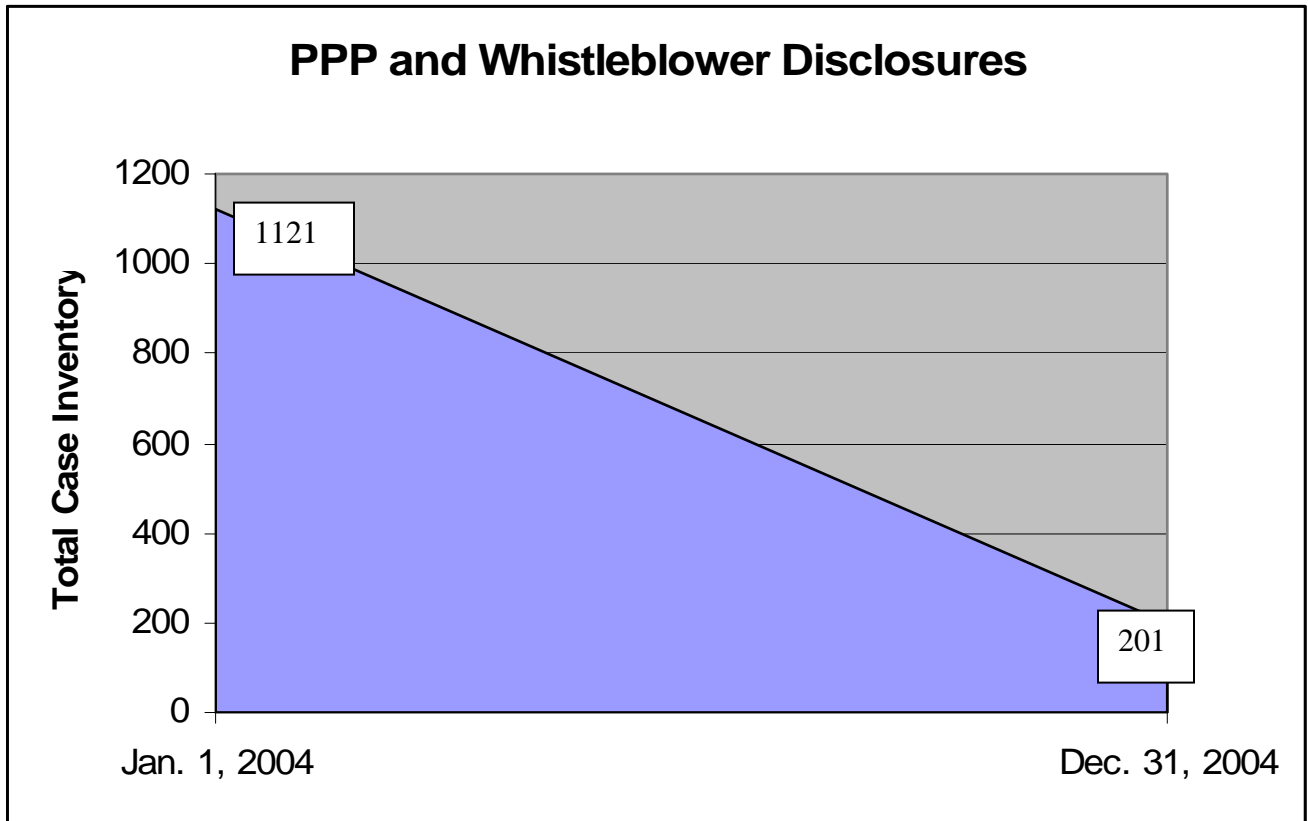
Sincerely,



Scott J. Bloch
Special Counsel

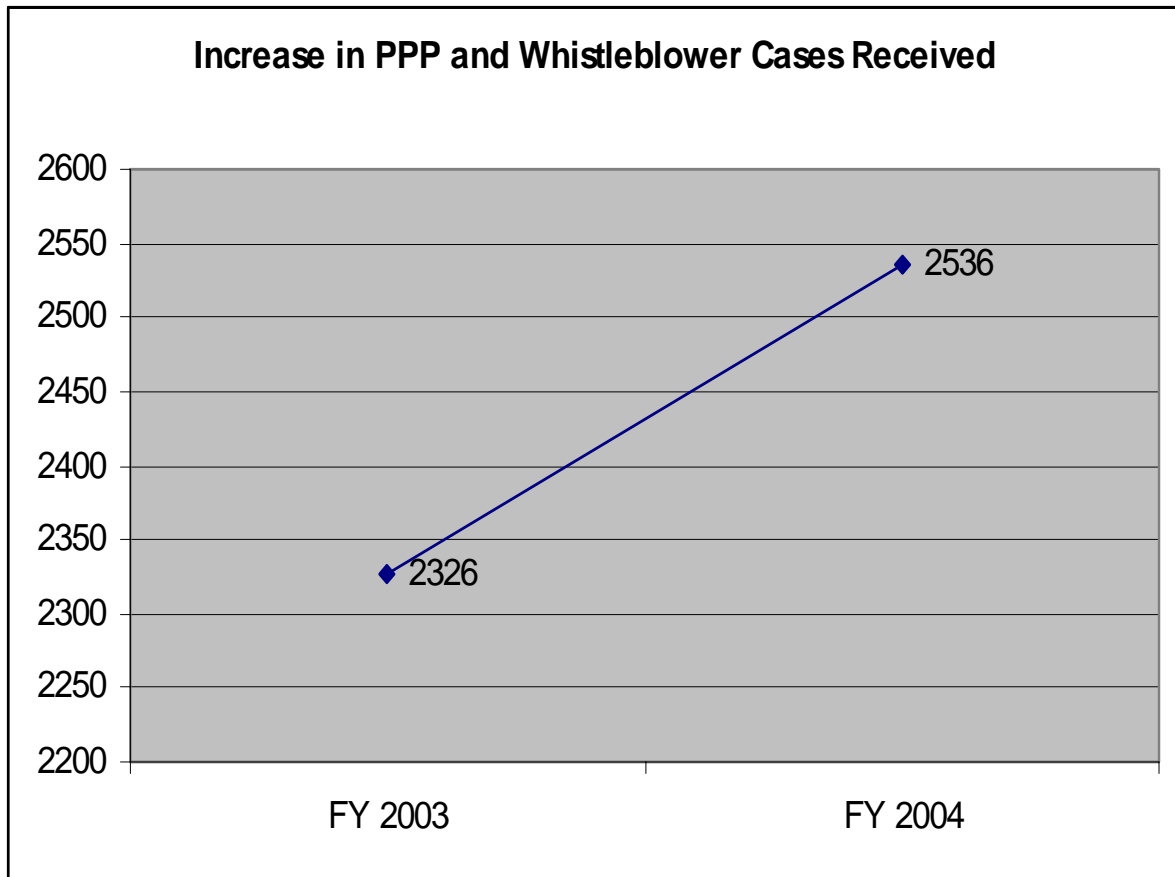
- Attachment A: PPP and Whistleblower Disclosure Backlog Case Chart
- Attachment B: PPP and Whistleblower Cases Received Chart
- Attachment C: PPP and Whistleblower Cases Pending Chart
- Attachment D: PPP and Whistleblower Cases Processed Chart

