HOW TO PARTNER WITH WHISTLEBLOWERS ON OVERSIGHT

OVERVIEW
Congress relies on whistleblowers to fulfill its oversight responsibilities pursuant to Article I of the Constitution. At the same time, individuals take significant risks when they report waste, fraud, and abuse. This guidance document identifies advanced questions and strategies, organized by topic, to support Congress’ partnerships with oversight sources. Each section includes additional resources and historical case studies. Note some resources are only accessible to the House of Representatives.


MANAGING EXPECTATIONS AND SUPPORTIVE RESOURCES

Additional Resources
- Guiding Phrases for Working with Whistleblowers (HouseNet)
- Whistleblower Audience Webpage
- Sector-Specific Whistleblower Fact Sheets
- Whistleblower Support Organizations and Legal Resources

How do we set the stage for a constructive partnership?
When you decide to partner with a whistleblower on oversight, mutual trust is paramount to establishing an effective working relationship. Set the stage by providing key disclaimers, sharing limitations, and identifying guiding resources (e.g., Survival Tips, Whistleblower Support Organizations). This approach will help to manage expectations while encouraging the whistleblower to take precautions on their end.

Identifying and respecting one another’s terms (e.g., the source’s desired level of confidentiality, your office’s availability) is key to assessing whether you will be viable partners for achieving your mutual goals.

What do we do if the individual requests “whistleblower status”?
If an individual requests “whistleblower status” it is important to manage expectations by clarifying that Congress cannot grant an individual formal whistleblower status or provide legal advice. You may choose to use other applicable labels — such as identifying the source as a cooperating witness in an investigation or hearing. Further, in coordination with the source, you may choose to identify them conceptually as a “whistleblower” in a related oversight letter or hearing, for instance. However, their obtaining protected whistleblower status is a legal determination beyond your office’s control. That said, you can help them understand their rights by directing them to the relevant whistleblower law(s).
What laws protect whistleblower communications with Congress?

Nearly all federal whistleblower laws for the public and private sectors protect certain communications with Congress as well as certain conduct (e.g., testifying, cooperating in an investigation) and prohibit certain retaliation. The First Amendment established the right for public employees to communicate with Congress in their private capacities, and the Lloyd-La Follette Act and Whistleblower Protection Act further enshrined that right for federal employees. Every U.S. government and contractor nondisclosure policy, form, or agreement must notify employees of their right to whistleblower protections and congressional communications. However, individuals still take significant risks when they report misconduct. It is important that they consult an experienced whistleblower attorney to help them determine their legal strategy and ideally facilitate communications with your office.

When is it appropriate to involve the whistleblower’s attorney?

Early in your working relationship, determine if the whistleblower is represented by counsel. If not, recommend that they consult an experienced whistleblower attorney and/or whistleblower support organization. If they have representation, recommend that the attorney participate in your communications with the whistleblower. An experienced attorney can help the source to navigate the difficult road ahead and reinforce their ability to work safely and effectively with your office. For instance, they can help provide a buffer and reinforce confidentiality by sharing evidence on behalf of their client. Your office’s communications with a whistleblower’s attorney can help protect the whistleblower’s confidentiality through the attorney-client privilege. Conversely, communications through your office’s counsel with the whistleblower will likely not be privileged, because your office is not representing the whistleblower. If you are still in the vetting stage, the whistleblower’s counsel should be willing to share their assessment of the issues and merits of the disclosure to assist you with verifying the allegations.

Example in Practice

Some congressional offices set the stage for a constructive partnership with a whistleblower by focusing disclosures to a central intake portal (e.g., a webform) and providing the whistleblower with transparency about their process prior to accepting the disclosure itself. By helping whistleblowers find the appropriate place to make their disclosure, giving them insight into your office’s process and priorities, and by suggesting relevant guiding resources, a well-designed webform may be a valuable first step in advancing your oversight goals efficiently. A template intake webform is available on the Office of the Whistleblower Ombud’s HouseNet page, and House Web Services can support your building such a portal.

