

# Federal Employees Last Year Broke Record for Proving Retaliation By Government Officials

By Eric Katz

The agency tasked with protecting federal employees from whistleblower retaliation and other actions prohibited by civil service laws issued a record number of decisions favorable to workers last year, sending what it called a “warning” to federal supervisors not to engage in improper conduct.

Of the complaints the Office of Special Counsel processed and closed in fiscal 2017, 9 percent received a favorable outcome for the employees, the agency said in its recently released [annual report](#). The 323 favorable results stemming from prohibited personnel practices cases marked the highest total in OSC’s nearly 40-year history, the agency said, and a 16 percent increase from the previous year. About three-quarters of those cases were from whistleblower retaliation complaints.

While the favorable decisions increased, the total matters received—and the complaints processed and closed—actually decreased compared to the previous year. The higher rate of positive outcomes for employees raising complaints marked the

continuation of what has been a total reversal from OSC's earlier days, according to longtime observers.

Tom Devine, legal director at the Government Accountability Project, a whistleblower advocacy group, said Carolyn Lerner, whose tenure as head of OSC came to an end late last year, inherited an agency that was "completely dysfunctional." GAP used to warn whistleblowers not to bring their cases before OSC because it was a virtual guarantee that it would be the "final nail in the coffin" of their careers, Devine said.

"It's not surprising that OSC's track record kept improving," Devine said. "Under [Lerner's] leadership, corrective action went from akin to winning the lottery to something that's happening regularly, if still rarely."

OSC negotiated 44 stays with agencies to prevent what the agency found to be "premature or improper" personnel actions against employees. The agency took an additional 16 disciplinary actions against managers who violated civil rights laws, which OSC said was key to "upholding accountability and sending a warning to supervisors about the serious repercussions for unacceptable conduct."

"The more the federal community learns about and gains confidence in OSC, the more it turns to OSC for assistance," said Special Counsel Henry Kerner, who succeeded Lerner. "OSC protects the public, stands up for taxpayers, and increases public confidence in their government."

In a blip on OSC's fiscal 2017 record, the agency processed just 77 percent of complaints within 240 days. That was down from 85 percent the previous year and lowest rate since at least fiscal

2011. The agency received the most cases, including prohibited personnel complaints and other issues, from the Veterans Affairs Department.

When employees brought issues of waste, fraud or abuse to OSC and the agency decided to pursue the cases, the employees' concerns were typically validated. Agencies substantiated wrongdoing in more than 75 percent of whistleblower disclosures that came into OSC that the agency then reported to the president and Congress.

OSC said while it received just a "modest" budget increase in fiscal 2017, it "skillfully enhanced accountability, integrity, and fairness in the federal workplace." The Trump administration has [faced](#) several high-profile [accusations](#) of taking political reprisal actions against employees.

Under Kerner's leadership, Devine said, things are improving at an even faster rate and OSC has been more responsive to whistleblowers than at any time in its history. And on top of OSC's more employee-friendly findings, Congress last year [approved](#) the Chris Kirkpatrick Whistleblower Protection Act, which, among other things, eases the process for disciplining supervisors found to have engaged in whistleblower retaliation. That combination, Devine said, should make federal managers think twice before punishing those speaking out against impropriety at their agencies.

"Supervisors have more to fear in terms of their own actions than ever before in the history of the civil service system," he said.

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By Eric Katz

<https://www.govexec.com/oversight/2018/06/federal-employees-last-year-broke-record-proving-retaliation-against-them/148987/>

National News Coverage Exposes Political Reprisals Against Applicants Who Are Whistleblowers by SSA and HUD staff

By Conner Lee

The "SpyGate" or "FISA Abuse" case in the current White House involves the abuse of public agencies to attack those they are politically opposed to. Average citizen SSA, IRS, HUD and other applicants suffer the same fate.

The San Mateo, California Social Security Administration offices are under investigation because one, or more, of their staff used SSA resources to attack an Applicant because a staff member (erroneously) thought that an Applicant was opposed to that SSA staffer's beliefs on "open-borders". The SSA official ordered up reprisal operations, against the Applicant, simply to vent that SSA officials political angers. That is illegal.

A vast number of agency abuse cases and lawsuits are now on public record in the Inspector General's offices and federal courts.

It is an indisputable fact that some government agencies run "hit-jobs" on citizens on orders from certain corrupt politicians.

These actions are felony violations of the law.

Federal and State Agencies including SSA, FEC, DOE, HHS, VA, CIA, HUD, SA, SEC, FBI, DOJ and many others, have been charged, and found guilty, in these crimes against citizens.

In the Congressional investigation published by the United States Congress in review of the U.S. Department of Energy LGP/ATVM programs, it is clearly proven that the U.S. Department of Energy was used as a slush-fund by some DOE executives in order to pay off campaign financiers by attacking and sabotaging their competitors.

The DOE Paducah Gaseous Diffusion Plant under contracts with the Department of Energy and the government-owned U.S. Enrichment Corp paid \$5M whistle-blower awards to those whistle-blowers who were attacked, using government agency resources, for reporting a crime.

