



Reforms to the Office of Accountability and Whistleblower Protection

The Problem

Whistleblowers play a key role in highlighting instances of waste, fraud, and abuse at the Department of Veterans Affairs (VA), yet they frequently face retaliation for their disclosures. **But the office created to ensure accountability for whistleblowers at the VA has several structural weaknesses that impede its functioning and independence.** Unlike truly independent watchdogs, the Office of Accountability and Whistleblower Protection (OAWP) relies on the agency's office of general counsel to give legal advice and prepare disciplinary recommendations. Because agency general counsels often seek to minimize liability for their agencies, there is an inherent conflict of interest between the attorneys' and OAWP's missions, and this arrangement causes unnecessary delays in resolving cases.

OAWP's core mandate includes investigating allegations of senior leader misconduct or poor performance and whistleblower retaliation by VA supervisors, but the watchdog does not have the authority to seek independent enforcement of its investigative findings. There is limited utility in having OAWP conduct this subset of investigations, especially when other entities, such as the federal Office of Special Counsel, already have existing authority to conduct investigations and seek enforcement.

Once an OAWP investigation is finalized, the office makes a recommendation of disciplinary or other corrective action to the VA component. When that component issues disciplinary corrective actions, nearly half go unimplemented. Furthermore, there is no publicly available information about the officials involved in instances of misconduct and retaliation. Reports sent to Congress are not publicly available and do not contain critical information on how to prevent future retaliation and misconduct.

The Solution

Congress can make OAWP more useful for VA whistleblowers by shifting the office's core mandate from focusing on investigations to taking on a supportive and educational role for whistleblowers at the agency. Greater independence and more transparency at the office would instill confidence in whistleblowers reporting their disclosures.

- **Transfer OAWP's investigative functions and associated funding to the Office of Special Counsel.** Congress should help whistleblowers streamline their disclosures and free up OAWP's resources by transferring investigative functions and the associated funding structure to the Office of Special Counsel, which has authority to provide temporary relief. With this new structure, OAWP will still be able to substantively influence policy and help whistleblowers by issuing reports, analyzing data, and

identifying trends within the agency.

- **Create an OAWP-specific office of general counsel.** To immediately make the office more independent, Congress should mandate that OAWP have its own general counsel. With an office-specific general counsel, OAWP can gain advice and opinions that are independent of the chain of command. Even if investigative functions are transferred out of OAWP, an office-specific general counsel would act like an inspector general's office of counsel, providing independent legal advice and conducting whistleblower protection compliance.
- **Require stronger reporting and transparency measures.** Congress should require additional reporting from the VA so that it may conduct more meaningful oversight into the OAWP's work. Reports submitted to Congress by the VA secretary regarding senior leaders should include a summary of the complaint, the name of the senior leader who committed misconduct, where the official works, and if the official has a history of misconduct. Congress should also mandate that reports regarding senior leader misconduct and whistleblower retaliation be made publicly available online in an accessible format. Effective reporting reforms would help the VA correct past misconduct and prevent future misconduct, with transparency serving as a deterrent.

Additional Reading

[38 U.S.C. § 323](#) (OAWP's statutory authority)

[POGO Testimony: Protecting Whistleblowers and Promoting Accountability](#)

[POGO Statement for the Record on Whistleblower Reforms at the Department of Veterans Affairs](#)

[POGO Investigation: "Terrified" of Retaliation Inside Veterans Affairs Whistleblower Office](#)

[POGO Investigation: "Protect the Secretary": VA Chief Robert Wilkie Installs Political Aide at Watchdog Investigating His Inner Circle](#)

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