VERIFYING DISCLOSURES

Additional Resources

- Model Intake Form (HouseNet)
- Whistleblower Case Management Intake Workflow
- Safely Vetting a Whistleblower Disclosure (Webinar)

How do we determine if an individual is who they claim to be versus an imposter?

When working with whistleblowers, the need to exercise caution can extend to something as basic as having a screening process in place for related inquiries to the office. There have been incidents where the retaliator has tried to pose as the source to glean information about their communications with Congress — or pose as an anonymous colleague and make false allegations against the whistleblower to discredit them. As a preventative measure, do not confirm or deny work on a case without advance coordination with the source. With any allegation you
are considering acting on, whether from the pioneer whistleblower or someone who is making allegations against them, it is important to move forward as an objective factfinder.

**How do we determine if an individual’s allegations have merit?**

Vetting an individual’s allegations is relevant to the extent your office wants to investigate the matter. In those situations, it is important to assess the source’s credibility before you back them and rely on their disclosures in your oversight — because your office’s credibility is also on the line. If it is necessary to reference their disclosure during the vetting stage, use qualifying terms (e.g., “My office is looking into concerning allegations that...”). Alternatively, you may be able to cite publicly-available information as the catalyst for your interest (e.g., “I am disturbed by recent media reports that...”). To mitigate risk for all involved parties, first make a plan with the source and, when possible, their attorney, for how to safely proceed. They are the experts in the issues they are bringing to your attention, and they are also the experts in what unique information could identify them. Provide them with assignments (e.g., ask for a timeline and summary of key events, other witnesses, a roadmap for your document request, their review of your draft follow-up for PII) to help your office verify their disclosures, and coordinate closely with them before acting on their information. The stakes may be high for your office, but the source must live with the potentially life-changing consequences of challenging the abuses.

**What do we do if a source will not (or cannot) assist with our efforts to vet their allegations?**

The individual’s willingness to roll up their sleeves during the vetting process is a useful approach to screening for viable partnerships. For instance, do they respect your time constraints and follow through on assignments? That said, keep in mind that if they struggle with these tasks, it does not necessarily mean their disclosure lacks veracity. Many whistleblowers have been traumatized by psychological and even physical retaliation, and it may be difficult for them to open up or provide a chronological account of events. Try to understand their limitations — are they facing threats and afraid to engage further, or do they lack evidence to corroborate their concerns? Earned trust takes time and work. Set the stage by sharing your office’s confidentiality practices and establish the circumstances under which they (and you) would be comfortable communicating. Exercise patience and compassion, and practice structured active listening to obtain the key facts. At the same time, there may be circumstances where you cannot coordinate further with the source (e.g., they cut off communications, you receive an anonymous tip). Still exercise caution when acting on their information since their unique knowledge could identify them. Consider engaging in broader oversight, which may attract additional sources and evidence that can independently verify the initial allegations and potentially unbury the larger iceberg.

**How do we ensure that our oversight process remains impartial and objective?**

It is important to maintain objectivity when partnering with whistleblowers throughout the oversight process. As your source opens up, you may learn their motive for reporting the misconduct is less than altruistic (however, keep in mind “motive” is not a disqualifying factor under the law). Conversely, the individual’s goals may align with your office’s, and you may develop an immediate rapport. While instinct is informative, do not take anything at face value during the investigatory process. For instance, your well-intentioned source may not have the full picture, or they may be too close to the issue to maintain a healthy level of objectivity and make a mistaken assumption that, if relied upon, could undermine their credibility and your oversight.
Think of the whistleblower as a guide, but independently verify their allegations when warranted (e.g., the whistleblower lacks evidence). These have the potential to be some of your most impactful and rewarding working relationships, but remaining diligent in your fact checking and respectfully playing devil’s advocate will better prepare your office and the source. The entities being accused of misconduct will be relentless in their efforts to discredit the messenger. Keep in mind, it is far more difficult to discredit multiple witnesses, or confidential sources for that matter.