Dept. of Energy Hanford URS has agreed to settle a lawsuit brought by former employee Walter Tamosaitis for \$4.1 million. The settlement in the whistle-blower case comes almost one year before the case was set for a jury trial in federal court in Richland and compensates Tamosaitis for attacks against him, by DOE officials, in retribution for reporting a crime.

VA officials attacked hundreds of citizens who reported corruption, ie:

<https://www.thenewamerican.com/usnews/health-care/item/18610-va-whistleblowers-facing-retribution>.

As shown in this report:

<https://www.pogo.org/analysis/2018/08/new-report-confirms-whistleblower-retaliation-is-alive-and-well-at-department-of-veterans-affairs/>

, Agencies attack often and harshly.

CIA and NSA executives have been widely shown to use spy tools to attack domestic citizens they don't like, ie:

<https://www.dailymail.co.uk/news/article-2435011/NSA-employees-used-phone-tapping-tools-spy-girlfriends-cheating-husbands.html> , and hundreds of other news links that can be provided.

Elon Musk and Tesla, as well as Eric Schmidt and Larry Page at Google, have been proven to use the CIA group: IN-Q-TEL, to run government sponsored/financed attacks on business competitors.

**In Civil Action No. 1:13-cv-00777-RBW GOVERNMENT AGENCIES WERE CAUGHT BEING USED FOR ATTACKS AGAINST CITIZENS AND PUNISHED IN THE COURT AND THE MEDIA!**

The IRS, and hordes of other government agencies have been caught and proven, IN COURT, to target and attack people for presumed political differences.

Why should we assume that the Social Security Administration is not ALSO doing this too to harm citizens who speak out?

The Lois Lerner IRS attacks took many years to resolve. In an unprecedented victorious conclusion to a four year-long legal battle against the IRS, the bureaucratic agency admitted in federal court that it wrongfully targeted citizens, during the

Obama Administration, because of their political viewpoints and issued an apology to those people for doing so.

In addition, the IRS is consenting to a court order that would prohibit it from ever engaging in this form of unconstitutional discrimination in the future.

In a proposed Consent Order filed with the Court, the IRS has apologized for its treatment of U.S. citizens including organizations from 20 states that applied for 501(c)(3) and (c)(4) tax-exempt status with the IRS between 2009 and 2012 -- during the tax-exempt determinations process. Crucially, following years of denial by the IRS and blame-shifting by IRS officials, the agency now expressly admits that its treatment of our clients was wrong and a total violation of our Democracy..

As set forth in the proposed Order:

“The IRS admits that its treatment of Plaintiffs during the tax-exempt determinations process, including screening their applications based on their names or policy positions, subjecting those applications to heightened scrutiny and inordinate delays, and demanding of some Plaintiffs’ information that TIGTA determined was unnecessary to the agency’s determination of their tax-exempt status, was wrong. For such treatment, the IRS expresses its sincere apology.”

Throughout litigation of this case, activists have remained committed to protecting the rights of the public who faced unlawful and discriminatory action by the IRS and other agencies. The objective from the very beginning has been to hold agencies accountable for corrupt practices.

This Consent Order represents a historic victory for the public and sends the unequivocal message that a government agency's targeting of citizens organizations, or any organization, on the basis of political viewpoints, will never be tolerated and that revenge will be swift and vast.

The Order will put an end, once and for all, to the abhorrent practices utilized against citizens, as the agreement includes the IRS's express acknowledgment of – and apology for – its wrongful treatment of the public. While this agreement is designed to prevent any such practices from occurring again, rest assured that all public interest lawyers will remain vigilant to ensure that the IRS, SSA, DOJ or SEC does not resort to such tactics in the future.

Per detailed reports, in March of 2012 lawyers began being contacted by literally dozens of citizens and groups who were being harassed by the Obama IRS after submitting applications for tax-exempt status. Their tax-exempt applications were held up for years (over seven years in some cases), and they began receiving obtrusive and unconstitutional requests for donor and member information. That began a now more than five and a half year fight with the burgeoning bureaucracy at the IRS. Then on May 10, 2013, Lois Lerner, the then head of the IRS Tax Exempt Organizations Division, publicly implicated the IRS in one of the worst political targeting scandals of the century.

This is an extraordinary victory against government agency abuse. It sends a powerful warning to the deep state bureaucracy that it will not be allowed to violate the Constitution in order to silence and shut down the whistle-blowers.



In addition to the IRS's admissions of and apology for its wrongful conduct, the Consent Order would specifically award Plaintiffs the following:

- A declaration by the Court that it is wrong to apply the United States tax code to any tax-exempt applicant or entity based solely on such entity's name, any lawful positions it espouses on any issues, or its associations or perceived associations with a particular political movement, position or viewpoint;
- A declaration by the Court that any action or inaction taken by the IRS must be applied evenhandedly and not based solely on a tax-exempt applicant or entity's name, political viewpoint, or associations or perceived associations with a particular political movement, position or viewpoint; and
- A declaration by the Court that discrimination on the basis of political viewpoint in administering the United States tax code violates fundamental First Amendment rights. Disparate treatment of taxpayers based solely on the taxpayers' names, any lawful positions the taxpayers espouse on any issues, or the taxpayers' associations or perceived associations with a particular political movement, position or viewpoint is unlawful.

