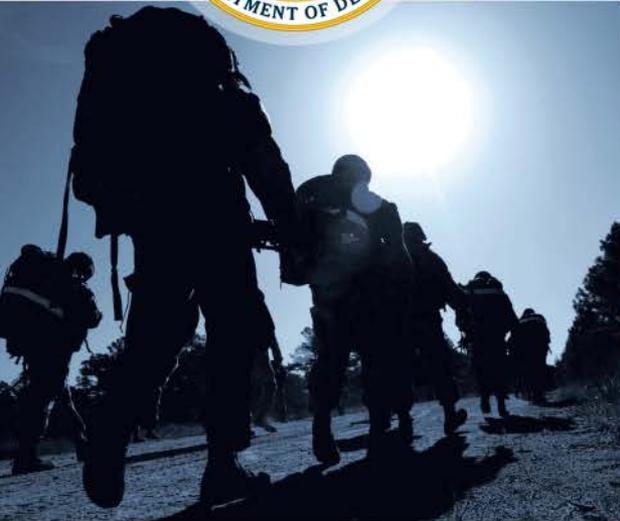




# INSPECTOR GENERAL

*U.S. Department of Defense*



PRESENTED BY: DOD WHISTLEBLOWER PROTECTION COORDINATOR

## **WHISTLEBLOWER REPRISAL**

**APPROPRIATED FUND EMPLOYEES**

**5 U.S.C. 2302**



**INSPECTOR GENERAL**

*U.S. Department of Defense*

PRESENTED BY: KENNETH M. SHARPLESS

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**WHISTLEBLOWER REPRISAL  
PROHIBITIONS, RIGHTS, RESPONSIBILITIES  
5 U.S.C. 2302**

# WHISTLEBLOWER PROTECTION COORDINATOR

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*“The DoD’s ability to protect our warfighters and safeguard the taxpayers’ 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. We all are potential whistleblowers and we should be aware of the protections afforded to us under the applicable statutes. It is a responsibility we can’t afford to dismiss!”*

Ken Sharpless, DoD WPC



# WHISTLEBLOWER RIGHTS & PROTECTIONS

## BACKGROUND

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- 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. In June 2018, under the Whistleblower Protection Coordination Act, the Ombudsman position was renamed the Whistleblower Protection Coordinator.



# WHISTLEBLOWER RIGHTS & PROTECTIONS

## BACKGROUND

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- The Whistleblower Protection Coordinator is required to educate agency employees about the prohibitions on retaliation for protected disclosures and rights and remedies against such retaliation, including filing complaints with the U.S. Office of Special Counsel.
- This role compliments the existing responsibility of the Secretary to ensure Department of Defense employees are informed of their whistleblower rights and remedies.
- Kenneth Sharpless was designated to serve as the Whistleblower Protection Coordinator for the Department of Defense.
- You may contact the DoD Whistleblower Protection Coordinator at:

[Whistleblowerprotectioncoordinator@dodig.mil](mailto:Whistleblowerprotectioncoordinator@dodig.mil)



# COVERED TOPICS

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



# Retaliation for Whistleblowing or Engaging in Protected Activity?

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The following four elements must be met in retaliation cases (preponderance of evidence), known as a prima facie case:

- A reasonable belief that the employee has made a protected disclosure of information under 5 U.S.C 2302 (b)(8) or protected activity under 5 U.S.C. 2302 (b) (9)
- A personnel action taken, withheld, or threatened
- The responsible management official had actual or constructive knowledge of the protected disclosure prior to the decision to take, withhold, or threaten a personnel action, and
- The protected disclosure was a contributing factor in the decision to take, withhold, or threaten the personnel action



# WHAT IS A PROTECTED DISCLOSURE

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A protected disclosure means a disclosure of information by current federal employee, former federal employee, or an applicant for federal employment who holds a reasonable belief they are revealing information in one of the following categories:

- 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
- Censorship related to scientific research if censorship meets one of the above listed categories

\*\*Provided the disclosure is not specifically prohibited by law



# TO WHOM CAN I MAKE A PROTECTED DISCLOSURE

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ANYONE



# WHAT IF MY PROTECTED DISCLOSURE INVOLVES SENSITIVE OR CLASSIFIED MATERIAL

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- Disclosure of information subject to specific non-disclosure statutes, orders, and agreements (for example trade secrets or classified information) may only be made in accordance with law and regulations in order for such disclosures 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 sensitive or classified information to unauthorized recipients or through unauthorized means is not a protected disclosure.



# PROTECTED DISCLOSURES AND ANONYMITY

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- You don't have to provide your name when making a protected disclosure. You can elect to remain anonymous or request that your name not to be released.
- If you remain anonymous, you cannot be contacted for additional information; it may not be possible to investigate your allegations, resulting in dismissal.
- If an investigation is conducted, it is always possible that your identity will become known during an inquiry or investigation due to the nature of the allegations 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 reasons of health or safety.



# PERSONNEL ACTIONS

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The Whistleblower Protection Act covers the following personnel actions:

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



# WHISTLEBLOWER RIGHTS AND REMEDIES

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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 TO REPORT ALLEGATIONS OF REPRISAL

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If you believe you have been reprimanded against for making a protected disclosure, file a complaint with the:

- Office of Special Counsel
- and/or
- Office of Inspector General



# OFFICE OF SPECIAL COUNSEL

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- The Office of Special Counsel (OSC) is an independent Federal agency specifically authorized to review allegations of government wrongdoing and investigate allegations of Whistleblower retaliation as well as other prohibited personnel practices under Title 5 U.S.C. 2302 (b).
- Submit a complaint at: <https://www.osc.gov/oscefile>
- For allegations of Government Wrongdoing, contact OSC's "Disclosure Unit Hotline," 800-872-9855, 202-804-7000, or [info@osc.gov](mailto:info@osc.gov)
- For allegations of Whistleblower retaliation or any of the 14 prohibited personnel practices, contact OSC's "Case Review Division," 800-872-9855, 202-804-7000, or [info@osc.gov](mailto:info@osc.gov)



# FILING A COMPLAINT WITHIN THE DOD

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- Report and resolve your complaint within the Inspector General (IG) system by notifying your local or command IG office.
- All reprisal complaints receive DoD IG oversight regardless of where they are initially submitted.
- Secondary complaints may be submitted to the DoD Hotline using the on-line complaint form:
  - [\(Internet\) www.dodig.mil/hotline](http://www.dodig.mil/hotline)
  - [\(SIPRNET \)www.dodig.smil.mil/hotline](http://www.dodig.smil.mil/hotline)
  - [\(JWICS\) www.dodig.ic.gov/hotline/index.html](http://www.dodig.ic.gov/hotline/index.html) \*\*\*does not work on unclassified systems
- For classified complaints, 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

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- Contact the Whistleblower Protection Coordinator.
- The Coordinator's role is to educate 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 to facilitate the reporting of fraud, waste, abuse.
- The Coordinator is prohibited from acting as an employee's or former employee's legal representative, agent, or advocate.

Contact Ken Sharpless at [whistleblowerprotectioncoordinator@dodig.mil](mailto:whistleblowerprotectioncoordinator@dodig.mil).



# WHISTLEBLOWER REFERENCES

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The following references for each statute covers whistleblower protections for:

- Military members,
- Appropriated Fund and Non-Appropriated Fund Employees,
- Defense Contractors, Subcontractors, Grantees, Sub Grantees
- Intelligence Community Employees and Access to Classified Information

Can be found by clicking this link: <http://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/>



# We Have Been Given a Responsibility

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**...do what's right**