What are the best practices for meeting with multiple sources in a group setting?

Periodically, whistleblowers may request to meet as a group of two or more sources. Group coordination has the potential to benefit all parties. It can conserve your office’s time and strengthen your oversight record. It can also provide the sources with greater confidence to share, by working in solidarity with their peers to challenge wrongdoing. As a best practice, consider identifying one source to serve as the team lead. It may be your pioneer whistleblower who is ready to identify corroborating witnesses. That individual can coordinate with their peers directly to join the meeting, which can help prevent a potential misstep by your office (e.g., including someone who may not be trusted by the larger group), and engage in advance group prep (e.g., identifying the best leads for different portions of the intake interview). Depending on the meeting size, they may also serve as the primary spokesperson or facilitator. To the extent the group shares legal representation, the attorney could also play that role.

During the group meeting, incorporate the intake best practices and ground rules to set the stage for getting the bigger picture of the misconduct and beginning to build trust. It may serve as the catalyst for individual follow-up meetings.

Case Study

In 2016 two whistleblowers from the U.S. Department of Agriculture (USDA) testified in a bipartisan oversight hearing on systemic sexual harassment and discrimination against women within the U.S. Forest Service that had been taking place for decades. They shared the experiences of numerous colleagues that corroborated their disclosures, some of whom chose to remain anonymous due to potential retribution. In the hearing record the Committee included a letter from the Office of Special Counsel that largely substantiated the whistleblowers’ allegations. It read, in part, that the agency’s civil rights office “has been seriously mismanaged, thereby compromising the civil rights of USDA employees.” Committee leadership further contacted USDA leadership to inquire about corrective action, which it deemed inadequate.

MAINTAINING CONFIDENTIALITY

Additional Resources

- Sample Whistleblower Confidentiality Policy (HouseNet)
- Developing a Whistleblower Confidentiality Policy (Webinar)
- Maintaining Whistleblower Confidentiality: Quick Tips (Webinar)
- Sample Consent to Publicly Disclose (HouseNet)

What are the requirements for maintaining whistleblower confidentiality?

The House Code of Official Conduct (Clause 21) prohibits Members of Congress and staff from publicly disclosing the identity of, or personally identifiable information about, a protected whistleblower. Exceptions exist, such as if the individual provides their advance written consent or has already voluntarily publicly identified themselves, or if a committee votes by two-thirds that the disclosure is
in the public interest. The Clause also dictates that it does not prevent an investigation of the alleged wrongdoing or public disclosure of substantive information that does not identify the whistleblower. Note that the requirements do not extend to private (non-public) third-party communications, as explored under “Coordination with Other Entities.”

As a best practice, inform the whistleblower of your office’s confidentiality practices and do your best to maintain their desired level of confidentiality. However, be careful not to provide an assurance of confidentiality. Some factors, such as surveillance, are beyond your office’s control. If the source’s confidentiality may be breached, when possible, provide advance warning so that they can take precautions (e.g., securing evidence, documenting retaliation).

What technology should we use for secure communications with whistleblowers?

There are no foolproof methods to ensure a whistleblower’s confidentiality, and in some circumstances in-person meetings in a secure location may be the safest option for the source. However, it is difficult to bypass the use of technology altogether. Information security best practices can help mitigate the risk of a source being exposed and protect the integrity of your office’s oversight work. When electronic communications are necessary, it is advisable for the source and your office to use end-to-end encryption. House-approved applications, such as Signal and Wickr, can be used for text messages, phone calls, and document sharing. When larger volumes of information are being shared electronically, you may opt for a more user-friendly House-approved file sharing application (e.g., Dropbox).

To protect your respective communications, in most circumstances the source should use their non-work resources and accounts (i.e., while off the clock from personal devices and email) to share information with your office (the exception may be classified information, which requires secure government channels), whereas you should use your official House devices and House-contracted accounts to track, receive and store the whistleblower’s information.

