



OFFICE OF THE

WHISTLEBLOWER OMBUDS

Annual Report

2020

The 2020 Annual Report for the Office of the Whistleblower Ombuds was authored by Shanna Devine, Director; Rebecca Jones, Deputy Director; and John Whitty, Deputy Director of Operations.

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Table of Contents

Executive Summary.....	3
Authorizing Language	4
Organizational Structure.....	4
Staff.....	4
Organizational Chart.....	4
Mission & Vision Statements	5
Mission.....	5
Vision.....	5
Services Provided	5
General and Private Trainings.....	5
Confidential Consultations.....	5
Intake Processes.....	5
Technical Expertise for Whistleblower Legislation	6
Accomplishments.....	6
# Trainings.....	6
# Case Guidance.....	6
Summary of Educational Materials.....	6
Summary of Outreach.....	6
House Community Feedback	7
Year End Impact Survey Overview – Key Takeaways.....	8
Anecdotal Feedback.....	8
Financial Data.....	9
Fiscal Year 2020 Spending.....	9
Fiscal Year 2021 Spending Through 2020	10
Salary Administration.....	10
Monthly Reporting.....	10
Preview of 2021	10

Executive Summary

Congress plays a critical role in both learning from, and protecting, whistleblowers. Additionally, Congress' constitutionally mandated oversight work very often relies on vital disclosures from government workers and employees within the private sector. For that relationship to succeed, congressional offices need the tools to safely and constructively work with whistleblowers.

The House took an important step at the start of the 116th Congress by establishing the Office of the Whistleblower Ombudsman (now the Office of the Whistleblower Ombuds). It functions as an independent, nonpartisan support office to advise House offices on best practices for working with whistleblowers from the public and private sectors. The Office does not have the authority to receive whistleblower disclosures. However, it can provide indirect assistance through publicly available resources and general guidelines for whistleblowers and by supporting House offices.

In the Office's inaugural year, its primary objectives were to 1) make its establishment known throughout the House through a multipronged outreach campaign, and 2) maintain a strong nonpartisan identity through active engagement with bipartisan leadership within the House. Outreach and engagement primarily entailed individual and quarterly stakeholder meetings, close coordination with House support offices, monthly eDear Colleagues, routine congressional updates, targeted emails, House and civil society newsletters, and participation in bipartisan New Member orientation events.

The Office conducted 82 trainings and trained approximately 421 people. It responded to 60 inquiries from House offices (including committees) for guidance in responding to whistleblower cases. For the purposes of performance evaluation, the Office instituted an annual year-end survey of House staff who have engaged with the Office throughout the calendar year. Of respondents who participated in a training (83 percent), 94 percent indicated that they would recommend the Office's trainings to others. Of respondents who contacted the Office directly for assistance (28 percent), 100 percent indicated that they were "very satisfied" with their interaction with the Office – the highest available ranking.

The Office was appropriated \$750,000 in FY2020 and \$1,000,000 in FY2021. Due to limited staffing and remote work for most of its inaugural year, the Office was able to reprogram approximately three quarters of its FY2020 budget to assist with the Government Contributions shortfall.

The Office's ability to begin to establish itself during these unprecedented circumstances would not have been possible without the support of the House Community and broader whistleblower stakeholder community. The Office is immensely grateful for the Committee on House Administration's continuous bipartisan support at the Member and staff leadership level; the additional advisory role by bipartisan staff of the Oversight and Reform Committee and the House Permanent Select Committee on Intelligence; the Congressional Staff Academy for providing a training platform and technical assistance; support from the bipartisan Whistleblower Protection Caucus; and numerous additional House support offices that provided continued counsel. Moreover, the Office values the regular engagement with nongovernmental organizations and the executive branch, which has reinforced an evolving dialogue between the House and broader whistleblower stakeholder community.

