

# DoD Whistleblower Protection

## Appropriated Fund Civilians

### *“What You Need to Know”*



Department of Defense  
Inspector General



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DoD Whistleblower Protection Ombudsman

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# Message from the Whistleblower Protection Ombudsman (WPO)

*“The DoD’s ability to protect our warfighters and safeguard the taxpayer’s money depends on each of us. We rely heavily on our military members, civilian employees, and contractors to freely report issues of fraud, waste, and abuse without fear of retaliation. The following information is provided because **we all are potential whistleblowers** and should be aware of the relevant information pertaining to whistleblowing and the protections we are afforded.”*

-Patrick Gookin, DoD WPO

# Whistleblower Rights & Protection

## Background

- Congress wanted Federal employees to report, without fear of retaliation, if they witnessed or otherwise became aware of fraud, misconduct, or other wrongdoing by Federal officials, employees, contractors, or grantees.
- Congress initially addressed whistleblower rights and protections for Federal employees as part of the Civil Service Reform Act of 1978.
- These protections were updated and strengthened in the Whistleblower Protection Act of 1989 (WPA), which provides Federal employees with very specific rights and protections if they “blow the whistle” on waste, fraud, and abuse in the Federal government and personnel actions are taken against them for doing so.
- Executive Order 12674, as amended, *requires* Federal employees to, “disclose waste, fraud, abuse and corruption to appropriate authorities.”
- The Whistleblower Protection Enhancement Act of 2012 broadened the scope of some of these rights and protections, and included the Ombudsman position for most of the larger federal agencies including the Department of Defense.

# Whistleblower Rights & Protection Background

- The Whistleblower Ombudsman is required to educate agency employees about the prohibitions on retaliation for protected disclosures and rights and remedies against such retaliation.
- This role compliments the existing responsibility of the Secretary to ensure Department of Defense employees are informed of their whistleblower rights and remedies.
- Patrick Gookin, the Director of the DoD Hotline, was designated to serve as Whistleblower Protection Ombudsman for the Department of Defense.
- The Department of Defense Ombudsman may be contacted at –

**[whistleblowerprotectionombudsman@dodig.mil](mailto:whistleblowerprotectionombudsman@dodig.mil)**

# What This Training Covers

- Defining
  - Reprisal/Retaliation
  - Protected Disclosures
  - Personnel Actions
- How to file a Complaint
- Whom to contact if you don't know what to do
- References

# What is Reprisal/Retaliation?

**To demonstrate reprisal/retaliation, you must show:**

- that you made a protected disclosure
- a personnel action was taken, withdrawn, or threatened
- the responsible management official had actual or constructive knowledge of the protected disclosure prior to taking or withholding the personnel action
- knowledge of the protected disclosure was a contributing factor in the decision to take the personnel action

# What is a Protected Disclosure?

**A protected disclosure occurs when you report information you reasonably believe is evidence of:**

- any violation of law, rule, or regulation
- gross mismanagement
- gross waste of funds
- an abuse of authority
- a substantial and specific danger to public health or safety

*Provided the disclosure is not specifically prohibited by law*

# To Whom Can I Make a Protected Disclosure?

- a member of Congress
- an IG
- the Special Counsel
- a member of a DoD audit, inspection, or law enforcement organization
- any person in the chain of command
- any other person designated pursuant to regulations or other established administrative procedures to receive such communications



# Is Anything Else “Protected?”

**Yes, you may be considered engaging in a “protected activity” during the following:**

- exercising an appeal, complaint, or grievance right of any sort
- lawfully assisting another employee who is exercising the above rights
- cooperating with the Office of Special Counsel (OSC) or the Office of Inspector General (OIG), or
- refusing to obey an order that would require you to violate a law.

# Anything Else I Should Know about Protected Disclosures?

- A “protected disclosure” can also be made to a person who is in a position to take some action with respect to the disclosure.
- May be made to the alleged wrongdoer.
- Protected disclosures do **not** have to go through the chain of command
- A protected disclosure can reveal information that was previously disclosed.
- Protected disclosures may be made while off duty or during the employee's normal course of duties.

# What if My Protected Disclosure Involves Sensitive or Classified Information?

Information subject to specific non-disclosure statutes, orders, and agreements (for example trade secrets or national security and classified information) ***may only be made*** in accordance with law and regulations to be covered by Whistleblower protections and remedies.

Go to <http://www.dodig.mil/Hotline/classifiedcomplaint.html> for information on reporting classified disclosures to the DoD Hotline.

