

How the law barely protects whistleblowers

The Week Staff

 The White House.

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Whistleblowers who hold public servants to account are protected by law — but they often suffer consequences anyway. Here's everything you need to know:

What's a whistleblower?

It's a government employee who reports fraud, waste, crimes, or threats to public safety. The origin of the term is uncertain, but it's probably a reference to policemen or referees who blow whistles when they see a crime or foul play. As far back as 1778, the Founding Fathers called reporting official misconduct a "duty," commending 10 sailors and Marines for alerting Congress to the Navy's abuse of British prisoners. But the term "whistleblower" wasn't applied to this kind of truth telling until the 1970s. It was during that tumultuous decade that military analyst Daniel Ellsberg disclosed the Pentagon Papers, which revealed the Vietnam War's false premises. A year later, *The Washington Post* broke the Watergate scandal, thanks to leaks from "Deep Throat" (who turned out to be disgruntled FBI Associate Director Mark Felt). To encourage such truth tellers to come forward, Congress passed the Whistleblower Protection Act of 1989, which outlined a process for federal employees to report misconduct and challenge retaliation they might face for doing so. Despite that law, whistleblowers often pay a steep price for reporting misdeeds by superiors, said Mandy Smithberger of the Project on Government Oversight, a

nonpartisan organization. "One has to go in with the assumption," she said, "that it's career suicide."

What safeguards exist?

Federal law protects whistleblowers from being fired, demoted, or reassigned as a form of punishment. But those protections are void if whistleblowers fail to follow protocol and file their complaint through official channels — generally, with a federal agency's inspector general. Among those who did not qualify for whistleblower status are Chelsea Manning, who disclosed a massive trove of military secrets to WikiLeaks in 2010; Edward Snowden, who revealed the National Security Agency's global surveillance programs in 2013; and Reality Winner, who leaked a U.S. intelligence report about Russia's election interference efforts in 2017. Since they leaked information to the media, all were charged with crimes under the 1917 Espionage Act. That law "is blind to the difference between whistleblowers and spies," said Jameel Jaffer, head of the Knight First Amendment Institute. If indicted under the Espionage Act, an employee in the intelligence agencies is prohibited from arguing that a leak was made in the public interest.

Where does the law fall short?

Even if whistleblowers follow all procedures, their legal protection can prove to be more theoretical than real. More than one-third of government whistleblowers responding to a 2010 survey said they faced threats or punishments. "I thought what all whistleblowers think," former FBI agent Jane Turner said. "I thought, 'The truth will rescue me.'" Assigned to the World Trade Center investigation, Turner noticed a Tiffany crystal globe on a colleague's desk. After finding out that FBI employees claimed it as a "souvenir" from Ground Zero, Turner reported them. The

story became a national embarrassment for the FBI, yet rather than receive pats on the back, Turner says, she was treated like a "snitch" and later fired. Last year, four high-ranking officials at the Environmental Protection Agency flagged rampant wasteful spending by their administrator, Scott Pruitt, who paid \$43,000 for a soundproof phone booth for Pruitt's office. The four were reassigned, demoted, or placed on leave without pay.

What about the Ukraine whistleblower?

In August, a CIA officer working at the White House filed an official whistleblower complaint to the intelligence community's inspector about a July 25 phone call President Trump made to President Volodymyr Zelensky of Ukraine. That complaint led to the impeachment inquiry now underway in the House. In response, Trump branded the White House whistleblower a "spy," accused him of "treason," and suggested he be treated the way traitors were "in the old days." Republican defenders of the president have reportedly made an educated guess at his identity in an effort to portray him as a Democratic partisan. Under the law, the motivations of whistleblowers are irrelevant, and many do have axes to grind; what matters is whether what they report is true.

What if he's identified?