Authorizing Language

The House of Representatives took an important step at the start of the 116th session of Congress on January 9th, 2019, to support House offices as they work with whistleblowers by establishing the independent, nonpartisan House Office of the Whistleblower Ombudsman (now Office of the Whistleblower Ombuds) in the rules package. In accordance with the House Rules, under the direction of the Committee on House Administration, the Office has two main responsibilities:¹

1. Promulgate best practices for whistleblower intake for offices of the House.
2. Provide training for offices of the House on whistleblower intake, including establishing an effective reporting system for whistleblowers, maintaining whistleblower confidentiality, advising staff of relevant laws and policies, and protecting information provided by whistleblowers.

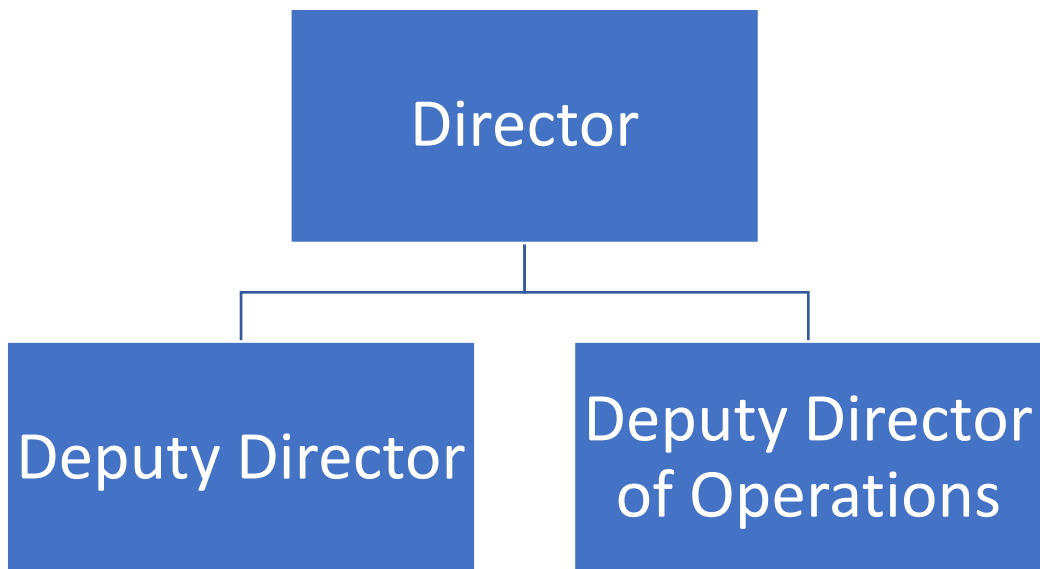
Organizational Structure

Staff

Pursuant to the Committee on House Administration Resolution 116-22, the maximum number of staff for the Office is three full-time employees, including the Director, as provided for in House Resolution 6, Section 104(e), 116th Congress.

The Office is authorized to employ fellows on a temporary basis as part of an established mid-career education program and in accordance with all relevant federal law and rules and regulations of the House of Representatives.

Organizational Chart



Mission & Vision Statements

The Office's mission and vision statements reflect thoughtful input from staff leadership of its committees of jurisdiction and whistleblower support organizations.

Mission

To support the House community in an independent and nonpartisan capacity by providing education, training, and guidance for effectively working with whistleblowers, in order to assist the House in protecting its sources while conducting its oversight function.

Vision

To be a valued, nonpartisan resource for every House office, by institutionalizing effective, safe, and consistent practices for working with whistleblowers.

Services Provided

Throughout the year the Office's services – informed by its mandate, mission, vision, and the nature of the requests that it received – evolved into four distinct categories: General and Private Trainings, Confidential Consultations, Intake Processes, and Technical Expertise for Whistleblower Legislation. Those services are detailed further below.

General and Private Trainings

The Office offers an interactive, 60-minute virtual training on the best practices for working with whistleblowers, available through the Congressional Staff Academy. The Office also provides private trainings for offices. Training participants receive an in-depth training manual and model materials.

