

OSHA WHISTLEBLOWER STAKEHOLDER MEETING

May 15, 2024

Minutes

The OSHA Whistleblower Stakeholder Meeting was called to order by Rob Swick at 1:01 PM ET on Wednesday, May 15, 2024. The meeting was held via Zoom.

The following members of the public were present:

First Name	Last Name	Job Title	Company
Paul	Augason	Professional Standards	Utah Department of Corrections
Charles	Avery	Investigator II	Iowa OSHA
Kerwin	Benton	Vice President, Compliance	Wells Fargo
Trygve	Bragstad	Special adviser	The Norwegian Labor Inspection Authority
Maria	Burke	Staff Representative	n/a
Anthony	Christopher-Critelli	Director of Compliance & Risk Management	Odyssey House
Holly	Douglas	Vice-President	Cosmos Technologies, Inc.
Gavin	Driscoll	Senior Health and Safety Advocate	American Federation of State, County & Municipal Employees (AFSCME)
Keisha	English	EHS Lead	Becton Dickenson
Ramon	Figuroa	Nephrology Nurse	Retired from Veterans health administration
Teresa	Fox	Regional Safety & Health Coordinator	WA State Department of Labor and Industries
Graeson	Garrett	EHS Manager	Nibco Inc.
Michelle	Glover-Brown	Deputy Chief Risk Management	The National Gallery of Art

Bryan	Griffith	Attorney	Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A.
Valerie	Guy	HR Representative	PBS PEO SERVICES LLC
Nadalynn	Hamilton	Attorney	United States Postal Service
Patricia	Haynes-Hankerson	Rights Representative	State of Michigan
Darrick	Inscho	Safety Coordinator/Executive Vice President	CWA Local 6360
Richard	Kwizera	ROW Construction Inspector	NDOT
James	Laing	Workplace Fatality Coordinator	MA Department of Public Health
Christopher	Lee	Sr. Director Safety Compliance & Training	McClam & Associates Inc.
V. Gail	Lesesne	NATIONAL REPRESENTATIVE	NAGE Federal Division
Bruce	Lundegren	Assistant Chief Counsel	SBA Office of Advocacy
Brad	Malone	Director of Health and Safety	Topflight Grain
David	Mangold	Locomotive Engineer	DHM
Steven	McQuade	Laborer	Veterans Health Administration
Amanda	Olejarski	Project Manager	FRA
Patricia	Parker	Risk Manager	City of Hampton
Carlos	Perea	Safety Manager	Canyon State Safety & Consulting
Kimberlee	Perry	Commissioner	Education and Laboe Cabinet
Danielle	Pina	Local President	NAGE/ Department of Veterans Affairs
Marcia	Pindling	Biosafety officer	NJ Public Health and Environmental Labs
LaQuita	Rallings	Occupational Health and Safety	City of Memphis-Police Division
Bliss	Requa-Trautz	Executive Director	Arriba Las Vegas Worker Center
Ramiro	Serna	Discrimination Investigator	MIOSHA

Shawn	Smith	Safety Coordinator	Barry Callebaut
Kathryn	Stieler	Director of Safety, Health & Compliance	NATE: The Communications Infrastructure Contractors Association
Jose	Torralba	Outreach Authorized OSHA Trainer	Wind of the Spirit (Immigrant resource Center)
Martin	Valdez Gonzalez	Outreach	CDLE
Todd	Vanderkin	Committee Chairman	Nemak USA
Greg	Waddle	Safety & Environmental Coordinator	Moore Norman Technology Center
Aaron	Weatherford	Program Manager, EHS	Envoy Air, Inc.
Bruce	Wick	Director of Risk Management	Housing Contractors of California
Marialisa	Wyatt	Outreach Trainer	SOWELA Technical Community College

The following U.S. Department of Labor (DOL) staff were present:

First Name	Last Name	Job Title	Agency and Division
Joseph	Abboud	Attorney	Office of the Solicitor
Hilda	Aguirre	Curriculum Developer	OSHA Training Institute
Nathaniel	Berman	Investigation Specialist	Directorate of Whistleblower Protection Programs (DWPP)
Philippe	Blancato	Investigation Specialist	DWPP
Ashley	Briefel	SOL Attorney	Office of the Solicitor
Dale	Caldwell	Program Analyst	DWPP
Andrea	Carlson	Investigation Specialist	DWPP
Martha	Collins	Investigation Specialist	DWPP

