

## WHISTLEBLOWER PROTECTION AND SCIENTIFIC INTEGRITY PODCAST TRANSCRIPT

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Lori Hoffman: I'm Lori Hoffman with the U.S. Environmental Protection Agency's Office of Inspector General, which around here we refer to as the OIG. Thank you for tuning in to our podcast on whistleblower protection and the OIG's roles in protecting scientific integrity and investigating research misconduct. I'm joined by Lori Ruk, an attorney in our office, who also serves as the OIG's Whistleblower Protection Coordinator. And yes, you did hear that correctly! You'll be hearing from two Loris during this podcast. Welcome, Lori.

Lori Ruk: Thank you. I'm glad to be here.

Lori H.: To get started, can you tell us about your role as the OIG Whistleblower Protection Coordinator? What are your responsibilities?

Lori R.: As background, the Inspector General Act requires that each inspector general designate someone in the office to serve as the Whistleblower Protection Coordinator.

The role of the whistleblower protection coordinator is to educate agency employees about prohibitions against retaliation for whistleblowing as well as employees' rights and remedies if they experience retaliation for making a protected disclosure.

Lori H.: Lori, do whistleblower protection coordinators provide legal advice to employees?

Lori R.: No, the law prohibits whistleblower protection coordinators from acting as legal representatives, agents, or advocates of an employee. So even though I happen to be a lawyer, as you pointed out a moment ago, in my role as whistleblower protection coordinator I can only provide information.

Lori H.: Now that we have a better understanding of what a whistleblower protection coordinator does, let's take a step back and talk a bit about whistleblowers. What kind of an impact do they have and why are they important?

Lori R.: Lori, whistleblowers play a vital part in keeping our government honest, efficient, and accountable. In fact, whistleblowers save lives and can also save taxpayers billions of dollars. Because of

these realities, federal laws strongly encourage employees to disclose wrongdoing when they become aware of it.

Speaking for this OIG, I'll add that whistleblowers who come forward and report evidence of wrongdoing play an essential role in helping us meet our mission of preventing and detecting waste, fraud, and abuse here at the EPA.

Lori H.: You mentioned rights and remedies. Who is protected by federal whistleblower statutes?

Lori R.: Whistleblower statutes protect federal employees, both civilian and military, applicants for federal employment, and employees of federal contractors and subcontractors, along with federal grantees and subgrantees, and personal services contractors.

Lori H.: How do federal laws protect whistleblowers?

Lori R.: Federal laws make it illegal to retaliate against these individuals who come forward with protected disclosures. This means that it is unlawful for supervisors to take, threaten to take, or fail to take a personnel action because an employee made a protected disclosure. A few examples of personnel actions are disciplinary and corrective actions; a poor performance review; decisions regarding pay, awards, or benefits; and any other significant change in duties, responsibilities or working conditions.

Lori H.: Do these laws also define what is considered to be a protected disclosure?

Lori R.: Yes, they do. Protected whistleblowing is defined as disclosing information that the individual reasonably believes is evidence of wrongdoing in one of the following six categories: first, any violation of a law, rule, or regulation; second, gross mismanagement; third, gross waste of funds; fourth, an abuse of authority; fifth, a substantial and specific danger to public health or safety; and, sixth, censorship related to scientific research if censorship meets one of the earlier referenced categories.

Lori H.: The last category touches on an issue that has been getting a tremendous amount of attention lately – scientific integrity. Why is it specific on censorship related to scientific research?

Lori R.: Congress recognized the importance of receiving accurate data and findings from federal researchers and analysts in order to inform lawmaking and public policy decisions. According to the legislative history of the Act, the goal of clarifying the status of scientific censorship as a protected

disclosure was to encourage the reporting of improper censorship. The Whistleblower Protection Enhancement Act of 2012 defines censorship as “any effort to distort, misrepresent, or suppress research, analysis, or technical information.”

Lori H.: If a whistleblower believes that there has been wrongdoing in one of the categories you listed, does that person need to provide certain proof in order to make a protected disclosure?

Lori R.: Actually, the standard for a protected disclosure is reasonable belief, meaning that the employee must reasonably believe that the wrongdoing being reported has or will occur. The employee does not need to prove the violation.

Lori H.: Let’s say that an employee decides to make such a disclosure. Are there specific people or offices that the employee should contact?

Lori R.: Federal employees have numerous options for disclosing wrongdoing, including, but not limited to, their supervisor or someone higher up in management, their agency’s inspector general, the U.S. Office of Special Counsel, or even Congress.

Lori H.: How would an employee make a disclosure to the EPA OIG?