Trainings cover how to:

- ✓ **Manage relationships** with whistleblowers
- ✓ **Establish** an effective case management system
- ✓ **Protect** whistleblower information
- ✓ **Navigate** the legal landscape

Confidential Consultations

Whistleblowers often reach out to congressional offices for assistance with an allegation of wrongdoing or for help with workplace retaliation. The Office can provide confidential advice to House staff on how to proceed with individual whistleblower inquiries.

Intake Processes

The Office can provide resources and guidance for developing or strengthening whistleblower intake protocols.

The office is available to help with:

- ✓ Developing an online **intake** form and process
- ✓ Suggesting protocols and systems to keep **disclosures secure**
- ✓ Establishing guidelines for maintaining **confidentiality**
- ✓ Suggesting best practices for whistleblower **follow-up**

Technical Expertise for Whistleblower Legislation

The Office can also provide technical guidance on whistleblower legislation, and answer questions that offices may have around best practices, legal gaps, and other germane information for drafting whistleblower legislation that applies to the public or private sectors.

Accomplishments

Trainings

The Office conducted 82 trainings, 63 of which were general trainings and 19 of which were private trainings. It trained approximately 421 people.

Case Guidance

The Office responded to 60 inquiries from House offices (including committees) for guidance in responding to whistleblower cases from public and private sector employees.

Summary of Educational Materials

In its opening year the Office created a foundation of educational materials. It developed its primary training curriculum and accompanying manual, *Best Practices for Working with Whistleblowers*, informed by extensive consultation with internal and external stakeholders, as well as House support offices (detailed further in the following section). The Office also developed public-facing resources for its website, including: answers to Frequently Asked Questions; generic guidance for whistleblowers, including *Best Practices to Consider When Working with Congress*, *Whistleblower Survival Tips*, and a menu of germane governmental and nongovernmental referral options and additional resources; a Congressional Research Service report that the Office requested, “*Survey of Federal Whistleblower and Employee Protection Statutes*”; and an overview of options for legislative branch whistleblowers. In addition, it conducted tailored research and guidance to address individual House office inquiries.

Summary of Outreach

The Office engaged in a multipronged approach to achieve its primary objectives in its inaugural year to 1) make its establishment known throughout the House, and 2) maintain a strong nonpartisan identity. Outreach primarily entailed individual meetings, quarterly stakeholder meetings, eDear Colleagues, routine congressional updates, targeted emails campaigns, inclusion in House and civil society newsletters, and participation in bipartisan New Member orientation events.

In the Office’s opening months, the Director engaged in targeted outreach with key stakeholders within the House to discuss existing practices for working with whistleblowers, lessons learned, areas for improvement, and ways in which the Office could most effectively serve the House community. It built upon those meetings with additional input from external stakeholders, including whistleblower support organizations and executive branch offices. Those meetings, as well as consultation with House support offices and close coordination with the Congressional Staff Academy, informed the Office’s direction and educational materials and evolved into more routine communications.

In the spring, the Office began holding quarterly meetings with Majority and Minority staff leadership from its primary committees of jurisdiction, including the Committee on House Administration, the

Oversight and Reform Committee, and the House Permanent Select Committee on Intelligence. Likewise, the Office held quarterly meetings with whistleblower stakeholder organizations, and it participated in quarterly meetings held by the Council of the Inspectors General on Integrity and Efficiency's Whistleblower Protection Coordinators Workgroup. It also launched its virtual trainings through the Congressional Staff Academy, which included a banner on the Academy's homepage that promoted the Office's training.

In the summer, the Office began sending monthly administrative eDear Colleagues, which served as its primary tool to reach the House community during the pandemic. It also began sending monthly updates to Majority and Minority staff contacts of its primary committees of jurisdiction, as well as staff leadership of the Whistleblower Protection Caucus. Further, it engaged Majority and Minority leadership to reach the broader House community, and it conducted targeted email outreach with committee staff leadership for the Majority and Minority, as well as Members' Capitol Hill and District Offices. The Office worked with the Customer Experience Center to further reach District Offices, through inclusion in its Advocate newsletter. It conducted individualized outreach with all congressional staff associations to provide education around the Office's services. Moreover, the Office engaged the Committee on House Administration, House Information Resources, and the Government Accountability Office to inform its guidance around information security measures for House offices.