***Release of this type of information through unauthorized means or to unauthorized recipients is NOT a protected disclosure.***

# Do I Have to Provide My Name When Making a Protected Disclosure?

- No, you do not have to provide your name when making a protected disclosure. You may elect to be an anonymous or request your name not be released.
- If you choose to report the issues anonymously, be aware of the following:
  - Without being able to contact you for additional information, it may not be possible to investigate the allegations and the matter may be dismissed
  - If an investigation is conducted, it is always possible your identity will be ascertainable during an inquiry or investigation due to the nature of the allegations and/or other circumstances.
- If you provide your name but request it not be released, be aware there may be circumstances, usually related to litigation, when agencies are compelled to identify whistleblowers, or circumstances when identities must be disclosed for compelling reasons of health or safety.

# Personnel Actions

**The Whistleblower Protection Act covers the following personnel actions:**

- a promotion or appointment
- a disciplinary action
- a detail, transfer, reinstatement, or reassignment
- a performance evaluation
- education or training leading to promotion or appointment
- a decision concerning pay, benefits, or awards
- decision to order psychiatric testing
- implementation or enforcement of nondisclosure agreement
- any other significant change in duties, responsibilities, or working conditions

# You Have Rights and Remedies !

If you make a protected disclosure and believe you have been reprised/retaliated against because you made the disclosure, the Whistleblower Protection Act (WPA) and Whistleblower Protection Enhancement Act (WPEA) provide you with certain rights and remedies.

# Where Do I Report that I've been Reprised Against?

If you believe you were reprised against for making a protected disclosure, file a complaint with the:

1. Office of Special Counsel

or

2. Office of Inspector General

# Filing a Complaint: Office of Special Counsel (OSC)

The Office of Special Counsel (OSC) is an independent Federal agency specifically authorized to review allegations of fraud, waste, and abuse (FWA) and Whistleblower Reprisal made by Federal Employees.

- Submit a complaint at <https://www.osc.gov/oscefile>
- For allegations of Fraud, Waste, and Abuse, contact their “Disclosure Unit Hotline,” 800-572-2249 or 202-254-3640.
- For a reprisal allegation, contact their “Complaints Examining Unit Hotline,” 800-872-9855 or 202-254-3670.



# Filing a Complaint: IG Offices within the DoD

- **The most efficient means to report and resolve your complaint within the Inspector General (IG) system is by notifying your local or command IG office.**
  - They can be located via the following link:  
[http://www.dodig.mil/Hotline/helpful\\_links.html](http://www.dodig.mil/Hotline/helpful_links.html)

*All reprisal complaints receive DoDIG oversight regardless of where they are initially submitted.*

- **Secondarily, complaints may be submitted to the DoD Hotline using their on-line complaint form:**
  - [www.dodig.mil/hotline](http://www.dodig.mil/hotline) (Internet)
  - [www.dodig.smil.mil/hotline](http://www.dodig.smil.mil/hotline) (SIPRNet)
  - [www.dodig.ic.gov/hotline/index.html](http://www.dodig.ic.gov/hotline/index.html) (JWICS)
  - Phone: 1-800-424-9098 (Call prior to submitting complaints via SIPRNet or JWICS or to ask general questions regarding submitting a complaint.)

# What if I Don't Know What to do?

## Contact the DoD Whistleblower Ombudsman!

The Ombudsman's role is to facilitate the reporting of fraud, waste, and abuse by educating all agency employees about the prohibitions on retaliation for protected disclosures, and educate agency employees who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.

**The Ombudsman is prohibited from acting as an employee's or former employee's legal representative, agent, or advocate.**

Contact Patrick Gookin at [whistleblowerprotectionombudsman@dodig.mil](mailto:whistleblowerprotectionombudsman@dodig.mil)

# Whistleblower References

- [5 U.S.C. 2302 \(as amended by the Whistleblower Protection Enhancement Act of 2012\), Prohibited Personnel Practices \(Federal Civilian Whistleblower\)](#)
- [PPD 19, Protecting Whistleblowers With Access to Classified Information, \(10 Oct 12\)](#)
- [DTM 13-008, DoD Implementation of Presidential Policy Directive 19, \(8 Jul 13\)](#)
- The Whistleblower Protection Enhancement Act of 2012 summary, <http://beta.congress.gov/bill/112th-congress/senate-bill/743?q=whistleblow>
- Your Rights as a Federal Employee, [http://www.osc.gov/documents/pubs/osc/Your%20Rights%20as%20a%20Federal%20Employee%20\(revised%20April%202013\).htm](http://www.osc.gov/documents/pubs/osc/Your%20Rights%20as%20a%20Federal%20Employee%20(revised%20April%202013).htm)

# Be a Whistleblowing Hero....



**...do what's right and protect yourself.**