Whistleblowers are guaranteed the right to anonymity within the process, but that protection is thin. If Trump or his allies manage to figure out the identity of the whistleblower, there's no law barring them from naming him publicly. There are other loopholes in the protections as well: If Trump orders that the whistleblower be fired, the Intelligence Community Whistleblower Protection Act does not empower the inspector general to force the CIA to rehire him. In 1982, after

whistleblower A. Ernest Fitzgerald sued President Richard Nixon for wrongful termination, the Supreme Court ruled 5-4 that presidents can't be sued for monetary damages, even if they've broken the law. (A dissenting opinion said the court had placed the president "above the law.") The whistleblower also won't be able to sue if he's publicly identified and suffers adverse consequences, such as damage to his career or continuing death threats. Trump's threats are "absolutely shocking," said whistleblower attorney David Colapinto. "If the identity of the whistleblower is unmasked against that person's will, then retaliation is sure to follow."

The 'SOB' fired by Nixon

A. Ernest Fitzgerald was long known as "the patron saint of government whistleblowers," or, alternatively, "the most hated man in the Air Force." A financial manager in the Air Force, Fitzgerald appeared before Congress in 1968 to discuss the purchase of a fleet of Lockheed's C-5A transport planes. Superiors told him to gloss over the rising costs of the plane, but Fitzgerald did not, informing astonished legislators the planes were running \$2 billion over budget. Fitzgerald said he was merely "committing truth." In an Oval Office tape revealed later, President Nixon admitted he had instructed an aide to "get rid of that son of a bitch." Fitzgerald was stripped of his duties, sent off to study cost overruns on an Air Force bowling alley in Thailand, and finally had his position eliminated. After three years of fighting the government in court, he finally had his position reinstated. That case underscored the need for formalized whistleblower protections.

by [Dov Fischer](#)

We are encircled by hypocrisy and mendacity. The despicable deceit, the false posturing, the public lying for personal gain. Is Nancy Pelosi *really* motivated by a desire to protect our nation — or by a never-satiated need for holding on to personal power at whatever cost may be imposed on all of us? Is Congress's *primary* role really to conduct non-stop all-consuming investigations of our duly elected government leaders, paralyzing their agencies and executive operations while abandoning all legislative responsibilities to the [Obama Judges](#) who predominate in the states of the Ninth Circuit? Can there be a more despicable two-faced liar than Adam Schiff — whether in publicly reciting a transcript that he falsifies or even in his cynical exploitation of his Congressional District's large population of 70,000 Armenian-American voters whom he manipulates by making one annual visit to Glendale every [April 24](#)? They complain that he ignores his District all year and spends all his time like some Stalinist KGB prosecutor, conducting secret star-chamber proceedings to destroy people's lives — and then manipulatively mollifies them by suddenly getting a resolution passed that condemns the Armenian Genocide as he shifts into impeachment high gear. He has been in Congress for twenty years, and suddenly the Democrats *only now* pass a resolution acknowledging one of the worst inhumanities ever perpetrated — Turkey's *Medz Yeghern*, the [unspeakably](#) horrific [Turkish Holocaust](#) of some 1.5 million Armenians between 1915-1923. Then, having cynically given his constituents their resolution, he goes back to conducting his show trial.

Yes, the Swamp's Great Evil provides so much material for an Orthodox Rabbi's sermons — but I prefer to keep my synagogue messages focused on spiritual, Torah-based themes, trying my hardest to avoid commenting from my shul pulpit on the secular

garbage outside. Yet we Orthodox Jews, the [fastest growing](#) community of Jews in America, are deeply conservative. Pro-life. We oppose assisted suicide. We are people of deep faith. We live by the principle of personal responsibility. We recognize only two genders. We despise Communism and the socialist Left. We [love](#) President Trump. In the Democrat-predominant New York Tri-State area, [more than 90 percent](#) of Orthodox Jews are happy with Trump. Even in radical left Los Angeles — Home of the Homeless, Turf of the Typhus — more than [70 percent of Orthodox Jews](#) vote Trump. We despise what the Democrats have done, particularly these past three decades, to destroy the social unity and moral fiber of our country. More than a year before the Trump Administration recently issued an [order to protect](#) the religious freedoms of adoption and foster-care agencies, [over one thousand Orthodox rabbis](#) urged such action. We Orthodox Jews hate that we are denied coverage in the media, with our views blacked out by a Corrupt Journalist Corps who have a different agenda to promote. If NBC can cover up for human garbage like Harvey Weinstein, and if ABC can cover up for human garbage like Jeffrey Epstein and Bill Clinton, with CBS accommodating the “competition” by firing an employee as a [courtesy to ABC](#), then we Orthodox Jews do not have much chance having our voices resonate.

