

Whistleblower Protection Program: a Focus on DWPP

Executive Summary

Why read the report

The Whistleblower Red Team conducted its original inquiry focused on the regional operations of the Whistleblower Protection Program (WPP) in fall 2016. This report amends the original work, by focusing on the role of the Directorate of the Whistleblower Protection Programs (DWPP). DOL leadership asked the Red Team to look into two questions: (1) How does DWPP support the mission of the whistleblower program and the regions? (2) How might DWPP be focused and aligned to provide critical national leadership to the program and drive innovation and change throughout the program?

What We Learned

DWPP is a small and relatively new Directorate. It faces challenges growing into its evolving organizational structure and defining its mission as the national office of a regionally operated program. Managers and staff identified a number of pain points in its current processes, its relationships with the field, and in the organization's culture. In particular, DWPP is struggling to develop a national identity for the program and to define its role in providing national leadership. Underlying this struggle is a belief that DWPP lacks organizational authority and the mandate needed to lead the program and provide oversight for the regions. The lack of mission clarity affects how DWPP prioritizes its work, its relationships with the field, and results in an organization where the staff do not feel empowered to take on challenges and innovate.

What We Recommend

DWPP managers have taken a number of actions to address the challenges they face. We have recommended a number of actions DWPP could take to continue their progress and resolve some of the issues identified by managers and staff. Our recommendations include suggestions designed to help clarify the mission, align the organization, address the process pain points, improve relationships with the regions, and provide mentoring and training for managers and staff. Specifically:

- Clarify DWPP's mission and align the organization around that mission. Engage both the OSHA front office and the regions in considering how DWPP can best achieve the goal of improving the effectiveness and efficiency of the Whistleblower Protection Program. Without mission clarity and organizational alignment, the other recommendations will not be as effective.
- DWPP should strive for a proactive, collaborative, supportive role in its engagements with the field. The Directorate should view itself as a partner for innovation with the field and work proactively with the field to implement the recommendations from the Red Team and other program and process reviews.
- OSHA should provide leadership, mentoring, and support to the DWPP managers. Addressing the identified issues will be a challenging change management process requiring managers that are skilled at leading through change..

Introduction

The Whistleblower Red Team conducted its original inquiry on the full Whistleblower Protection Program (WPP) over two months, reviewing program guidance and procedures; interviewing whistleblowers and their representatives; visiting regional offices and meeting with investigators and regional leadership. A briefing with the leadership of its national program office, the Directorate of the Whistleblower Protection Programs (DWPP) was included in the original engagement. Our report and recommendations were issued in late January 2017, with extensive briefings for the Department, the OSHA front office, and OSHA national and regional leadership.

This report amends the original work by focusing on the role of DWPP. DOL leadership asked the Red Team to look into two questions: (1) How does DWPP support the mission of the whistleblower program and the regions? (2) How might DWPP be focused and aligned to provide critical national leadership to the program and drive innovation and change throughout the program?

Methodology

We spent approximately one month engaging the OSHA National Office and DWPP leadership (executive and management) and staff in large, small and individual sessions. We reviewed requests for review (RFRs), organizational charts (current and proposed), budgets, operating plans, policies, lists of accomplishments, and project lists. We interviewed:

Stakeholder Group	Details
DWPP (current and former staff)	• Staff from DWPP, and DWPP ROADS detailee
DWPP Management	• Division Chief of Field Operations, and Division Chief of Policy, Planning and Program Development
DWPP Leadership	• Director of DWPP, Deputy Director
OSHA Executive Leadership (OSHA Front Office)	• Deputy Assistant Secretary, Director of Enforcement Programs, Director of Administrative Programs

What We Learned

DWPP is a small and relatively new Directorate. It faces challenges growing into its evolving organizational structure, and defining its mission and role as the national office of a regionally operated program. Managers and staff identified a number of pain points in its current processes, its relationships with the field, and in the organization's culture.

Organizational Structure

DWPP is the national program office for the WPP. The WPP is a decentralized, regionally-managed program. Field investigative staff are in the regions, supervised by regional staff who report to OSHA's Regional Administrators- not to DWPP. DWPP provides program direction and guidance, as does the Whistleblower Executive Steering Committee (WESC).

DWPP has evolved in both function and size over the past five years. It went from a small office inside OSHA's Directorate of Enforcement Programs (DEP) to its own Directorate. It now has 15 FTE and two divisions. However, there is little distinction between the roles and work assignments of the divisions. Managers have proposed a reorganization to improve office function.

From Office to Directorate

Before 2012, DWPP was a small office located within the Directorate of Enforcement Programs (DEP). In FY 2012, it was elevated to its own Directorate, the Directorate of the Whistleblower Protection Programs, in response to increased Congressional scrutiny and two program reviews conducted in 2010. At that time, additional staff were added. DWPP is smaller than other Directorates in OSHA's National Office, with a ceiling of 15 FTE. Its structure includes a Director, Deputy Director, and two Divisions led by GS-14 supervisors. DWPP reports to OSHA's political Deputy Assistant Secretary (DAS), while the field staff who conduct the investigations report up through the Regional Administrators to OSHA's career DAS. As with any new organization, DWPP is still developing and clarifying its mission and focus.

Everyone does everything

DWPP is divided into two divisions, each with a Division Chief: the Division of Field Operations; and the Division of Policy, Planning, and Program Development. Staff indicate there is very little difference in the PDs, performance standards and actual work assignments between the two divisions. Management and staff agree that work assignments do not follow the existing division structure.

There were a number of reasons given for the lack of distinction between divisions. Before OSHA formed the Directorate, the office consisted of a handful of people who wore multiple hats, but primarily reviewed what were then called "appeals" of dismissed complaints that were filed under Section 11(c) of the Occupational Health and Safety Act of 1970 (OSHA 11(c)), now known as requests for review (RFRs). The practice of wearing multiple hats remained, even as the office more than tripled in size, divisions were created, and the type and number of duties grew. Currently, supervisors assign all staff RFRs, as well as other assignments, without distinction between divisions. Management distributes staff assignments based on workload, not division or position.