How do we protect whistleblower communications under the Speech or Debate Clause?

Communications are generally protected by the Speech or Debate Clause insofar as they involve a legislative act (activities related to legislation or legislative fact findings, including investigations and oversight). If a congressional office is subpoenaed, the communications are privileged insofar as they are protected by the Speech or Debate Clause — regardless of whether they are digital or physical records. However, if an office is engaging in a representational act without a legislative nexus, the Speech or Debate Clause is not applicable (e.g., a district office’s traditional casework). Even where privileged, it is important to use official House equipment and House-contracted accounts for whistleblower-related communications and documentation. For example, rather than retrieving the evidence from the whistleblower’s Dropbox account, send the whistleblower a link to share the evidence directly into your House Dropbox account. By using House-contacted accounts, the House Office of General Counsel will be notified of any subpoenas and can initiate a related defense. Conversely, if a staff member uses a free or non-official document sharing subscription, there is no notice provision and the third-party will likely produce the records of the communications between you and the whistleblower.

Case Study

Confidential whistleblowers have been the lifeline to bipartisan congressional oversight that has changed the course of history — from the Watergate Committee in the early 1970’s, to regulating corporate America in the wake of accounting scandals in the early 2000’s. Take for example the Vice President of Internal Audit at WorldCom. She worked behind the scenes with colleagues to document the company’s
unprecedented accounting fraud. Although she ultimately testified before Congress in a public capacity, by initially working in secret she was able to maintain access to key evidence and build a record that would inform Congress’ landmark corporate accountability reform — the Sarbanes-Oxley Act.

ADDRESSING RETALIATION

Additional Resources
- Holding Retaliation Accountable
- Whistleblower Retaliation Deep Dive (Webinar)
- Sample Letter to Employer (HouseNet)
- Referral Tip Sheet (HouseNet)
- Follow-Up Checklist (HouseNet)

What should we do if a source is concerned about the possibility of retaliation?

The strategies discussed throughout this document are intended to prevent retaliation, while managing expectations. Your office cannot guarantee retaliation will not occur; like confidentiality limitations, some factors are beyond your control. However, you can take precautions, provide the whistleblower with guidance to also take precautions (e.g., survival tips, legal resources), and stand by them if they face reprisal. Strategize with the source and their counsel around the best course of action depending on their circumstances. If they are in the gray area (e.g., their employer suspects they are whistleblowing) or they are already facing retaliation, they may benefit from a more public working relationship with your office (e.g., testifying, joining a press conference) — which can help establish employer knowledge and support a retaliation claim. Conversely, if they are operating below the radar, remaining confidential can help prevent retaliation and maintain the flow of evidence to your office.

In any circumstance, the source should work with an experienced attorney to assess and prepare for the associated risks. Even when acting lawfully, due to limited whistleblower protections they could still face forms of criminal retaliation (e.g., placed under a criminal investigation for pretextual reasons) and civil retaliation (e.g., expensive defamation suit). Even where rights exist, it can take a village to challenge whistleblower reprisal.

What should we do if the source experiences retaliation while working with our office?

Congress’ oversight work relies on vital disclosures from whistleblowers, and in turn it has a responsibility to stand by its sources. For that reason, Congress created penalties to hold accountable individuals who try to interfere with lawful whistleblower communications to Congress or engage in retaliation. Solidarity is key to the whistleblower’s survival, as it can help shield the messenger and shift the focus to holding the wrongdoer accountable. Sending a clear message that you will not tolerate retaliation will also strengthen your office’s reputation among other potential sources.

There are myriad creative ways in which to stand by a source — from spotlighting their courage in an oversight hearing to calling the retaliator as a witness and holding them publicly accountable, including through financial penalties. However, it is important to weigh the circumstances involved in each case and manage expectations around your office’s involvement. For instance, an office may be willing to send a support letter on behalf of the whistleblower but not willing to serve as a witness in subsequent litigation. Conversely, an office may choose not to place limitations around their support.