In the fall, the Office conducted multifaceted outreach with the large class of incoming New Members, through close coordination with the Committee on House Administration and civil society organizations. It worked with House Creative Services to establish an introductory video, which was included on the Committee on House Administration's bipartisan New Member Orientation webpage, and the Office participated in related Majority and Minority events for the Committee. The Office was also included in several civil society led events, and it conducted targeted email outreach with all New Member offices.

House Community Feedback

As the Office works toward achieving its mission and vision, the feedback and expertise of the House community is an invaluable resource for setting and evaluating key milestones and measuring success. House feedback is critical for ensuring that the Office is having the desired impact of institutionalizing effective, safe, and consistent practices for working with whistleblowers. For the purposes of performance evaluation, the Office has instituted an annual year-end survey of House staff who have engaged with the Office throughout the calendar year.

The survey aims to collect key quantitative metrics on satisfaction with the Office's performance and to understand how its services are being used. Additionally, the survey aims to capture qualitative feedback about the House community's perception of the Office's value and any strengths or areas for improvement. This includes anecdotal feedback on services such as trainings, confidential consultations, and technical guidance on legislation. In December, the Office contacted 549 staff and received responses from 68 individuals, or approximately 12% of staff contacted. Of those, 60% of respondents indicated that they work in a DC-based office and 40% work in a district office. A summary of responses for the 2020 survey are summarized below. Those surveyed had the option of remaining anonymous.

Year End Impact Survey Overview – Key Takeaways

Surveyed staffers were asked to identify the nature of their interaction(s) with the Office in 2020—i.e. whether they participated in a training, sought a confidential consultation, sought consultation for assistance with developing or revising a whistleblower intake procedure, sought technical guidance on whistleblower-related legislation, or a combination of services. Staffers were asked for their assessment of the value of the service they were provided as well as other metrics, such as timeliness of response and their subjective evaluation of confidence and/or expertise gained as a result.

Quantitative Feedback

Trainings:

- **83%** of respondents indicated that they participated in a training provided by the Office.
- **94%** of respondents who participated in a training indicated that they would recommend the Office’s trainings to others.
- Of those who participated in a training, the majority indicated an improvement in their interactions with whistleblowers following the training in one or more of the following areas:
 - **81%** are more knowledgeable about relevant referral options
 - **75%** have more confidence in interacting with whistleblowers
 - **68%** have more confidence in protecting whistleblower information
 - **53%** are better able to recognize whistleblower retaliation red flags

Confidential Consultations:

- **28%** of respondents indicated that they contacted the Office at some point throughout the year for assistance with a specific whistleblower matter.
- **100%** of respondents who contacted the Office directly for assistance indicated that they received a response to their inquiry on the same business day.
- **100%** of respondents who contacted the Office directly for assistance indicated that they were “very satisfied” with their interaction with the Office when asked to rank their level of satisfaction from “very unsatisfied, unsatisfied, satisfied, or very satisfied.”

Training Manual:

- **61%** of all respondents indicated that they have used the Office’s training manual, which is sent to every training participant and usually shared with individuals who contact the Office for a confidential consultation.

Anecdotal Feedback

Written feedback throughout the survey can be summarized with the following general categories:

- Respondents expressing a positive experience working with the Office and identifying it as a valuable resource.
- Respondents advising methods to improve the Office’s visibility through individualized outreach.
- Respondents expressing their opinion that the Office’s training should be mandatory.
- Respondents recommending inclusion of additional practical examples in the Office’s training to help guide their day to day interactions with whistleblowers.