The cross-divisional assignments appear to have some positive effects. For example, participation in the RFR process has been a training tool, and staff feel it can help them develop better policy. Staff members generally enjoy the diverse portfolio doing the work of both teams offers and feel the combination of tasks makes them better at their jobs.

However, staff are often confused by the distribution of work assignments, and don't know where to focus their efforts. Staff describe feeling as though the priorities constantly shift: one day the priority is the special project on which they are working; and the next day they are told that everyone needs to focus on RFRs. There is not a clear division of responsibility allowing one division to focus on the RFRs while the other focuses on policy and special projects. Staff are frustrated by lack of transparency and a feeling that they don't know whether the project they are working on will still be a priority by the time they complete it.

Cross-division assignments also can make supervision more challenging. It can lead to duplication of effort between supervisors, limit the ability of the supervisors to focus on completing the priorities for their division, and cause the agency as a whole to flounder and not achieve its goals.

We need to restructure

DWPP leadership has developed a restructuring proposal that would divide the directorate into three offices: the Office of Field Operations, the Office of Outreach/Strategic Planning, and the Office of Policy. Managers believe that each division has too many functions, and have proposed the addition of a third unit to resolve that problem. They believe that with the three office approach, there would be less need for staff to perform work across office lines. Management believes this will improve efficiency, effectiveness, and overall morale. We did not explore the details of this approach with DWPP or whether hiring a third division chief is realistic in the near term, given budget constraints.

Mission

DWPP is struggling to develop a national identity and to define its role in providing national leadership. Underlying this struggle is a belief that it lacks organizational authority needed to lead the program, compounded by a belief that the reporting structure to the OSHA front office further weakens its influence with the regions. The lack of mission clarity is evident in what staff sees as an inability to translate the mission effectively into work assignments and priorities.

Why does DWPP exist?

Although it's been in existence since FY 2012, DWPP continues to grapple with a lack of national identity, and the evolution in mission that goes with the organizational change from a small office to a Directorate. The DWPP Director stated that the role of DWPP is to work with the field to improve the effectiveness and efficiency of the overall Whistleblower programs. However, this does not seem to be effectively translated into work priorities. When speaking with the field, they indicated they don't understand DWPP's role, saying "we don't know who they are or what they do."

In discussions, staff expressed a desire for the mission, role, and vision for the office to be clarified and for managers to explain how assignments support the mission. DWPP management feel that they have vision and mission statements that have repeatedly been shared with staff, and that staff have been given the opportunity to provide input. This reflects a communication gap between staff and management. The feedback received from staff was not that these statements did not exist, but that the stated vision to be a *global leader* in anti-retaliation enforcement and the stated mission to improve workplace safety

and health etc. are not reflective of the actual work and purpose of DWPP. Neither the mission nor the vision clarifies the objectives the office should be working toward. It appears the staff are not looking for a mission statement. They are looking for a vision and sense of mission that ties their work together and helps them clearly see how they contribute to a more effective national whistleblower protection program and the work of the regions.

When asked, several staff and managers said the role of DWPP is "to support the field" but few understood or could articulate what that means operationally or how that helps answer questions like: *How should we focus our limited resources? What should we do more of? What should we do less of?* There is a conceptual difference between the idea of providing support for the regions and providing leadership for the regions.

We don't have authority

DWPP managers believe they need a clearer mandate to provide the national policy leadership and oversight necessary to fulfill their role to its full potential. We repeatedly heard that DWPP managers and staff do not feel empowered in their interactions with the field. DWPP does not feel they have, even after Wells Fargo, authority to address a region's backlog or work with the regions on resolving problems, because DWPP leadership does not believe they are responsible for monitoring or reporting on regional performance.

We would have expected the main functions of DWPP to be setting national policy and providing field and program oversight and support. DWPP staff indicate that they do not feel empowered to exercise oversight or leadership over the program. Similarly, DWPP management are challenged in how best to proceed in exercising national leadership over the program due to conflicting views of line authority, given that DWPP and the field report to different Deputy Assistant Secretaries in the OSHA front office. Added to that, there doesn't seem to be open and clear two-way communication between the field and DWPP. This question emerged: *who is responsible for the National Whistleblower Program and what is DWPP's appropriate role in the program?*

DWPP does not view itself as having policy authority because their policies need sign-off from the OSHA Front Office and RAs, and they believe that if the regions don't like a policy, they will not implement it. Further, DWPP feels lack of line authority results in the regions having the option of appealing to the OSHA Front Office - to whom the Regions report - if they don't like a policy. This actual or perceived confrontation results in DWPP's leadership, management, and even staff risk aversion to decision making or providing material leadership to the program.

In our estimation, it is important for DWPP at all levels to contribute and have a common understanding of their mission and role in order to articulate the value they bring to the WPP. In an environment where DWPP doesn't have organizational authority over regions their influence must be based on demonstrating their value, building coalitions and obtaining buy-in. The current lack of communication and collaboration between DWPP staff and the field results in the field not understanding DWPP's role, and therefore their value. Both the field and DWPP staff feel that the other does not know or value what they do. To this end, DWPP staff feel the field does not respect them because of the lack of whistleblower-specific investigatory experience. If the field doesn't see the value DWPP can provide, they are less likely to raise issues to DWPP to develop a coordinated solution that

can be applied consistently across regions. This situation contributes to issues identified in the Red Team's original report around regional inconsistency and lack of national support.

Currently, DWPP does not use its relationships with the WESC and the Regions to their full potential to build consensus and obtain buy-in. Staff acknowledged that DWPP may not be effectively pitching the value of their policy solutions to the regions. For example, they do not effectively engage the Regions to test ideas, present at RA meetings, or put together business cases for the improvement of the program.