Regardless, your office should not be a whistleblower’s only source of support. In addition to nongovernmental resources, there are governmental offices responsible for investigating whistleblower retaliation and holding retaliators accountable. Your office can help identify those additional resources and reinforce the source’s actions.
Case Study

In 1986, following the infamous Challenger space shuttle disaster, Congress introduced a bipartisan resolution barring NASA from contracting with one of the responsible companies in light of related whistleblower retaliation and a pending investigation. Earlier that year, a contractor employee refused to sign off on the Challenger’s imminent launch due to unsafe weather conditions. Unfortunately, his warnings went unheeded to disastrous effect.

After he spoke up about what really happened and challenged a related cover-up, his company attempted to silence him through demotions. However, Congress stood by their source and his career continued. “I really expected to be going out the door,” he later recalled. “And I would have, if it had not been that the presidential commission and certain members of Congress found out about it and really read the riot act to the management of my company. That saved my job, frankly.”

COORDINATION WITH OTHER ENTITIES

Additional Resources

- Referral Tip Sheet (HouseNet)
- Whistleblower Referral: Quick Tips (Webinar)
- Committee Jurisdiction Tool
- Sample Privacy Act and HIPAA Release (HouseNet)
- Sector-Specific Whistleblower Fact Sheets

What are best practices for coordinating with other entities?

Coordination with other entities is often necessary to advance your office’s oversight and the whistleblower’s goals. While your partnership can provide a vital lifeline, you are not expected to be the source’s sole outlet or source of support. Taking on that responsibility can be overwhelming and unrealistic, potentially leading to unreasonable expectations for your office and the whistleblower. This coordination step is adjacent to the referral process — when you help the whistleblower identify additional sources who could benefit from their knowledge and/or be able to assist them. In referral, the onus is largely on the whistleblower (or their attorney) to initiate the outreach.

Any direct involvement by your office should have a clear objective, given that it will require additional time and energy on your part and there may be additional risk for the source. Keep in mind, they may already be in contact with the other entities or have a strategic reason for not engaging a particular office at that stage. As a best practice, strategize with the whistleblower and their counsel in advance.

Obtain their permission and discuss their terms (e.g., boundaries around further sharing), then negotiate those terms with the third-party before sharing related information. The source may first need to take additional precautions — such as removing identifiable information if they want to remain confidential.

When is it appropriate to coordinate with another congressional office on a source’s case?

Additional congressional involvement (bicameral, bipartisan, and/or between Member offices and committees) has the potential to further shield the whistleblower and strengthen your oversight record. For instance, a Member office may be inclined to support their constituent in challenging reprisal, or have a vested interest in a disclosure that impacts their district. The relevant committee(s) may already be engaged in related oversight or have the subject matter expertise to investigate the underlying misconduct.

To avoid surprises, be transparent around existing practices. For instance, if your committee’s standard practice is to share certain information with its majority or minority counterpart, provide the source with advance notice (e.g., at intake). Bipartisan
coordination can work to the whistleblower’s advantage. To the extent committees remain in compliance with House Rule XI (“Procedures of Committees and Unfinished Business”), they can take additional measures to protect witnesses, such as deciding by majority vote to hold a closed hearing or allow for a witness to be confidential.

**When is it appropriate to coordinate with an external governmental entity?**

Whistleblowers may submit disclosures or retaliation complaints to other governmental channels in addition to Congress (e.g., Office of Special Counsel). Your coordination with these entities can reinforce the whistleblower’s efforts and provide your office with potentially germane information. Whistleblower cases can take months or even years to work through those formal processes, and apart from statutory mandates, most offices of inspectors general (OIGs) have discretion over their level of involvement in whistleblower disclosures. Your office’s engagement can elevate the case and signal that Congress is keeping tabs on the investigation and expects to be briefed on the findings.