Select Individual Feedback:

- “The office is a great resource for an under-appreciated part of our jobs serving constituents in often tricky matters. I'm glad to have a place to go for information beyond just Committees of Jurisdiction.”
- “To my knowledge, this is the first time in the recent past that we are working with a whistleblower (and another one reached out just today). So we are still in the baby steps, but the Whistleblower Ombudsman's Office has been tremendously helpful and appreciated.”
- “In addition to getting great advice on my specific whistleblower issue, I also received supplemental materials and information that allowed me to better assist the whistleblower.”
- “I was in an ongoing interaction with a potential whistleblower the day I took the training. The information taught during the class was clear and concise, and the resources provided gave me assurance in how to best handle the situation with tact.”
- “[The Office] is absolutely amazing and incredibly helpful. [Staff] immediately responded to my emails and offered to chat over the phone when I was confused about incorporating specific whistleblower legislation into our bill ... [and] took the time to pinpoint review our bill.”
- “I had a really specific situation I sought guidance on, and my interaction with [the Office] helped me understand what our obligations and our options were. I left that conversation with a plan of action that I was confident in executing.”
- “It was wonderful training. It really should be required of all House staff members in my opinion.”

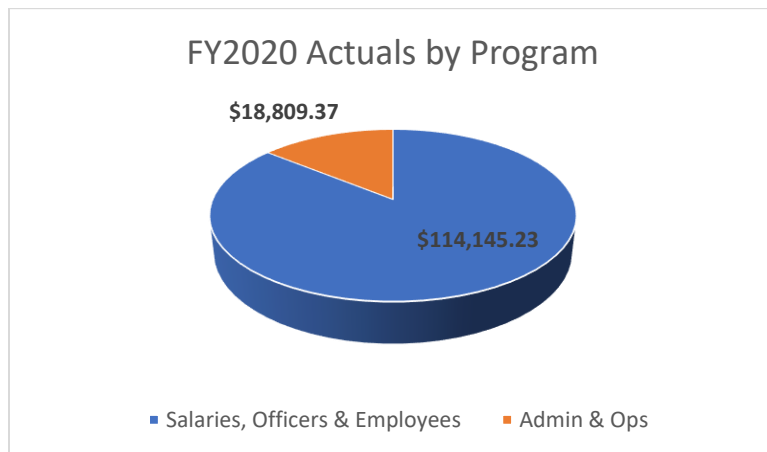
Financial Data

Pursuant to 116 P.L. 94, the Office was appropriated \$750,000 for salaries and expenses in FY2020.²

Pursuant to 116 H.R. 133, the Office was appropriated \$1,000,000 for FY2021, an increase of \$250,000.³

Fiscal Year 2020 Spending

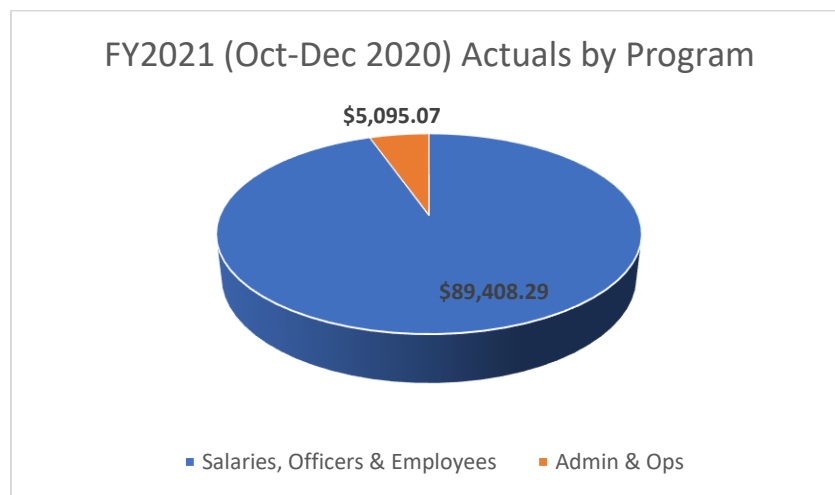
In FY2020, the Office spent \$132,954.60, or approximately 18 percent of its budget.