Communicating priorities

DWPP managers indicate they routinely communicate their priorities to staff in their regularly scheduled Directorate meetings, one-on-one staff meetings, and twice-weekly stand-ups. Staff reported that these meetings are irregular and often rescheduled for other priorities. When staff noted the meetings are not used to set a DWPP agenda, DWPP management responded that priorities have repeatedly been shared with staff. These differing viewpoints illustrate the disconnect between DWPP leadership and staff.

Staff believe that priorities are a moving target and not communicated through formal channels, resulting in a robust and often toxic rumor mill. Staff do not feel that DWPP leadership informs them of the reasons for the decisions they make or the outcomes of their work products. This system results in a lack of stability, lack of consistency and a diminished sense of accomplishment in the majority of the DWPP work. The exception is the RFRs, which have a more structured process.

DWPP priorities are documented in a project list. The list is 35 pages long and contains 48 projects. It does not include a project management plan, set expectations, or define clear results for how staff will be held accountable for each project. Leadership cannot communicate their priorities to staff if they are not defined-- and the mission is not defined by goals or targets for staff. At one time DWPP leadership attempted to establish targets and deadlines, but backed away after staff pushback. Staff admitted that they did not like the deadlines and said the targets hurt morale. Thus, staff requests are inconsistent: on the one hand, staff ask for clarity, yet on the other hand, they resist management's attempts to provide structure.

Process Pain Points

There are two major work processes in DWPP. The first process is the RFR process, where DWPP reviews cases that were dismissed by the regions under three statutes in response to appeals. Staff particularly enjoy conducting the RFRs. DWPP has made some RFR process improvements and reduced the backlog in recent months. However, the RFRs remain an area where communication with the regions does not flow freely, contributing to the frustration the regions reported. Ultimately we were told that RFRs rarely result in the outcome of the case changing for the complainant. The RFRs are also used as a proxy quality control process, but are not a true quality monitor. The second process is the policy and special projects development and review process. Staff identified the review process of policy and special project documents as an area where they felt they lost ownership of products that went into a black-hole or reviewers and they were not aware of the status or outcomes of their work products.

Requests for Review

RFRs are the appeal process for complaints filed under OSHA 11(c), the Asbestos Hazard Emergency Response Act (AHERA), and the International Safe Container Act (ISCA), though the majority of the cases are OSHA 11(c) cases. One thing we consistently heard from management was that the staff enjoys conducting RFRs. RFRs have a clear process with an outcome, provide a good skills-mission match for staff, and are a tangible connection to whistleblowers and the core mission of the agency. Interestingly, however, the RFRs can take months before staff initiate action to review the whistleblowers' claims.

The Numbers

Staff members estimate that DWPP handles about 120-150 RFRs per year. That number represents a range of approximately 10% -15% of dismissals that occur per year. For instance, in FY2016 OSHA received 2030 OSHA 11(c) complaints, and it dismissed 1043. In FY2015, OSHA received 2026 complaints and dismissed 963. Thus, 120 RFRs constitute 11.5% of dismissals in FY2016 and 12.5% of dismissals in 2015.

Management has recently worked to reduce the backlog of RFRs and provided data on the improvements made to the timelines. In FY 2016, the average time to complete an RFR was 206 days. In the first two quarters of FY 2017, the average time for completion of newly filed (not backlogged) RFRs is 88 days. The average time to issue an acknowledgement letter has gone from 18.3 days in FY 2016 to 3 days in FY 2017.

The Process

The RFR process appears to be resource intensive for DWPP. Unlike other reviews, each RFR is assigned two independent reviewers¹ who conduct parallel reviews, followed by a review from a supervisor. There are no measures in place to capture the time spent on RFRs, but some DWPP representatives guesstimated that approximately 25% of staff time is spent on RFRs.

Once DWPP receives a request for review, the RFR coordinator screens it for timeliness and to determine whether it is filed under the correct statute. The RFR coordinator prepares an opening letter for the Division Chief's signature. If the case file is not already on the shared drive, the region is asked to upload it within two weeks so that DWPP can review it. The file upload is a point of tension between the Regions and DWPP. DWPP staff find that file uploads may be delayed, or incomplete files are uploaded. Staff do not like confrontations with the regions over RFRs, therefore, follow-up on the file upload usually falls to the Division Chief. Some improvements have been made recently, and the average time for the regions to upload the files has fallen from 19 days in FY 2016 to 10 days in FY 2017.

After the file is uploaded, two DWPP staff are assigned to conduct independent reviews. Both review the case for merit. In addition, one has the lead in writing the closing letter that communicates the case disposition to the complainant, while the other conducts a quality review. If both reviewers recommend closing the case, the Division Chief reviews and acts upon the dismissal. If the two reviewers disagree or one thinks there should be a discussion, there is a Directorate Review Forum (DRF) to discuss the case and next steps.

¹ By contrast, meritorious 11c cases that the Department *actually litigates* are routinely assigned to only one attorney

The entire staff is invited to participate in the DRF. Possible outcomes include dismissing the case, going back to the region for more information or more investigation, or consulting with SOL. (The full RFR process as described by staff appears in Appendix A.)

With few exceptions, the DWPP does not engage the regions during the review to ask questions or obtain clarity. As we heard from regional investigators, this fuels the 'gotcha' culture between the field and DWPP. This failure to engage also goes against the written policy, which states: "[e]ither reviewer is encouraged to contact the Regional Office to clarify information in the investigative case file before making a final determination." Indeed, the few staff members who informally reach out to the regions early find that it increases efficiency.

DWPP leadership feels that staff does not want to reach out to the field for questions because they prefer to remain anonymous during the RFR process. Staff, however, never mentioned the anonymity of the RFR review. They did mention reaching out to the ARAs and feeling like at their level they have no authority approaching an ARA and "telling them what to do".