Though media keep us hidden and anonymous, we have had plenty to say about corruption. If Adam Schiff conducts secret star-chamber proceedings with falsified transcript readings of a President’s phone call and with leaked out-of-context quotes to select Corrupt Journalists, do not be surprised that you have not heard my testimony released. But I have had plenty to testify about corruption. *And when I say that “I” have been the anonymous whistleblower, I know how many tens of millions of additional*

Americans of all religions, faiths, ethnicities, races, and backgrounds likewise have been blowing the whistle along with me for years in deafening decibels that the Corrupt Journalist Corps will not broadcast.

I am the anonymous whistleblower who blew the whistle on the Bill Clinton corruption. How, long before #MeToo, Bill Clinton was raping Juanita Broaddrick, sexually abusing by exposing himself to Paula Jones, sexually abusing by grabbing at Kathleen Willey, sexually abusing by leveraging his status over Monica Lewinsky. Not to mention Clinton's endless journeys on the Epstein airplane, the "[Lolita Express](#)." Not to mention the corruption of the [Clinton Foundation](#)'s many [scandals](#).

I am the anonymous whistleblower who blew the whistle on the Hillary Clinton corruption. [Travelgate](#). [Cattle futures](#). [Whitewater](#), and the missing records of the Rose Law Firm. The [Uranium One](#) transfer of American uranium to Russian interests while Bill [scandalously](#) was getting paid huge speaking fees. How she [joked and giggled](#) about successfully defending a monster who had raped a child. How she sent the deceitful Susan Rice on four television talk shows in one day to lie to the American people about the real cause of the Benghazi massacre that saw our ambassador murdered, with Rice attributing the catastrophe to a stupid and unwatchable short YouTube video that almost no one ever viewed, even as Hillary secretly was emailing her daughter about the real and true cause of the disaster: an Arab Islamist jihad attack timed to coincide with September 11. How Hillary was using her email account illegally, endangering the foreign policy of the United States by emailing confidential and highly classified documents in channels that exposed them to being hacked and intercepted by our enemies, even as she maintained

a private server in her home bathroom. How, when she was called upon to produce those emails, she destroyed 33,000 of them — an outright spoliation felony that would have landed any other American in prison long-term. How she lied to us, as though we all are idiots, telling us that those spoliated emails dealt with things like her yoga classes and buying Chelsea a wedding dress — 33,000 emails for yoga and a dress. We know she cannot contort herself into a lotus position — and we did not let her contort herself into the POTUS position. How she lied when she claimed to have braved bullets in Bosnia in 1996, when she in fact landed in a safe area where children gathered with flowers. How she even [lied about being named](#) for someone who in fact was not famously known yet at the time of her birth. And of course how she [maneuvered campaign money](#) through a Seattle law firm to subvert Trump with lies — as her campaign paid \$5.6 million to Perkins Coie, and Perkins Coie retained Fusion GPS, which then hired Christopher Steele to compile the infamous fake dossier. And how, despite herself trying in every way to ingratiate herself with the Russians, she shamelessly declares one after another opponent — ranging across the spectrum from Donald Trump to Tulsi Gabbard to Jill Stein — as “Russian assets.”

I am the anonymous whistleblower who blew the whistle on Joe Biden and his decades upon decades of public lying and corruption. How he made a passionate speech about his own life story — when it was not his story but [plagiarized](#) from British politician Neil Kinnock. How he [falsified](#) accounts of traveling into dangerous regions of Afghanistan and risking his life to praise a real war hero, when it all was a big lie. How his son, a bum who had been kicked out of the Navy Reserves for cocaine use, got paid \$50,000 a month for sitting on a corrupt Ukrainian

energy company's board, leveraging our votes — though never cast for him — to become rich beyond our wildest dreams. How Joe Biden corruptly leveraged his position as Vice President here in America, unilaterally threatening to withhold a billion dollars that Ukraine needed and was slated to receive, to force Ukraine to fire a prosecutor who was investigating the corrupt company, Burisma, that was paying Hunter Biden \$600,000 a year for sitting on his rump. (Interesting, by the way, that the lead candidate of the anti-NRA Democrats, the party that wants to take away guns, named his kid "Hunter.") How Joe Biden was a leading advocate of racial segregation when that position was popular among his constituents. How [he told Iowa voters](#) in 2007 in one of his earlier failed Presidential campaigns that they and their kids are smarter because they are white:

"There's less than one percent of the population of Iowa that is African American. There is probably less than four of five percent that are minorities. What is in Washington? So look, it goes back to what you start off with, what you're dealing with. When you have children coming from dysfunctional homes, when you have children coming from homes where there's no books, where the mother from the time they're born doesn't talk to them — as opposed to the mother in Iowa who's sitting out there and talks to them, the kid starts out with a 300-word larger vocabulary at age three. Half this education gap exists before the kid steps foot in the classroom."

I am the anonymous whistleblower who blew the whistle on all of Elizabeth Warren's lies and corruption. How she [claimed to be an American Indian](#) to advance her career every step of the way. A Sioux, *gezuntheit*. How she took the place of a true, honest

minority member whose identity we never will know, by lying her way into an Affirmative Action slot by claiming to be a Cherokee Squaw. How she lied by publishing supposed family American Indian food recipes that appear to have been [copied from the New York Times](#). How she lied when she claimed she was [fired from a teaching job](#) because she was pregnant. How she lied by defaming her mother's memory to score points, apocryphally telling of her mother [smacking her in the face](#). Indeed, the false face of this forked-tongued [public liar](#) was never more obvious than when she [had herself video'd](#) as being "cool," just pulling out a beer: "Hold on a sec. I'm gonna get me, um, a beer." And her husband just so happened to be hanging around at the moment: "Hey ... ya wanna beer?" He: "No, I'll pass on the beer for now." How [she made hundreds of thousands](#) of dollars by representing big corporations against consumers, victims of asbestos, and even victims of breast-implant failures.

I am the anonymous whistleblower who blew the whistle on the corruption of the Obamas. How Barack obtained a beautiful big house for himself on a nice piece of land through his [corrupt relationship](#) with convicted felon Tony Rezko. How Michelle Obama suddenly got a job as Vice President of Community Relations at the University of Chicago Hospital, at a \$121,910 salary, after Barack was elected an Illinois state legislator ... then got a salary hike to \$\$316,962 for the same job after Barack was elected to the U.S. Senate ... and how one of Senator Obama's first acts in office was to advance an earmark of more than one million dollars to that hospital ... and how that [job quietly was eliminated](#) as the Obamas then moved on. How Barack [secretly sent](#) 400 million dollars in cash by plane to Iran. How Obama lied that his Obamacare would not force anyone to lose their doctors or health plans. How Obama lied on Fast and Furious ... and on

Lois Lerner weaponizing the IRS to persecute political opponents ... and on his role in trying to subvert the Trump Presidency ... and on his “stimulus” going to “shovel-ready jobs” ... and half a billion wasted on Solyndra ... and on the permanent limits of a “new normal” in the economy that never could boom again without a [magic wand](#).

I am the anonymous whistleblower who blew the whistle on the false narrative of [Robert O'Rourke](#), a Scottish-Irish descendant of White Privilege falsely portraying himself as “Beto,” supposedly a Hispanic neo-Zorro to gullible voters in El Paso. How “Beto” actually descends from huge amounts of money and “White privilege.” How this “Kennedyesque” Democrat hit-and-run, fleeing from the scene of a car accident he caused. How he associated with a gang of computer hackers. While others drooled over his selfie-obsessed video-streaming of getting his teeth flossed, his [ear hairs trimmed](#), or his being a very big boy who does not cry when he gets an [immunization injection](#), I blew the whistle on his fake narrative. And now the skateboarder whom *Vanity Fair* put on its [front cover](#) with his prophecy “Man, I’m just born to be in it” — is totally *out* of it, man. Dude!