Due to this low level of expenditure, the Office contributed \$570,000 for reprogramming, or approximately three quarters of its total budget, to assist with the Government Contributions shortfall. The Office's low spending in FY2020 was largely because salary expenditures were limited to the Director. Further, due to the COVID-19 pandemic, in mid-March the Office transitioned to working remotely. In effect, it provided its services primarily through virtual platforms and phone calls for the remainder of FY2020, which drastically reduced printing and other more routine office expenses. Most expenses from FY2020 were used to equip the Office in its inaugural year and in preparation for the incoming staff.

Fiscal Year 2021 Spending Through 2020

From October through December 27, 2020, the Office operated under a Continuing Resolution. Its salary and expenses totaled \$94,503.36 for October through December 31, 2020. The Deputy Director and the Deputy Director of Operations were brought onboard in October and November, respectively, and salary expenditures necessarily increased.



Salary Administration

Pursuant to House Resolution 693, 116th Congress, the Office's pay shall be fixed by the Director with the approval of the Committee on House Administration. Employees are subject to pay and compensation policies pursuant to the House Employees Personnel Classification Act (2 U.S.C. § 291 *et seq*). The rate of compensation for each employee shall be commensurate with the employees' position and description as deemed by the Committee. Fellows shall receive their usual compensation from their sponsoring employer. Fellows may not be reimbursed with appropriated funds for incurred expenses.

Monthly Reporting

The Office began submitting a monthly financial report to the Committee on House Administration detailing the Office's salaries and expenses.

Preview of 2021

In December 2020, the Office embarked on its first strategic planning process, and the Office of Employee Assistance served as the facilitator for its virtual retreat. The Office focused on an impact-

based strategic planning process, to align with its transformative vision to institutionalize effective, safe, and consistent practices for working with whistleblowers throughout the House. Its outcome-oriented goals are accompanied by strategic actions and performance metrics to evaluate its success.

The Office's strategic plan goals for 2021 include:

- 1) Visibility of the Office and its role and value throughout the House community
- 2) Providing valuable training for every House office, including District Offices and majority and minority Committee offices
- 3) Transparency around our Office's operations, while prioritizing confidentiality

The Office will also develop several additional resources and tools to immediately serve the House and indirectly serve the wider whistleblower stakeholder community. These include the development of a legislative tracking tool and a committee jurisdiction search tool, both of which will be hosted on the Office's public-facing website.

- Legislative tracking tool: This resource, intended to be a living document, will serve to identify introduced whistleblower-related legislation. The purpose of the tool is to educate House staff on new initiatives and laws. It will also serve to identify key criteria that encompass best practice whistleblower legislation. The tool will be broken down by Congress, beginning with the 116th.
- Committee Jurisdictional Tool: This resource will be an interactive tool which will serve to identify key areas of jurisdiction for House committees. The tool is intended to aid users in identifying potential committee referral options for whistleblowers to contact by comparing the issues present in a whistleblower's disclosure to committee jurisdiction. While this is intended primarily for use by House staff, it will ideally aid those inside and outside of the House. Its design and functionality will be modeled after the tool created by the Council of the Inspectors General on Integrity and Efficiency at oversight.gov/whistleblowers.

Further, at the beginning of the 117th Congress the House adopted new rules to protect whistleblowers. Clause 20 of rule XXIII (the Code of Official Conduct for the House) prohibits the House from engaging in retaliation against congressional whistleblowers and other individuals because of truthful disclosures made to certain congressional offices or to law enforcement. Further, clause 21 of rule XXIII mandates the protection of whistleblower confidentiality. The Office stands ready to provide education around these new requirements and to assist House offices with compliance, training, and consultation for advice around maintaining whistleblower confidentiality.

Lastly, in the new rules for the 117th Congress, the Office was made permanent and its name was changed to the Office of the Whistleblower Ombuds to comply with House gender-neutral language.⁴

¹ H. Res. 6, Sec 104(e). House Rules Package, 116 Congress

² Further Consolidated Appropriations Act, 2020. 116 P.L. 94

³ Further Consolidated Appropriations Act, 2021. 116 H.R. 133

⁴ H. Res. 8, Sec. 2 (b). House Rules Package, 117 Congress