Branden	Combest	Investigation Specialist	DWPP
Chris	Covell	Whistleblower Investigator	OSHA, Region 4
Jillian	Dupuis	Investigation Specialist	DWPP
Jim	Frederick	Principal Deputy Assistant Secretary	Office of the Assistant Secretary
Megan	Guenther	Counsel for Whistleblower Programs	Office of the Solicitor
Ryan	Himes	Assistant Regional Administrator (ARA)	OSHA, Region 10
Marisa	Johnson	Program Analyst	DWPP
Denise	Keller	ARA	OSHA, Region 5
Jared	Klein	Whistleblower Investigator	OSHA, Region 9
Michael	Mabee	ARA	OSHA, Region 6
Lee	Martin	Director	DWPP
Stacy	McGuire	Deputy Director	DWPP
Bernard	Noel	WB Federal Investigator	OSHA, Region 6
Kristen	Rubino	ARA	OSHA, Region 1
Rina	Russo	Counsel for Wage & Hour and Civil Rights	Office of the Solicitor
Meghan	Smith	Program Analyst	DWPP
Christine	Stewart	Division Chief, Division of Policy, Planning, and Program Development	DWPP
Rob	Swick	Division Chief, Division of Field Operations	DWPP
Shawn	Vollrath	Regional Supervisory Investigator (RSI)	OSHA, Region 8
Christof	Walti	Whistleblower Investigator	OSHA, Region 6

Mr. Swick began by going over the agenda and introducing the first speaker.

James Frederick, Deputy Assistant Secretary, OSHA

Thanks everyone for participating. We truly appreciate your participation in this process, as it helps to inform our work in our whistleblower program. This is a particularly special time because we're marking the 50th anniversary of the whistleblower protection program at OSHA. There have been many key and important events and milestones in those 50 years. The program, as many of you know, started with just the one statute, [Section 11\(c\) of the Occupational Safety and Health Act](#), and now we have 25 statutes, to which we have the opportunity and privilege to provide oversight.

The Whistleblower Protection Program web page went live 20 years ago next month in June of 2004, and in October of 2012, our OSHA regions began using the alternative dispute resolution process. A bit later that same year, the whistleblower program became an OSHA directorate, the Directorate of Whistleblower Protection Programs. In 2014, we organized the management structure so that it was more inclusive of the whistleblower program and put whistleblower program within the regional structure on par with other programs at the regions oversee. And just last week, OSHA announced a revision of the mission statement. This new revised mission statement includes the role of the Whistleblower Protection Program in protecting workers. It states in part that OSHA's mission is to assure America's workers have a safe and healthful working conditions, free from unlawful retaliation. OSHA carries out its mission by setting and enforcing standards, enforcing anti-retaliation provisions of the OSH Act and other federal whistleblower laws, providing support for training, outreach, education, and assistance, and ensuring state OSHA programs are at least as effective as federal OSHA, furthering a national system of worker safety protections.

Of course, there are many other important things going on at OSHA. For example, we recently announced the realignment of our regions. This is exciting for us because it will allow us to direct our resources more effectively and make the agency more resilient. By creating a new regional office in Birmingham, Alabama in the south and merging the current regions 9 and 10 in the west, we are better able to protect and serve the needs of more workers. With the changing of the seasons, we also are increasing our efforts to make more workers and employers aware of the hazards of heat and how to protect themselves and each other. We're also continuing our efforts to help protect the mental health of workers.

So again, thanks to all of you for participating today in the stakeholder meeting. Thank you for your investment of your time and your resources in workers through whistleblower protections. It's important, and we truly appreciate your involvement in this meeting.

Lee Martin, Director, Directorate of Whistleblower Protection Programs

Thanks Rob, and thank you, Deputy Assistant Secretary Frederick, for those opening remarks. And thank you all for coming today. But before we hear from you, we want to give you a brief update on some recent activities in OSHA Whistleblower Protection Program. In conjunction with other OSHA offices, we created a chart to help workers understand when they should file a whistleblower complaint and when they should file a safety and health complaint. The chart is

available on the OSHA how to file a complaint web page and as a wallet card on the [publications page](#), which is available in both [English](#) and [Spanish](#).

At previous meetings, speakers have asked us to translate materials into additional languages. On the publications page, you will now find several materials that have been translated into Haitian Creole, including the [11\(c\) fact sheet](#) and the [11\(c\) wallet card](#). The wallet card is now available in eight different languages. Also on our publications page, you will find recently revised [fact sheets on the Anti-Money Laundering Act](#), which helps workers better understand their protections under that statute.