I am the anonymous whistleblower who blew the whistle on [Kirsten Gillibrand](#), a phony who got elected to a House seat held by Republicans when news mysteriously leaked only days before the election that the GOP incumbent beat up his wife. How Gillibrand turned 180 degrees overnight from the conservative “blue dog” Democrat façade she used to get elected to that House seat and transmogrified into advocating an extreme-leftist agenda when she was named to the Clinton Senate seat. How she next turned 180 degrees from being a Bill Clinton sycophant and bottom feeder to lead the chorus that Clinton

should have resigned. How she took a lead role in the #MeToo movement while knowingly tolerating sexual harassment and abuse of women staffers in her own office by her valued male chauffeur. How she endorsed Jew-haters like Tamika Mallory and Linda Sarsour while reaching out to Jewish donors and voters in New York. How she made a national fool of herself at a [gay bar](#), trying to seem cool and yelling out “Gay Rights!”

I am the anonymous whistleblower who blew the whistle on Kamala Harris and how she [slept her way into public life](#). How she consorted publicly, openly, and shamelessly with the married Willie Brown, rising up the California Democrat ladder to reach statewide office on his back ... and on hers. How she prosecuted and imprisoned others for marijuana possession while smoking weed herself. How she told an interviewer that she smoked marijuana in college while listening to Snoop Dogg and Tupac — how cool! — when in fact they had not yet emerged in those years.

I am the anonymous whistleblower who blew the whistle on the [Communist Bernie Sanders](#), the apostate who laid the foundation in America to legitimize Jew-hatred from the likes of Ilhan Omar and Rashida Tlaib, who have brought Hitler Nazi tropes to Washington, D.C., questioning Jewish loyalties, saying that Jewish money controls politicians (“It’s about the [Benjamins](#), baby), asserting that Israelis [hypnotize](#) the world, and describing the “[calming feeling](#)” of contemplating Arab Islamic roles during the Nazi Holocaust. How he made it legitimate to suggest diverting American aid [away from Israel](#) and towards the terrorist Iran-supplied Hamas government of Gaza. How he endorsed the Soviet Union, honeymooned there, praised Communist bread lines as “a [good thing](#),” endorsed communist

governments from Cuba to the Sandinistas. How he aligns with Jew haters, [endorses](#) and [defends](#) them and notably is [endorsed](#) by [them](#), setting himself essentially as the very definition of an apostate.

I am the anonymous whistleblower who blew the whistle on the corruption in the Comey FBI. The lies to Congress. How Peter Strzok and Lisa Page were in the conspiracy to subvert the Trump presidency from within the FBI and to prevent him from achieving his agenda if he ever got elected, along with a coterie of sleazes from Comey to McCabe, with cheering on the sidelines from the likes of a John Brennan, whom Obama named to head the CIA even though the man had been an avowed Communist who [voted for Gus Hall](#). And then, in the style of a classic Communist-style "[false flag](#)" operation that seeks to achieve a propaganda purpose by diverting attention from a real traitor by pointing an accusation to an innocent patriot, Brennan accused the patriot Donald Trump of "treason" — thus taking the public's eyes off the real traitors in the room.

There is so much corruption in our politics. So much more and worse than candidate Donald Trump ever imagined when he campaigned on a promise to "drain the swamp." The corruption is so pervasive and runs so deep that perhaps it cannot be drained. Today's Democrats fight with whatever they have at their disposal; they cheat, lie, leverage their Corrupt Journalist Corps to advance their propaganda. They hold closed-door hearings and then selectively leak out of context. They have no fear of being exposed because the Corrupt Journalist Corps are in on the fix. *The only exposure that ever comes at all is when they all run against each other for a Presidential nomination, so of necessity attack and expose each other publicly.* By contrast, the

vast majority of Republicans do not know how to fight. They are limp-wristed wimps, [Girly Men](#), best epitomized by a Mitt Romney who agrees to allow a CNN Democrat Leftist to conduct a crucial Presidential debate *unilaterally*, then gets himself interrupted by her [repeatedly](#) in the middle of that debate when she joins his opponent, Obama, in a lie ... and then stands like a deer in headlights incapable of or unwilling to defend himself like a man and fight back because "that is not nice."

I am not the only one. There are many tens of millions of us anonymous whistleblowers. We have been blowing the whistle unnamed for years. The Corrupt Journalist Corps silence our voices, hide our names. Our testimony is suppressed. But we voted in November 2016 for President Trump. And we will reelect him in 2020. They will hear the decibels then.