Attachment A: OSC Backlogged Cases in CY 2003 vs. CY 2004



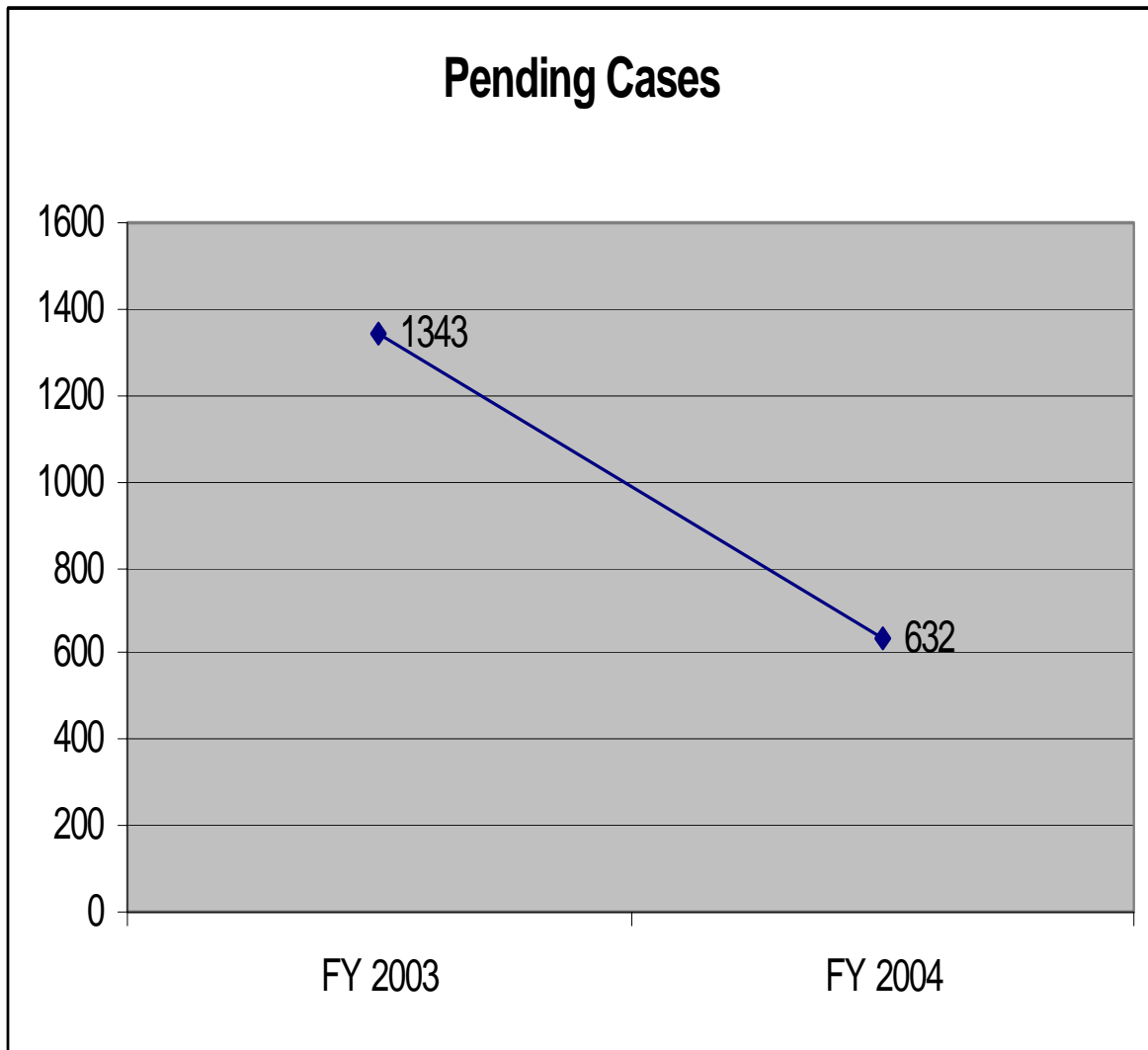
OSC has substantially reduced the backlogged prohibited personnel practice (PPP) cases in the Complaints Examining Unit from 447 to 119 cases. Additionally, OSC has reduced the number of whistleblower disclosure cases in backlog from 674 to 82. **Therefore, the overall case backlog reduction is 82% .**