OSHA recently entered into two new memoranda of understanding (MOUs) with the [National Labor Relations Board](#) and the [Food and Drug Administration](#). These MOUs will allow OSHA's whistleblower program to share information more effectively, which will result in better outcomes for complainants.

We will be taking notes on all of your input today, and we'll upload this information to regulations.gov in the [docket](#). In addition, we will also be uploading any written comments you have to the docket for the record. Materials for this meeting and past meetings can be accessed in the [docket](#) on regulations.gov. [Minutes from past meetings](#) are also available on our website at [whistleblowers.gov](#).

We are looking forward to hearing your suggestions on how we can improve today. So with that, I will say thanks for coming and Rob, I will turn it back over to you.

Rob Swick, Division Chief, Division of Field Operations, DWPP

Today's meeting is to obtain input on the following questions. One, how could OSHA deliver better whistleblower customer service? Two, what kind of assistance can OSHA provide to help explain the agency whistleblower laws to its employers and employees? As we stated, we'll be taking notes throughout and be uploading your comments to the [docket](#).

Today, we are in a listening mode only. We can't answer questions right now, but we may be able to at a later date. Please limit your remarks to five minutes. If you are discussing a particular whistleblower case, please don't say the respondent's or complainant's name. Just talk generally about your case details. And lastly, there are translation services in the Spanish translation room. To click that, you click on the little globe button at the bottom there and it will direct you.

Mr. Swick opened the meeting for comments.

Shawn Smith, Safety Coordinator, Barry Callebaut

I was wondering how OSHA intends to provide whistleblower protection support in the face of workplace violence as defined by OSHA but also the California law [SB 553](#) that's going to go into effect on July 1st this year, as well as Cal OSHA labor code section [6401.9](#). I know that right now OSHA operates under the [general duty clause](#), but, also, it's unclear if whistleblowers are going

to be given legal protection or assigned counsel through OSHA. Because, as Deputy Secretary Frederick mentioned mental health, I was also wondering how psychosocial risk management and psychological safety would apply in any kind of OSHA inspections or investigations, whether or not all this would encompass some sort of concrete language in any and all final rules going forward.

Bliss Requa-Trautz, Executive Director of Arriba Las Vegas Worker Center

Thank you, Rob. Thank you to Assistant Secretary Frederick. My name is Bliss Requa-Trautz. I'm the Executive Director of Arriba Las Vegas Worker Center. We are a nonprofit immigrant worker center in southern Nevada with a mission to inform, organize, and empower immigrant workers in their workplace. We are experienced with occupational safety and health locally. We're happy to partner with the Susan Harwood grant for occupational safety and house training for hard-to-reach Spanish-speaking workers in southern Nevada. We were also happy to have state support through American Rescue Plan Act dollars for disproportionately impacted workers during the COVID pandemic who are receiving free OSHA 10, OSHA 30, and 500 level classes to support occupational safety and health in southern Nevada.

We are also members of the National Day Labor Organizing Network, National Domestic Workers Alliance, and partners with COSH, the Coalition for Occupational Safety and Health, in regard to supporting and uplifting workplace safety.

In regard to whistleblower protections, whistleblower protections are so important. We understand that whistleblowers in particular are at the front lines of keeping people safe and healthy at work and that workers who take the lead in calling out risk in the workplace also face higher levels of retaliation and often fast-moving retaliatory impacts for speaking out on behalf of themselves and their peers in order to protect their own lives.

Immigrant workers in particular face more significant consequences for retaliation. When workers are in more delicate situations, the level of negative impact with retaliatory consequences or the threat of retaliation is even more significant. In about 15 years doing immigrant worker organizing in Nevada and across the country, I think we've repeatedly seen the circumstances that workers face. There have been too many cases that I wish had been investigated. When we have job sites where the management has sold OSHA 10 cards to all the workers on the sites, nobody has been trained in those in those types of circumstances. Making it safe for workers to come forward is going to be the only way that we are successful to support them, to correct severe inequities and risk on a job site.