DWPP indicated that as part of their process improvements, they have stopped sending cases back to the region to resolve questions if they do not think there will be a change in the outcome. This shift is consistent with the primary goal of the RFRs, which is resolving the appeal, rather than improving the quality of case files.

The Outcome

DWPP did not provide hard data on the rate of return and overturn for its RFRs. The DWPP staff estimates that 25% of RFRs go to the DRF, and of those approximately 80% are returned to the Regions for questions. However, they indicate it is extremely rare that a decision to dismiss gets reversed (*i.e.*, a non-meritorious cases rarely become meritorious).

We don't do quality control

RFRs currently serve a dual purpose. They both determine whether the region made a proper determination on merit and serves as the only quality control tool. Because the DWPP lacks a quality audit process, the RFR serves as an ineffective substitute. There are a number of reasons why this is an inadequate proxy:

1. **There is no control over the sample of cases reviewed.** RFRs are initiated upon request by a complainant who is not satisfied with the outcome and, unlike other statutes, has no recourse to a "de novo" review. Therefore, the majority (if not all) of cases reviewed are those with a "no merit" finding. A true sample would also include cases with a finding that there was "merit" to the allegation(s).
2. **The RFR process only covers cases that have no private right of action**, most of which are OSHA 11(c) (*i.e.*, the RFR is the complainant's only avenue of appeal). The RFR process covers only three of the 22 statutes with whistleblower provisions administered by OSHA. A true sample would include cases under all the whistleblower statutes that OSHA is responsible for enforcing.
3. **Focusing on quality during the RFR process detracts from the primary reason for conducting an RFR** – to determine whether or not there was "merit" to the complainant's allegation(s). A case could have quality issues but still have resulted

in the correct conclusion. Any time spent on quality review is time that could be spent focusing on whether or not the correct conclusion in regard to "merit" was made.

That being said, quality control is important, and the DWPP could play a vital role in that process. Quality audits are critical to determining whether there is consistency across regions, whether policies have been fully implemented and are effective, and where training is needed. The use of RFRs as a proxy quality control process is not the best vehicle to produce policy and training recommendations. The use of this process as the only quality review tool may explain the disconnect the field reported with the policy that comes out of DWPP.

Policy and special project process

Staff identified a number of pain points in the process of developing policy documents or completing special projects. DWPP identifies a problem or issue leading to a policy change or special project. The issue is assigned to a staff member or team, who conduct research on the issue, including by looking at existing guidance, talking to SOL, and talking to the field. The staff assigned then produce a draft and the review process begins. (The process as described by staff appears in Appendix B).

Staff identified lack of communication and feedback in the review process as a particular pain point. Staff feel they own a project until it is turned into their supervisor. Then, the supervisor manages the review process up the chain, at which point staff indicate they do not own the process. They feel they lose control of the project and lose the ability to effectively track where it is in the process or its outcomes. Comments are often returned only directly to the supervisor, without staff inclusion. This is the way many offices do business. However, for DWPP it appears to be contributing to the lack of ownership the staff feel, and creates a communication choke point. On the one hand, DWPP leadership is relying on their managers to filter feedback. In practice however, staff indicate that management forwards emails from leadership with no changes. In this sense managers are a middle man, providing no additional feedback to their employees. This communication choke point is not only not inefficient, but also results in unexpected fire drills for revisions which produce confusion around priorities, and the perception that projects fall into black holes with no feedback or next steps.

Staff also identified a desire for clearer direction from senior leadership at the beginning of the policy making process and more consistent communication throughout the process with senior leadership. Staff feel that they expend significant effort moving in the wrong direction, which they only find out late in the process, and that clearer up front goals and expectations or earlier feedback would help them be more efficient.

Relationships with the Field

DWPP appears to struggle in its relationships with the field and has not developed the collaborative working relationships that would help them accomplish their mission. Much of the struggle can be traced back to the lack of clarity on DWPP's role as a national office and concerns about lack of a clear mandate to lead the regions and provide true oversight. The result is a staff that does not feel empowered to communicate and develop relationships with their regional counterparts, communication choke points, and missed opportunities to fully engage the WESC in developing a national identity and to engage regional staff in policy development.

We're not allowed to interact with the regions

Staff generally expressed a strong sense of frustration that they are not empowered to communicate with the regions and develop collaborative relationships. Staff are unable to pinpoint whether an actual policy prohibits them from contacting the regions or an unwritten practice that it is not allowed. This uncertainty leads to inefficient and broken communication with the field that bogs down many of the DWPP functions to a small or large extent. This situation has multiple negative effects:

- A general lack of collaboration, cooperation and exchange of information and ideas.
- Questions that may be able to be resolved quickly through a short phone call instead go through a longer, more involved process. This ties up resources that could otherwise be better spent.
- Because staff have to elevate a question to the supervisor level, a simple phone call becomes an adversarial action. Now the RSI or ARA is involved and forced to defend the investigator and possibly, the RSI. As one staff member put it, "We say, 'we have a question,' they hear, 'you did this wrong'."
- The Division Chief of Field Operations initiating all field communication on the RFRs is a choke point. He is managing all (or almost all) the follow-up communications with the field on these cases. This "workaround" seems to stem from staff's unwillingness to engage in Regional confrontation, management's concerns over staff's ability to communicate concerns diplomatically, and OSHA culture. While we understand that the goal is to provide consistency in communication it does nothing to empower or break down barriers in communication between the field and DWPP and develop collaborative communication.

