Don't Swallow the Whistle—Blow It!

Federal laws are moving into the area of protecting the rights of whistleblowers, employees who speak out about real or potential problems, often at the cost of their jobs, according to a report by the Committee on Scientific Freedom and Responsibility of the American Association for the Advancement of Science, coauthored by Rosemary Chalk and Frank von Hippel.

Little-known clauses in eight recent pieces of federal legislation could be used to protect whistleblowers, among them clauses in the Safe Drinking Water Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, and the Clean Air Act amendments. The employee can file under these clauses whether he works for a private or a public organization, as long as the organization's activities are affected by one of these laws.

Thus, Glenn Greenwald, a North Miami, Florida, public utility chemist was fired after warning residents and flushing some possibly hazardous drinking water from the system. But his actions fulfilled the Safe Drinking Water Act, a federal administrative law judge ruled in 1978. "To punish or discriminate against a chemist for recommending a procedure which, at worst, would be a precautionary step would be to demand that all subordinates at all levels remain silent if so instructed until harm has occurred or is imminent," the judge said. Greenwald had applied to the Secretary of Labor after the city appeal process had upheld his firing.

But the report explains that these federal clauses have their problems. The Department of Labor, which enforces these laws, has been strict about a requirement they frequently have that the employee file with the Secretary within 30 days of the alleged discriminatory act. So the Greenwald case—even though the judge agreed with Greenwald—was dismissed because he had filed too late.

Protection of whistleblowers has been left to whatever procedures their employers might set up, which are often management-controlled and discretionary. A few professional societies have been active, but generally they have been "strikingly reluctant" to get involved, the report says. Thus, the clauses in the federal laws could be a big help if they were better known and better used.

The report notes sympathetically the pressures which often cause employees to "swallow the whistle" rather than blow it. One is the fear of being proved wrong, due to lack of certainty or of data which would confirm that the suspected hazard is real. "It should not necessarily be required, however, that concerns raised by the dissenter be proved correct for his or her job to be protected. . . . Whether the dissenter's worst nightmares were ultimately borne out or not, he or she might be performing an important service by drawing greater attention to a significant, but previously neglected area of uncertainty or incomplete information."

Another problem is that when an employee starts to step out of line, higher-ups in the organization retaliate with ad hominem statements that try to discredit him. "The side which has the weaker case on the issues will tend to push the ad hominem argument harder," the report says. Professional societies should offer a placement service which would relocate conscientious dissenters whose immediate work environment becomes too poisoned by these attacks. The AAAS is circulating a list of the relevant protective laws.

IEEE Dissenter Faces Unknown Charges

Irwin Feerst, newsletterist, gadfly, and a perennial presidential candidate of the Institute for Electrical and Electronic Engineers (IEEE), has become the object of ethics charges by an unknown IEEE member. The complaint was filed with the IEEE Member Conduct Committee in January. Its chairman, James Fairman, says he cannot divulge the identity of Feerst's accuser or the charge itself until after the committee finishes an investigation into whether the charge has enough basis to warrant a formal hearing by the IEEE.

So IEEE headquarters, where Feerst is a familiar and controversial figure, and several chapters around the country, are buzzing with rumors and wondering about what, exactly, is up. So, apparently, is Feerst.

The lack of information about the charges, which is fanning suspicion, is designed, of course, to protect the person who is accused. Fairman says that in several complaints that the committee has investigated it has found the charges groundless and so dismissed the case, and no one was harmed because the charge was never publicized. In Feerst's case, the committee must decide by late April or early May whether to drop the matter or forward it to the president and executive committee of IEEE so that a formal hearing can be held from 3 to 6 months thereafter.

Ironically, Feerst claims that this secrecy is damaging his reputation and has demanded an immediate open hearing. He clearly fears the complaint is in retaliation for his many assaults on IEEE practices and policies over the years. He wrote to the Board of Directors after learning of the charge: "For the past seven years the Board of Directors has tried to stonewall me, has held me up to public ridicule, and is now trying to exile me. You may have damaged my professional reputation with your statements and innuendos."

Feerst has mainly sought to have the jobs of electrical engineers protected. He has come out against measures, such as more federal money to engineering schools, which could increase enrollment and the supply of engineering graduates, and against the importation of foreign engineers who, he alleges, take jobs away from American engineers. His chief gripe against IEEE has been that its leaders are drawn from the management level of big electronics and aerospace firms and so do not make policies sympathetic enough to the working engineer. Thus he has run as a members' candidate for president, and one year received as much as 43 percent of the vote. Among those rumored to be charging him now are the Tokyo chapter of IEEE, which he has challenged, and some IEEE members from Aerospace Corporation, whose president, Ivan Getting, a past president of the IEEE, is a past Feerst sparring mate.

Deborah Shapley.

[COMMITTEE PRINT]

OFFICE OF TECHNOLOGY ASSESSMENT

BACKGROUND AND STATUS

REPORT

TO THE

COMMITTEE ON SCIENCE AND ASTRONAUTICS
U.S. HOUSE OF REPRESENTATIVES
NINETY-THIRD CONGRESS
FIRST SESSION

PREPARED BY THE

SCIENCE POLICY RESEARCH DIVISION
CONGRESSIONAL RESEARCH SERVICE
LIBRARY OF CONGRESS

Serial F

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LETTER OF SUBMITTAL

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 30, 1973.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Astronautics, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to submit this report on the Office of Technology Assessment in response to your request. This material is based on an earlier CRS multilith (No. 73–41 SP) on the Technology Assessment Act, but contains several revisions and updated information.