Keep in mind that the external entity’s agenda may differ from yours. Avoid the temptation to take their findings at face value and ask your source for their assessment. For instance, they may be positioned to analyze the results, identify omissions, and coach you on supplemental questions. At the same time, building rapport with the entity can open a strategic line of communication to facilitate your follow-up and obtain status updates. Be aware that the point(s) of contact for whistleblower matters may be distinct from your standard agency congressional liaison (someone who may not be bound to the same confidentiality requirements). For example, establishment OIGs have a Whistleblower Protection Coordinator whose role includes facilitating whistleblower-related communications and coordination with Congress. Ask the whistleblower if they already have contacts, such as an agent assigned to their case, to whom you can direct your outreach. Advance coordination with the source is not only a best practice but may be required.

**Under what circumstances should we request a Privacy Act waiver from a whistleblower?**

When Member offices seek supporting evidence or other documents from federal agencies, any records pertaining to an individual will necessitate a privacy release. It is advisable for committees to use Privacy Act waivers as well to add structure to the prior coordination with the source and help advance communications with the external entities (e.g., those bound by confidentiality requirements). Be mindful that in cases where the whistleblower has requested confidentiality, the use of a privacy release to obtain documents from the agency significantly increases the likelihood that their identity will be revealed. To the extent the source is concerned about retaliation, additional caution is warranted. In those cases, first discuss with the source alternative channels for obtaining the information.

**What do we do when an external entity will not communicate on an investigation?**

External entities may have discretion over whether to discuss an ongoing investigation with your office. Building rapport and utilizing a Privacy Act waiver can facilitate obtaining information from the entity, but you still may encounter resistance. There is an aphorism within the OIG community: “When you’ve met one IG, you’ve met one IG.” In other words, no two OIG shops operate the same.

When warranted, develop a plan to escalate pressure. For instance, if your office’s letter of inquiry to an agency does not yield a response, you may consider calling to confirm receipt and start a dialogue. Explain that your office is making a good faith effort to communicate directly with them before resorting to more public-facing approaches, such as posting the letter on your office’s website with a related press
release or citing their lack of a response in a related hearing. Consider using (or threatening to use) the tools at your office’s disposal - such as sending a public letter on the matter. If you are with a Member office that also sits on the committee(s) of jurisdiction, make that clear. If not, you may consider partnering with the relevant committee following consultation with the whistleblower. Ultimately, the external body may determine it is more advantageous to cooperate with your office than defend its stonewalling or engage in damage control from bad press. However, even where an agency is consistently non-responsive, persistence on your part will help demonstrate your steadfast support for your source. Further, your efforts may speed up a long-delayed investigation even if it is not immediately apparent from the outside looking in.

**What considerations should our office take before engaging the media on our related oversight?**

Engaging the media on your office’s oversight can have strategic advantages by increasing public awareness around the wrongdoing and pressure on the wrongdoer. It can also attract additional sources. However, similar to the risks for the whistleblower when going public, it is a tactical decision that could backfire if employed prematurely. For instance, it could tip off the subjects of your investigation and potentially put your sources in harm’s way. It could also dry up the flow of evidence.

Before engaging the media on oversight where sources are involved, it is important to identify a trusted journalist who will take the necessary precautions to help protect the whistleblower’s desired level of confidentiality. Further, if you are still in the vetting stage and determine media engagement is warranted, exercise caution around how you frame the allegations and your office’s involvement to avoid endorsing the source’s claims. For instance, your office may frame its involvement as “We’re looking into concerning allegations that…”

There may also be situations where the whistleblower is already publicly known, and/or is seeking media coverage around your office’s interest in their concerns. They may feel that working with your office can provide additional coverage against retaliation — and indeed that can be the case. However, trust is a two-way street and the whistleblower needs to respect your office’s stance on media engagement. Be clear about your position and boundaries, explain your related strategy (where appropriate), and keep the focus on your common goals of conducting robust oversight and achieving accountability.