In the Order, the IRS has also agreed that (unless expressly required by law) certain actions against the Plaintiffs– i.e. the sharing, dissemination, or other use of information unnecessarily obtained by the IRS during the determinations process (such as donor names, the names of volunteers, political affiliations of an organization's officers, etc.) – would be unlawful. In addition, the IRS promises not to take any retaliatory

action against our clients for exposing the targeting scheme.

Finally, and of crucial significance, the IRS admits it targeted persons and groups based on their viewpoints (i.e., “policy positions”) and that such viewpoint discrimination violates fundamental First Amendment rights. This is the first time the IRS has admitted that its targeting scheme was not just “inappropriate” – as TIGTA found – but, as alleged, blatantly unconstitutional.

To ensure consistency and uniformity within the agency’s operations going forward, the IRS is required, pursuant to the Order, to inform all employees within the Exempt Organizations Division, as well as the Commissioners and Deputy Commissioners within other divisions, of the Order’s terms.

This Order not only validates allegations about their treatment at the hands of the corrupt Obama-era IRS but also provides important assurances to the American public that the agency understands its obligation to refrain from further such discriminatory conduct. As Attorney General Sessions acknowledged in this regard, “[t]here is no excuse for [the IRS’s] conduct,” as it is “without question” that the First Amendment prohibits the conduct that occurred here, i.e., subjecting American citizens to disparate treatment “based solely on their viewpoint or ideology.” Sessions further confirmed his Department’s commitment to ensuring that the “abuse of power” in which the IRS engaged here “will not be tolerated.”

It is impossible to overstate the importance of this victory. This marks a years-long fight for justice in defense of the constitutional rights of the public.

This is an extraordinary victory against abuse of power and corruption.

It sends a powerful warning to the deep state bureaucracy that it will not be allowed to violate the Constitution and manipulate the IRS, SSA and other agencies in order to silence and shut down those who speak out about political corruption crimes.

In the wake of Wisconsin Watchdog's investigation into SSA staff allegations of incompetence, misconduct, and retaliation in Social Security disability appeals offices, several employees have taken their complaints to a Senate committee led by Wisconsin Sen. Ron Johnson.

An official with knowledge of the complaints said the Senate Homeland Security and Governmental Affairs Committee, chaired by the Oshkosh Republican, has received emails and other contacts from "certain people" inside the Social Security Administration's Office of Disability Adjudication and Review.

The initial complaints came from an employee inside the Milwaukee office following Wisconsin Watchdog's opening investigative report that found some claimants waiting more than 1,000 days for an appeals decision on their disability benefits claim.

Following Wednesday's story of a whistleblower in the Madison ODAR office, the committee has received more specific complaints about retaliation against employees, the source said.

Committee staff members sent the latest Watchdog piece to SSA

administrators hoping they will “cooperate,” the source said. To date, the agency has been less than cooperative.

“This is an ongoing process, and they are not always as forthcoming as we’d like them to be,” the source said. “Hopefully with your continued reporting, this is an issue they can’t duck.”

A Senate committee member said officials there are working with the Office of Special Counsel on “multiple whistleblower retaliation claims.” The committee continues to request information from the SSA.

The whistleblower in the Madison office claims management retaliated against her after she was called to testify in a misconduct case. The incident involved “inappropriate behavior” by an administrative law judge, she said.

“They are so corrupt. It’s absolutely horrible,” said the woman, a lead case technician in the Madison Office of Disability Adjudication and Review.

She spoke on condition of anonymity, fearing more retribution from her supervisors. While she said recounting her particular experiences will more than likely betray her identity anyway, the ODAR case worker insisted she has had enough.

“I’m at point where they don’t care about me, I don’t see why I’m protecting them. This is my last resort,” she said. “I want to do my work without fear of retaliation.”

She said she has contacted the Senate committee.

"I forwarded my information to them and I got an email back from them. They said people are coming out of the woodwork with their complaints (about ODAR) following your story," the whistle-blower said.

Ronald Klym, a long-time senior legal assistant in the Milwaukee ODAR office, alleges he has been retaliated against by supervisors for going public with his charges of incompetence and misconduct in the agency.

The federal employee, who has worked for SSA for 16 years, provided Wisconsin Watchdog with documents showing extremely long wait times for claimants appealing their denied applications for benefits.

Doug Nguyen, SSA regional spokesman, in a previous story said the agency acknowledges that Milwaukee ODAR has a "high average processing time for disability appeal hearings, and we are working to address the issue."

Beyond the delays is what Klym calls the "shell game," the wholesale transferring of cases to other parts of the country by administrators to make the Milwaukee office's numbers look better than they are.

The Madison office whistle-blower confirmed Klym's allegations, saying at one point she saw 2,000 cases from the Milwaukee office handed off to the Oak Brook operation.

There are over 10,000 SSA disability manipulation charges against SSA executives and staff.

MORE PROOF:

<https://archive.fo/V4KSh>