Some of the inhibitions around communication reflect the general OSHA "chain of command" culture. This is partly reflective of a legitimate concern about DWPP generating work for the regional staff. However, there doesn't seem to be a protocol for different types of regional contact, for example, collegial, horizontal sharing versus authoritative direction to subordinates. *When is it okay for a staff member to pick up the phone and ask a colleague at their same level for their informal thoughts on an issue or for an informal clarification of information?*

Uncertainty also stems from inefficient processes. For example, staff members are assigned as Regional Liaisons, however, in many cases, this assignment appears to be more of a point of contact for regions to call, rather than a true liaison that would promote two-way communication. When asked, staff had trouble describing what was expected of them as Regional Liaisons. In addition, for some assignments the lead is an SME rather than the

regional liaison. While this may be appropriate, the liaison is not always included in assignments that involve his/her region. This exclusion makes it difficult to build relationships because it deprives staff of consistent interaction with their assigned region(s). Staff also have assignments as SMEs for particular statutes. Again, when asked, staff had a hard time explaining what was expected of them in this role or how they can use this role to demonstrate their value to the regions. Each staff person appears to be implementing these roles independently, without direction or consistency.

Examples of current regional interaction that could provide opportunities for deeper engagement include:

- Staff has had positive experiences with regional interaction, such as **special project joint coordination (e.g., conferences, IT)**, which staff felt was effective in promoting open communication.
- **Requests for review.** Currently there is not a lot of interaction, but there is opportunity for more.
- **Significant Case Reviews.** DWPP staff have some interaction with field staff on Significant Case Reviews, but these reviews are infrequent (6 completed in FY 16) and this task has been assigned to a small subsection of staff.
- **Regional Liaison and SME assignments.** These are areas where DWPP can build staff expertise and develop avenues of communication with the regions on items of interest to the regions.
- **Monthly ARA calls.** Similarly to the field, DWPP staff does not see the value in these calls. The calls were described as the regions being talked at- not open forums for communication. The focus is not on an exchange of information with the field. Rather time is spent discussing the project lists and very little time is spent on providing guidance, discussing best practices, highlighting regional innovations or advancing the national program.

Whistleblower Executive Steering Committee

The DWPP Director chairs the WESC. We would expect the WESC to be a body that facilitates communication and coordination between DWPP and the field. It should have a key role in bringing the program together under one national identity and generating buy-in on policy initiatives. Currently, the WESC does not appear to be effectively performing its function. Its members, aside from the Director of DWPP, are Regional Administrators (RAs) who are generally not subject matter experts (SMEs). While they are responsible for the program in their regions, they are not typically involved in the day-to-day management of the WPP, which is the responsibility of the Associate Regional Administrators (ARAs).

The WESC has untapped potential. It has not been effectively focused and charged with leading the national program. The WESC also does not seem to have effectively engaged the ARAs to advise and provide insights into the operational challenges. At times, the WESC can take a position that is contrary to feedback DWPP has received from the ARAs. There are opportunities to use the WESC more strategically to help develop a national program identity.

If we could talk to the regions, we'd make better policy

Part of DWPP's national leadership role is to develop uniform policy that solves real problems the regions are encountering. Although many policy initiatives begin with issues bubbling up from the regions, there isn't a vehicle for ongoing discussions to engage the policy team in the issues in the field. Negative effects caused by lack of regional engagement spill over into developing and implementing policy documents. Staff want to understand the regional root issues and perspectives to produce better policy. They especially expressed a desire for more interaction.

Although there may be some informal contact with regional staff in developing initial policy documents, getting the appropriate buy in at all levels to help the approval process is a challenge. The WESC is an important part of the approval process, but its members, aside from the Director of DWPP, are Regional Administrators who are generally not SMEs, nor are they involved in the day-to-day management of the WPP. Staff believe they cannot discuss a policy initiative at the monthly ARA call unless the WESC has approved it. At times, they have worked closely with the ARAs on an idea only to have the WESC block it, sending them back to square one. This produces a conundrum: *How can and should staff engage ARAs (and RSIs and investigators) to produce policy recommendations to the WESC? At what level should and can policy be initiated?*

Culture

It can be very difficult to change process without changing culture. In discussions, many DWPP staff and managers indicated they had a fear of getting in trouble if they stepped out of the box- particularly a fear of upsetting the regions. Whether the fear is realistic or not, it is a drain on the organization and stifles creativity and ownership. It shows itself in the reluctance to provide strong leadership and oversight for the regions without clear authority. It has a chilling effect on motivation, making staff reluctant to do more than they are specifically assigned. The fear of getting in trouble also results in "over-doing," as illustrated by the practice of having two reviewers for each RFR.

Staff and managers reported high turnover rates in the office, resulting in a relatively new staff. Staff talked about the fact that the most senior staff member had only been in the office for about 5 years. That leaves the office without the stabilizing influence more experienced staff can provide, and a lack of the mentoring opportunities found in most offices. From the outside, it appears that staff and managers are caught in a negative loop. Staff feel unsupported and in some cases bullied, and are suspicious of management efforts to address problems. Managers make efforts to address issues and find that the staff are resistant, making the managers frustrated and the efforts unsuccessful, ultimately confirming the staff's belief that nothing is going to change.

In some cases, it appeared that toxic relationships have developed between some staff members and managers. Staff reported concerns about negative consequences for speaking up, including both formal retaliation and being frozen out. Whether these concerns are realistic or not, they are a barrier to productive problem solving and honest communication. In addition, the office is dealing with a number of personnel issues that create discord, fuel the rumor mill, and distract from the mission.

The DWPP management team is aware of the culture challenges and indicate they are taking steps to address it. They have done a number of activities, including implementing teambuilding activities and forming three workgroups to address concerns raised by staff: a DWPP Internal Strategic/Ops Planning Workgroup, a Communications Workgroup, and a Team Engagement Workgroup. As our engagement was only at a single point in time, it is hard to know what effect these efforts have had, but based on the feedback of staff, they do not appear to have addressed or resolved the broader issues facing the office.