The report was prepared by Walter A. Hahn, Senior Specialist in Science and Technology, and Rosemary Chalk, Research Assistant, of the Science Policy Research Division. They have also authored the multilith described above. We are indebted to members of your committee staff for assistance and review, and we hope that the availability of this material in committee print form will help the Congress to respond more usefully to the many inquires on this new office of the legislative branch.

Sincerely,

LESTER S. JAYSON,
Director, Congressional Research Service, Library of Congress.

Rationale—the Congress needs to:

"(1) equip itself with new and effective means for securing com, petent, unbiased information concerning the physical, biological economic, social, and political effects of such (technological) applications, and

(2) utilize this information, whenever appropriate, as one factor in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal Government may be called upon to consider support for, or management or regulation of, technological applications."

Functions—the OTA shall:

"provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress, and;

(1) identify existing or probable impacts of technology or technological programs;

(2) where possible, ascertain cause-and-effect relationships;

(3) identify alternative technological methods of implementing specific programs;

(4) identify alternative programs for achieving requisite goals;

(5) make estimates and comparisons of the impacts of alternative methods and programs;

(6) present findings of completed analyses to the appropriate legislative authorities;

(7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in paragraphs (1) through (5) of this subsection; and

(8) undertake such additional associated activities as the appropriate authorities specified under subsection (d) may direct."

Assessment activities undertaken by the Office may be initiated upon the request of:

(1) the chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

(2) the Board; or

(3) the Director, in consultation with the Board.

Technology Assessment Board (13 members):

6 Senators	3 majority
6 Representatives	3 minority

Director of OTA (nonvoting).

Board selects Chairman (from House of Representatives during even numbered Congresses) and Vice Chairman (from the other House).

Director and Staff:

Director appointed by TAB (Level III) for term of 6 years.

Deputy Director appointed by Director with TAB approval (Level IV).

Staff selected by Director per TAB policies.

Technology Assessment Advisory Council (12 members, staggered 4-year terms):

Functions: The Council, upon request by the Board, shall—

(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation thereof in accordance with section 3(d);

(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

(3) undertake such additional related tasks as the Board may direct.

Members:

Ten public members appointed by TAB ("who shall be persons eminent in one or more fields of the physical, biological, or social sciences or engineering or experienced in the administration of technical activities, or who may be judged qualified on the basis of contributions made to educational or public activities");

The Comptroller General; and

The Director of the Congressional Research Service of the Library of Congress;

Chairman and Vice Chairman elected by TAAC;

Relationships:

OTA to draw on Congressional Research Service and General Accounting Office for all the same services each renders the Congress.

GAO to furnish financial and administrative services.

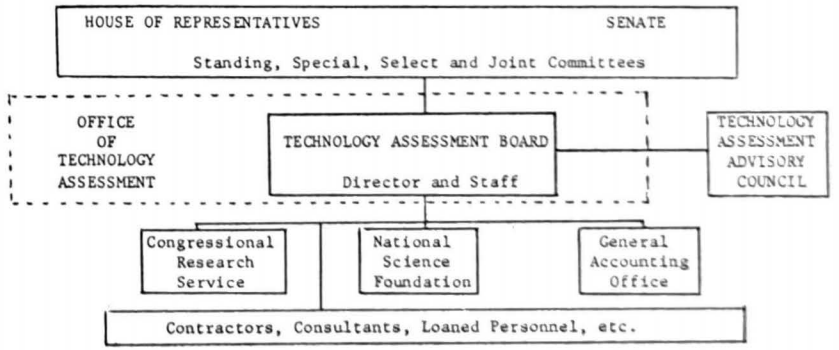
OTA and NSF to maintain "a continuing liaison" on TA research grants and contracts.

Annual Report by March 15.

Authorization:

$5 million total through June 30, 1974, "and thereafter such sums as may be necessary."

Organizational Relationships:



researchers in the country featured in the Sigma Theta Tau International Nurse Researchers "CAMEO" video series. She has a Ph.D. from the University of Rochester School of Nursing and a B.S.N. from the Duke University School of Nursing.

ROSEMARY CHALK (*Study Director*) is the deputy director of the Board on Children, Youth, and Families of the National Research Council and the Institute of Medicine. She is directing other studies and project initiatives focused on youth development and child welfare. She has previously directed studies on child abuse, research ethics, and science and human rights for the National Academy of Sciences and the Institute of Medicine. Chalk was the staff director of the Committee on Scientific Freedom and Responsibility of the American Association for the Advancement of Science during its formative years. She has edited an anthology of articles on social responsibility and academic freedom in science, titled *Science, Technology, and Society: Emerging Relationships*. She has a B.A. from the University of Cincinnati.

DAVID S. CORDRAY is the chair of the Department of Human Resources and professor of public policy and psychology at Vanderbilt University Peabody College. He has previously been a member of the faculty of Northwestern University and also worked in the U.S. Government Accounting Office in Washington, D.C. He has served as president of the American Evaluation Association and also on the National Academy of Public Administration's Panel on the Status of Evaluation in the Federal Government. Cordray has a B.A. and an M.A. from California State University, Northridge, and a Ph.D. from the Claremont Graduate School at Northwestern University.

NANCY CROWELL (*Staff Officer*) is a staff officer in the Commission on Behavioral and Social Sciences and Education in the National Research Council. She has organized a number of workshops for the Board on Children, Youth, and Families, and previously she staffed National Research Council studies on violence against women and risk communication and policy implications of greenhouse warming. Trained as a pediatric audiologist, Crowell worked in a demonstration project for preschool hearing-impaired children and their families at Ball State University. She also worked on several political campaigns and for a political polling and consulting firm prior to joining the National Research Council staff. She has a B.S. from St. Lawrence University and an M.A. from Vanderbilt University.

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