Regarding the whistleblower division, I am grateful for this opportunity, and I look forward to seeing how we merge the circumstance of the challenge of being in a state plan state and trying to navigate it. It has been far too difficult to support Spanish speaking workers to be able to make timely complaints and have timely follow up, particularly given the circumstances. I hope that this is an opportunity to have a conversation about how we can work together to make the to make whistleblower division more accessible for workers for whom English is not a first

language and to make workers feel safer and more supported and look for ways that you might use the frame of customer service or communication, what it what it means to be able to meet workers where they are and overcome barriers given that reporting violations in these circumstances is in and of itself a significant barrier.

I appreciate the opportunity to raise the need to make the division invite consideration of onsite opportunities to inform workers face-to-face about their rights as whistleblowers and what protections are available to them.

For state plan states, I would like to make the request to consider additional resources on training on dual filing or figuring out how we can more successfully support States and Federal OSHA to collaborate, particularly when we see repeat offenders who operate across state lines with similar unresolved or unabated violations that occur in state plan jurisdictions, but then also in other parallel jurisdictions.

I would like to request, increased training for us as advocates for workers and for our teams generally in regards to dual filing procedures with 11(c) complaints that can be dual filed with our state plans but then also are preserving our right federally to be able to work together, again, towards the end of saving lives and protecting workers from the significant consequences of speaking up in support of their health and safety. Thank you so much for the opportunity to share today.

David Mangold

Good afternoon, everyone. I'm a whistleblower from both 2016 and 2017. I was wrongfully dismissed by the same employer both times. I originally filed in June or July of 2016 and returned to work in November of 2016. I don't know if it was because of the whistleblower complaint it took so long to ever get a communication with the investigator. We just really lost track of the entire case. I returned to work, and I continued to be attacked by the carrier officials. I was wrongfully dismissed again in June of 2017. I again filed another whistleblower complaint and also moved through labor channels.

The biggest problem I had was the investigators never asked any questions. I wrote an addendum to my complaint providing all the details, including letters from corporate officers, and explain further how I was attacked, but this item was never asked for. My lawyer didn't know what to do either. That was completed by 2018. Again, this dragged on for multiple months. I was unemployed. I finally sought out additional employment.

Later there was the ruling against me finally by the investigator, probably because he didn't have the additional detailed information about what the company did wrong and why I was retaliated against. The investigators need to ask questions of the respondent and of the victim.

We then moved on to the administrative law judge opportunity which I guess is still within the regime. There, we were hit with the summary judgment by the company, which was going to be very complicated to answer. I'm working for my lawyer, pro bono, in 2019 to move this

forward as a state case which I believe was in January of 2020. And we were working towards that when we were hit with the summary judgment.

Rather than risk the ruling on the summary judgment, we used the rule that allowed us to move to the federal district court where, eventually, by the fall of 2020, we were hit with another summary judgment which we did answer. Unfortunately, the ruling finally came, and it was not in my favor.

I was always on the defense. Because of the original ruling by the investigator because the original information of the complaint was not asked for.

I'm currently unemployed. I live in near poverty. I'm not able to get a job in the industry. I can only imagine if they find out about this statement and the specific industry involved. There is almost always a question on an application, "Were you previously dismissed? Yes or no?" You have to answer it correctly. And when I do, it automatically puts me in a category where I will not be considered for employment. Being 57 years of age, I believe I'm also being discriminated by age also, but that's a different Department of Labor issue.

Thus, the "were you previously dismissed" question needs to be removed from job applications, if OSHA has any jurisdiction on that.

Regarding better customer service, it would simply be faster response and simply a communicate with the victims. There was next to no communication. I never spoke with the investigator. There was an occasional phone conversation. I think maybe he was on the phone one time sometime in 2019 or early 2020 before the decision was made explaining the laws I pretty much knew what to do to go about filing the complaint, it's what to do.

After the complaint is filed and there's no stated opportunity for an addendum to the complaint. I think you need to ask the victims, the whistleblowers, for a summary or more details, what I called an addendum to the complaint, to get those more particular concerns that the individual or the investigators should be asking that's above and beyond a general statement. Maybe it should have all been included in the original complaint, but understand you're under that original, I believe, 90-day deadline from the time of wrongful action. So better instructions on what to do and that you can, or it should be recommended that you file an addendum to the complaint and that the investigators at least ask. The lawyer was able to find instructions online which were helpful. In my case, the person handling my case had the attitude that you can't win them all and it's unfortunate.

I do enjoy no longer working for that company. But I've been financially harmed, and I'm now unable to get another job because of it.

Rob Swick concluded the meeting at 1:34 PM.