Recommendations

DWPP managers have taken a number of actions to address the challenges they face. We have recommended a number of actions DWPP could take to continue their progress and resolve some of the issues identified by managers and staff. Our recommendations fall into the areas of clarification of mission, organizational alignment, addressing the process pain points, improving relationships with the regions, and providing mentoring and training. An important element of the recommendations is to provide leadership, mentoring, and support to the DWPP managers, as addressing the identified issues will be a challenging change management process.

Clarify the Mission

In order to clarify their mission and role, DWPP should take an enterprise view of the WPP and consider how they can best serve the interests of the WPP as a national program. We recommend that they engage the regions in a facilitated strategic planning process that identifies priorities that reflect the interests of both DWPP and the regions, and align their resources in the way that best supports those priorities.

Take an enterprise view

The WPP is a wide-spread enterprise that provides services to whistleblowers throughout the country with offices in eleven locations, each with different challenges and priorities, that are bound together by shared resources. While DWPP is one of the eleven offices comprising WPP, it has a unique role. National leadership, policy-making and performing oversight to ensure consistency are enterprise-level functions typically performed by a national office. As part of developing a national leadership presence, DWPP should focus on taking an enterprise-level view of the WPP. As they consider their role and priorities, it should be in the context of what can best serve WPP as a whole. In defining their relationships with the regions and best ways to communicate, it should be in the context of what most benefits the enterprise and the core mission of implementing the Whistleblower statutes. In this way, they can help develop a unified national identity for the program, rather than each region functioning separately.

DWPP should consider inviting RAs, ARAs, and RSIs to an in-person, facilitated strategic planning session. The session would be a working session focused on priorities, which results in an action plan. In addition to developing an action plan that reflects the concerns and priorities of all of the regions as well as DWPP, the purpose of the session would also be for all parts of WPP to work as a team and practice thinking like an enterprise rather than individual offices. An effective facilitator would be important to keep them focused on the enterprise level priorities. It would be an opportunity for DWPP to practice fulfilling its role as a convener and to understand how they can best help the regions.

Align resources with mission

In our interview, the National Director stated that the role of DWPP is to work with the field to improve the effectiveness and efficiency of the overall Whistleblower programs. The challenge for management is to take a step back and consider how best to translate that mission into decisions about how to align resources and create a work plan and priorities for the office. Resources are limited, and in the current budget environment, DWPP cannot expect to receive additional resources in the near future. Therefore, it is critical to focus resources on the highest value activities, and redirect resources away from lower value activities.

As DWPP leaders consider their annual work plans, they should test each priority activity against the mission and consider which activities have the greatest impact on the effectiveness and efficiency of the overall Whistleblower programs. It is as critical for DWPP to decide what it will not do, as it is to decide what they will do.

Align the Organization

Just as mission clarity is critical, organizational alignment will be key to DWPP's success. Once the mission is clarified, the organization must be aligned to best support the mission. DWPP managers raised a number of concerns about DWPP's organizational authority, mandate with regard to the regions, and reporting lines. Those concerns should be considered, whether or not any changes are made. We have suggested that the OSHA front office clarify the issues around authority and consider bringing the regions and DWPP under one DAS and revisit the structure of the WESC. We also suggest DWPP focus on developing its influence with the regions by adding value and exerting leadership, rather than relying on organizational authority. Finally, we provide options regarding the division structure if they are not able to restructure in the way the managers have proposed in the near term.

WPP as its own DOL agency?

In the Red Team's original final report, we recommended that the Department consider making WPP its own DOL agency. (See: *The Whistleblower Protection Program's New Way Forward*. January 5, 2017. Page 19). After engaging with DWPP, it is clear that although this might make sense in terms of alignment of mission, it would require an investment of significant additional resources. DWPP is not currently resourced in a way that would support it as a stand-alone agency within the Department, nor does it seem likely additional resources will become available in the current budget environment. It also would not resolve the current challenges but could rather distract from addressing the more pressing problems.

Resolve the issues around authority

The fact that the regional WPP staff report to the RAs and not to DWPP combined with the fact that the RAs report to a different DAS than DWPP in the OSHA front office has contributed to DWPP's feeling that they do not have a mandate to lead. While it is possible for this structure to work, it requires more coordination by the OSHA front office to resolve conflicts and establish appropriate roles, and more collaboration among regional and DWPP leadership.

OSHA should consider whether the WPP as a whole could be more effectively managed if both the regions and DWPP reported to the same DAS. Under the current structure, responsibility within the OSHA front office is diffused. One DAS is responsible for regional operations, with WPP an element within the larger OSHA regional operation. A different DAS is responsible for DWPP. Neither has responsibility for the entire program. If there is a conflict between DWPP and the regions, the communication goes up to two different DASs and then they need to coordinate within the OSHA front office on the appropriate response or how to mediate the conflict. If the regions and DWPP reported to a single DAS with responsibility for the full program, that DAS would have more ownership, and conflict would be mediated within one line of authority within the OSHA front office. This would be similar to how the Directorate of Enforcement Programs (DEP) is managed.

The OSHA front office should also consider exerting leadership in clarifying DWPP's mandate and role in relation to the regions. Providing regional oversight to ensure quality, consistency, and compliance with established policy is a function typically performed by a national office such as DWPP. However, DWPP seems to believe they do not have a mandate to perform this function because they do not have line authority over the regional operations. The OSHA front office should clarify the extent to which DWPP has the authority to provide regional leadership and oversight and to report on regional performance, as well as to take actions such as to facilitating the movement of cases between regions when caseloads and resources are not aligned, or providing leadership on resolution of significant cases or when a pattern is identified in relation to a multi-establishment employer. By setting clear expectations, the OSHA front office can help establish the rules of engagement.

Exert influence! Don't rely on authority

Once the OSHA front office has clarified DWPP's authority, DWPP should move to align resources to support this function as a primary part of their mission. They should consider what activities they can undertake to generate the highest value to the WPP program, how they can be a change agent to dismantle communication silos, and solicit regional feedback on how they can best use their position to facilitate change that will help the regions accomplish their mission.