Attachment B: Cases Received in FY 2003 vs. FY 2004



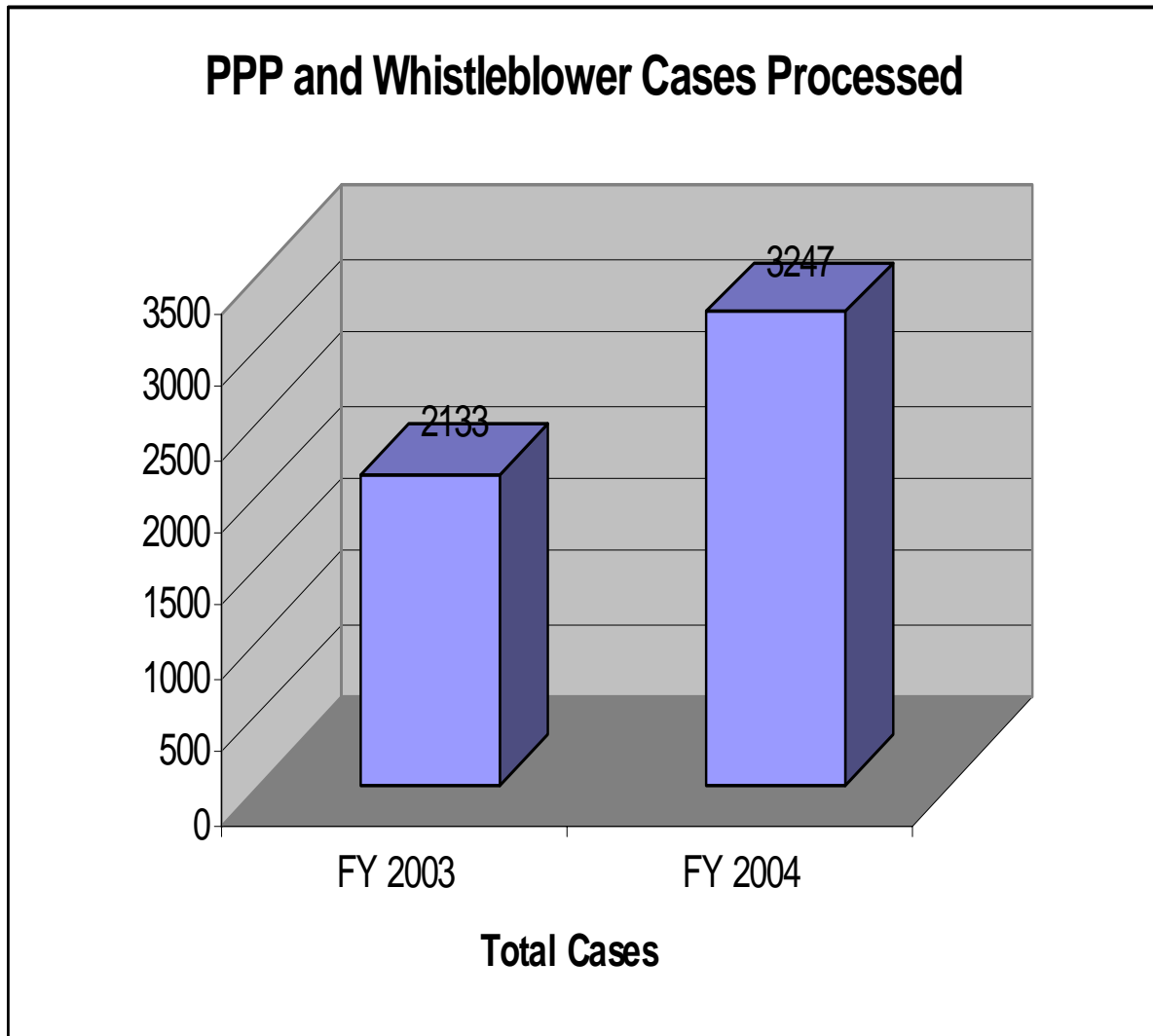
Our total number of PPP and Whistleblower Disclosure cases received increased from 2326 in FY 2003 to 2536 in FY 2004, an increase of almost 10%. Despite this increase, OSC substantially reduced the recurring case backlog.

Attachment C: PPP and Whistleblower Pending Cases FY 2003 vs. FY 2004



OSC has reduced the total number of pending PPP and Whistleblower Disclosure cases from 1343 in FY 2003 to 632 by the end of FY 2004, more **than a 50% reduction in pending cases.**

Attachment D: Total Cases Processed FY 2003 vs. FY 2004



OSC processed over 50% more PPP and whistleblower cases in FY 2004 than FY 2003.