**Case Study**

Between 2014 and 2017, a Department of Veterans Affairs (VA) supervisor reported to Congress and the VA OIG patient waitlist manipulations at his facility that hid significant care delays from Congress and the public, resulting in veteran deaths and other preventable tragedies. The Office of Special Counsel determined his disclosures merited investigation, and in the end the OIG called for corrective action. However, in the aftermath of his disclosures the whistleblower experienced retaliation ranging from unlawful access to his medical records, to having his office moved to a closet without proper air conditioning for nearly two years, to verbal and physical threats of violence.

In response, committee chairs sent a joint letter to the VA Secretary, highlighting the impact of the whistleblower’s protected disclosures and calling for a briefing. The letter highlighted the related OIG and OSC reports, observing that as the whistleblower “made effective and accurate disclosures to proper oversight channels, he was retaliated against with increasing severity.”

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Legal Disclaimer: This document is for general informational purposes only. Its contents are not legal advice.
LONG-TERM ENGAGEMENT

Additional Resources
- Follow Up Checklist (HouseNet)

How do we maintain communication with the source to monitor corrective action?

It is beneficial to maintain a line of communication with the whistleblower after the completion of your investigation to monitor whether the corrective action is taking place. Have processes in place within your office to account for staff turnover and to ensure there is a secure process for transferring case history (on a need-to-know basis) and making introductions as needed. The source may be in a position to continue to fact check the agency or industry’s responses to ongoing oversight by your office and to share updated evidence if new problems arise — including subsequent retaliation.

Your commitment to supporting a whistleblower does not need to end once you move onto the next project, since you can still leverage the tools at Congress’ disposal to hold retaliators accountable. Moreover, the trust and partnerships you build with the whistleblower — and your office’s related reputation — will help maintain the flow of evidence to your office. To balance those communications and your workloads, however, manage expectations around responsiveness and be clear about your office’s priorities. For instance, if you have new oversight goals or are still in the fact-finding stages, consider reaching out to your trusted whistleblower contact(s) who may have their finger on the pulse, to test the waters. They may be able to matchmake your office with credible sources for its next undertaking. Continue to exercise the necessary levels of discretion, and incorporate the best practices discussed throughout this document to mitigate risk to your sources while advancing your office’s goals.

Case Study

In 2010 after U.S. Border Patrol agent Brian Terry was killed in a firefight with heavily armed bandits near Nogales, Arizona, whistleblowers disclosed to Congress that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) had knowingly allowed the weapons used in the murder to be purchased in Arizona for an illegal firearms trafficking network. Previously, ATF agents had scrupulously followed straw purchasers and the weapons they had illegally purchased. But a program, known as Fast and Furious, had been launched where the ATF allowed thousands of illegal firearms sales to straw purchasers, hoping it would lead them to the drug cartels. The whistleblowers had initially raised the alarm about this program internally, but after the murder of Agent Terry they contacted Congress.

Over the next two years, Congress investigated how the ATF came to allow illegal firearm purchases by known straw purchasers, what role the Department of Justice (DOJ) played in that policy change, and the concealment by the ATF and DOJ of the source of the weapons used to murder Agent Terry. DOJ and ATF whistleblowers were instrumental in bringing this matter to Congress’ attention and supporting its multi-year oversight.

ENDNOTES


ii A joint resolution debarring Morton Thiokol Inc. from contracting and subcontracting with NASA until a determination is made by the Comptroller General with respect to actions which were allegedly taken by such corporation against its employees because they gave certain information to the Presidential Commission on the Space Shuttle Challenger Accident, H.R.J. Res. 634, 99th Cong. (1986), available at www.congress.gov/bill/99th-congress/house-joint-resolution/634.

iii Emily Langer, Allan McDonald, engineer and whistleblower in the Challenger disaster, dies at 83, Washington Post (March 10, 2021), available at www.washingtonpost.com/local/obituaries/allan-mcdonald-dead/2021/03/10/572bd0d6-81a3-11eb-ac37-4383f7f09abe_story.html.