With or without organizational authority from OSHA's front office, leadership is implemented more through exerting influence than by exercising formal authority. DWPP will increase their influence by working directly with the regions to identify ways in which DWPP can bring value to the regions. What are the regions' pain points? How can DWPP be a change agent for developing solutions for those pain points? How can DWPP spot emerging issues and convene the right resources to address them? If DWPP is going to report on regional performance, how can DWPP help tell their story?

Under OSHA's organizational structure no directorate has direct oversight over the field, yet other directorates appear to communicate and collaborate effectively with the regions. One example is DEP. DEP supports OSHA's mission of enforcing standards by providing guidance on how Compliance Safety and Health Officers (CSHOs) enforce OSHA standards and how employers are expected to comply with OSHA standards. Because DEP reports to the same DAS as the RAs, DWPP feels they have *de facto* line authority. However, DEP does not agree with this description. DEP views their role as providing leadership by building and maintaining relationships with the field.

When DEP learns of an issue, they assign an individual SME who conducts research and reaches out to the regions to gather everyone's perspective. DEP engages the field on questions and concerns to get buy-in. As a result of this engagement, it is able to quickly produce policy memos addressing issues raised by the regions.

DEP also views its role as being responsible for monitoring performance, both inputs and outputs. To this end, DEP does quality reviews. They review a sample of approximately 250 cases. More complicated egregious cases can take 1-2 weeks to complete the quality review. Uncomplicated cases can take less than a day to 20 hours for a complete review. Again, DEP views their authority coming not from direct line authority but from the relationships they have built and being plugged into the network.

Revisit the structure of the Whistleblower Executive Steering Committee

In the Red Team's original final report, we recommended that OSHA revisit the current WESC structure and membership. (See: The Whistleblower Protection Program's New Way Forward. January 5, 2017. Page 19). We recommended adding five ARAs to the WESC to bring in more WPP-specific perspective, as well as considering adding the DOL Innovation Council as an ex-officio member. The addition of the ARAs to the WESC will increase the subject matter expertise on the WESC, and allow for day-to-day operational concerns to be represented in discussions. OSHA should also consider whether it is appropriate to add a second DWPP manager to the WESC if the regional representation is expanded. In addition, the WESC role should be examined to determine how it can best support creation and maintenance of a national WPP identity, and how it can be used as a forum for DWPP leaders and regional leaders to discuss strategies for improving communication between DWPP and the regions.

Implement an effective DWPP division structure

The structure of DWPP must be one that effectively supports the critical mission and priorities that have been identified. DWPP leadership has developed a restructuring proposal that would divide the directorate into three offices: the Office of Field Operations, the Office of Outreach/Strategic Planning, and the Office of Policy. Managers believe that currently, each division has too many functions, and this restructuring would resolve that problem. The reorganization proposal requires formal HR action and hiring an additional Division Chief, which is unlikely to be accomplished in the short term. Given the hiring freeze, we would also recommend two additional options for creating a more functional structure that could be implemented in the short term to maximize their current resources.

The first approach is to fully implement the division structure along the lines that already exist on the current organizational chart – one for Field Operations and another for Policy, Planning, and Program Development. In this model, staff would remain assigned to their current division but their work would be more differentiated: they would have position descriptions tailored for their differing duties and would receive work assignments according to their division.² The division chiefs in this model would continue to manage specific people.

² Of course, their positions descriptions could state that they will occasionally assist the other division, on a temporary or emergency basis.

The staff assigned to the Field Operations Division would be focused on overseeing the investigative work in the field. Each person would be assigned to be a liaison for two regions and would be the primary point of contact at the DWPP for the ARAs and RSIs in those regions. They would be responsible for providing guidance on enforcement matters, participating in case development conferences with SOL, coordinating with the appropriate SME for a statute in the Policy, Planning, and Program Development Division when guidance is needed, etc. The staff assigned to the Field Operations Division would also be responsible for conducting RFRs (although not for the two regions for which they serve as the liaison).

The staff in the Policy, Planning, and Program Development Division would be focused on developing the policy and procedures to be followed by field staff in their investigative work and on drafting regulations, interpretations, and other guidance to be followed by the regulated community. Each person in the Policy, Planning, and Program Development Division would serve as the DWPP's subject matter expert for 4-5 of the 21 "other statutes." They would be responsible for serving as the DWPP's liaison for the agencies with primary enforcement authority for their statutes, developing guidance for both the field and regulated community for those statutes, working with the Field Operations Division in developing field training for those statutes, etc. Use of cross-functional teams can be a very effective tool for problem solving or a necessary tool to complete a major office effort, and the office should continue to use cross-functional teams where appropriate, but it should be within the context of more differentiated divisional responsibilities.

The second approach is to disband the divisions and turn them into program areas. In this model, the supervisors would oversee programs rather than people, and function as direct supervisors for a group of people for HR purposes, such as writing performance appraisals. Staff members would not be assigned to divisions, and would be required upfront to perform assignments in all the program areas and work with both supervisors. Employees would be staff members of the office as a whole and not of any branch, and their position descriptions and performance standards would be written accordingly. The staff would share very similar duties, and would be responsible for a combination of what was described above for the formal division approach. Each person would serve as a liaison for one region, and as a subject matter expert for approximately two of the 21 "other statutes". Although this approach might appear similar to current practice, it differs in at least two material aspects. First, staffers would know from the beginning that they are not assigned to specific divisions. Second, supervisors would manage differently, because they are responsible for programs not a specific team of people.

Regardless of the approach, the office structure should be aligned to achieve the mission effectively, with an emphasis on accountability and measurable results.