Lori R.: Employees should contact the OIG Hotline by email at [oig-UNDERSCORE-hotline@epa-DOT-gov](mailto:oig-UNDERSCORE-hotline@epa-DOT-gov) or toll-free at 888-546-8740. Additional contact information can be found at the OIG’s website at [epa-DOT-gov-FORWARD SLASH-oig](http://epa-DOT-gov-FORWARD SLASH-oig).

Lori H.: I imagine that potential whistleblowers may be worried that their identity will not be kept confidential if they make a report to the OIG. Is this a warranted concern?

Lori R.: It’s important that employees considering making a disclosure know that the Inspector General Act prohibits any OIG from disclosing the identity of the employee without the employee’s consent unless the inspector general determines such disclosure is unavoidable during the course of an investigation.

And I should add that employees who contact us for information about whistleblower protections are also provided confidentiality.

Lori H.: What happens if an employee believes that they have been retaliated against for making a protected disclosure? Are there ways to report this conduct?

Lori R.: Yes. If they believe they have been retaliated against, they can make a report to the OIG or the U.S. Office of Special Counsel. If the OIG identifies evidence to support a finding of retaliation, a report of investigation will be prepared and issued to appropriate EPA management officials for action.

Additionally, the IG Act requires the inspector general to disclose any instance of whistleblower retaliation in its Semiannual Report to Congress with a detailed description of what occurred, information about the official found to have engaged in retaliation, and what, if any, consequences were imposed on the official to hold that individual accountable for retaliation.

Lori H.: You mentioned the Office of Special Counsel, often referred to as the OSC, a couple of times. What is the OSC and how does that agency fit into the whistleblower protection process?

Lori R.: The U.S. Office of Special Counsel is an independent agency that investigates and prosecutes allegations of prohibited personnel practices, including whistleblower retaliation, by federal employees.

Lori H.: Thank you, Lori, for your great overview of the whistleblower protection coordinator role and whistleblower protections.

I'd like to revisit a topic that came up earlier in our conversation – scientific integrity. There has been a great deal of discussion of late regarding scientific integrity, and the related issue of research misconduct. What exactly is research misconduct?

Lori R.: Research misconduct is the fabrication, falsification, or plagiarism in proposing, performing or reviewing research, or in reporting research results, or ordering, advising or suggesting that subordinates engage in research misconduct.

Examples of research misconduct include manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. Research misconduct must meet three criteria: first, there must be a significant departure from accepted practices of the relevant research community; second, the misconduct must be created intentionally, knowingly, or recklessly; and third, the allegation must be proven by a preponderance of the evidence.

Lori H.: What role does the OIG have in protecting the EPA's scientific integrity?

Lori R.: The OIG has a critical role in protecting the agency's scientific integrity. As an independent office, individuals can submit allegations of mismanagement, misconduct, abuse of authority, or censorship, including those relating to scientific or research misconduct, without fear of improper influence. Through its statutory mandate, the OIG can investigate these allegations for potential criminal activity or misconduct. In addition, the OIG can initiate audits and evaluations that result in recommendations to correct the root causes of systemic scientific integrity issues.

Lori H.: Is there a way for someone to determine when they should alert the OIG to suspected research misconduct?

Lori R.: EPA mandates that its own employees promptly report indications of wrongdoing to the OIG. Further, according to EPA Order 3120.5, anyone who suspects research misconduct must immediately notify our hotline when allegations involve any of the following situations:

1. Public health or safety is at risk
2. Agency resources or interests are threatened
3. There are circumstances under which research activities should be suspended
4. There is a reasonable indication of possible violations of civil or criminal law
5. Federal action is required to protect the interests of those involved in the investigation
6. The research entity believes that the inquiry or investigation may be made public prematurely. In such a case, promptly reporting misconduct ensures that appropriate steps can be taken to safeguard evidence and protect the rights of those involved.
7. Lastly, misconduct should be reported to the OIG hotline when there are other circumstances about which the research community or public should be informed.

And if someone is unsure whether there has been research misconduct, we certainly recommend reporting it to the OIG so that our personnel can make a determination.

Lori H.: As we wrap up our conversation, Lori, can you share the best ways for EPA employees to reach out if they have questions regarding whistleblower protections?

Lori R.: Absolutely. The whistleblower protection coordinator program can be reached by email at [whistleblower-UNDERScore-protection@epa-DOT-gov](mailto:whistleblower-UNDERScore-protection@epa-dot-gov) and by phone at (202) 566-1513. And more information can be found on the OIG's website. On the home page, click the link labeled "whistleblower protection."

Lori H.: Thank you, Lori, for joining me today to educate our listeners on whistleblower protection and scientific integrity. For our listeners, anyone who suspects waste, fraud, or abuse in EPA programs or operations should contact the OIG hotline. The hotline can be reached toll-free at 888-546-8740 or by email at [oig-UNDERScore-hotline@epa-dot-gov](mailto:oig-UNDERScore-hotline@epa-dot-gov).

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