Address Process Pain Points

DWPP has put a significant effort into reducing the backlog and improving the RFR process. However, as outsiders, we had questions about the RFR process that those involved in the process may not ask. Why do RFRs? Why put so much effort into them? Are they the best investment of DWPP staff time to achieve the goal of improving the overall program? Are there less resource-intensive ways to provide an appeals process? We made a number of suggestions for DWPP to consider, though we are aware that some of them are radical departures from the current structure. We hope that even if these suggestions are not adopted, they will spark creative thought about the questions above. In addition, we recommend that DWPP implement improved project management and engage staff more fully and then hold them accountable for producing the agreed upon results.

RFRs: Why do them?

Neither the statutes nor the regulations require any review of a region's dismissal of cases under OSHA 11(c), AHERA, or ISCA. The Whistleblower Investigations Manual states, "It has been OSHA's long-standing policy and procedure to provide complainants with the right to appeal determinations under OSHA 11(c), AHERA, and ISCA, although such appeals are not specifically provided for by statute or regulation." WPP imposed the task on itself based on a belief that it is important to provide an avenue for appeal because not all statutes provide a private right of action. DWPP views this "appeals process" as the last stop for complainants. This view is not completely accurate, in the big picture, because some states (e.g., Florida) provide legal avenues to pursue the same issue and some other federal statutes (e.g., NLRA) might apply as well. However, it is true that dismissal is "the end of the road" under these particular statutes. Thus, although not clearly articulated, this self-imposed process appears to be a customer or public relations service—a way to provide complainants with an additional outlet to be heard if they are unhappy with the dismissal of their cases and thereby give them greater confidence in the system. Although some would argue that DWPP has set a precedent that complainants have the right to request a review, DWPP should take a step back and consider whether the RFR process is really necessary and whether the RFRs are the best use of resources to contribute to the mission of improving the effectiveness and efficiency of the WPP. If it is determined that RFRs should continue to be done, DWPP should consider a few alternatives to the current process.

Require More of Complainants: Under the current RFR process, complainants need not articulate a basis for their request. DWPP should consider whether it is appropriate to require an individual requesting review of a dismissal to provide a statement of the basis for their request. It is not unusual for programs to require submitters to explain why they think the agency's initial determination was wrong. In the Department's Trade Adjustment Assistance program, for example, petitioners who request administrative reconsideration are required to submit a statement citing reasons why they consider the denial erroneous according to facts not considered, the interpretation of the facts, or application of the law. Applying a similar requirement to the RFR process could help reduce the scope of the RFR by focusing on a specific allegation about what was missed in the original dismissal.

Eliminate the Two-Reviewer System: Although managers and staff indicate that having two reviewers is effective as a training tool, it is very unusual to assign two reviewers for a case. It invests double the resources that would normally be required in the RFR process, and reportedly, it is very unusual for an RFR to result in the dismissal being overturned.

Therefore, it is unclear what return the program is getting on the investment of the staff time. Alternatively, the RFR could be done by one reviewer (with appropriate supervisor review) and the staff time of the second reviewer could be invested in a higher value activity, such as an effective quality audit of all cases, not just dismissals of cases that are appealed through the RFR process.

Engage the Regions: DWPP should engage the regions informally earlier in the review process to ask questions or clarify information. The written policy, states: “[e]ither reviewer is encouraged to contact the Regional Office to clarify information in the investigative case file before making a final determination.” The staff members who do contact the regions early, report that it significantly increases the efficiency of the RFR process.

Eliminate the DRF: Eliminate the DRF process and rebrand it under the quality control efforts for a monthly or quarterly all-staff debrief on complex and interesting cases. The DRF only makes sense if there are two independent reviewers. The Director of Field Operations manages the RFR process and is already meeting with staff individually. DRFs mainly occur when there is disagreement between the two first line reviewers. If there is only now one reviewer, the Director of Field Operations would only need to meet with the staffer if he needed to provide guidance or obtain additional information from the reviewer. It would be inappropriate to invite other staff to a session that should be one-on-one to provide feedback and coaching for the staff member.

Consider whether RFRs should be done by DWPP: DWPP, in consultation with the regions, should take a step back and consider whether DWPP should do the RFRs. Do the RFRs support the mission of providing national leadership? Could the RFRs be done more efficiently by the regions or by regional SOL? DWPP reports that it receives approximately 150 RFRs per year. Spread over 10 regions that’s an average of 15 RFRs per region per year. If WPP implements some of the screening recommendations in the original Red Team report, it could free up staff time for RFRs. RFRs could be assigned to a senior investigator in the region and be used to support a career ladder to a higher grade, potentially with a path to RSI. Alternatively, RSOL may be willing to assist with RFRs, taking the burden off both DWPP and the regions.

Quality Control through a National Audit Program Not the RFR: In the Red Team’s original final report, we recommended the creation of a “National Audit Program” (See: The Whistleblower Protection Program’s New Way Forward. January 5, 2017. Page 22). This National Audit Program, rather than the RFR process, would be a much more effective way to implement and maintain consistency and quality in OSHA’s whistleblower investigations.

Implement improved project management

Staff and managers identified difficulty tracking projects, policy documents and letters as process pain points. We recommend replacing the current project list with a more focused project management system that sets out a project plan with project goals, milestones, and deliverables with realistic timelines. The staff member or project team lead assigned to the project should be responsible for developing the project plan and presenting it to the supervisor. The project plans can then be the basis for discussions between supervisors and staff during project status meetings.

Staff expressed suspicion of the current process for setting deadlines, referring to “fake” deadlines. They expressed frustration over the fact that they perceive management to change priorities mid-stream leaving the staff trying to meet a deadline that is no longer relevant. They were also frustrated by their perception that management does not focus on meeting hard, external deadlines, which they consider “real” deadlines. Given these frustrations, staff are likely to push back against structured project planning and setting timelines with milestones and deliverables, and say that the review process is out of their control or that priorities could shift and another emergency project could prevent them from meeting the established timelines. However, a properly managed project plan will take into account these challenges and provide a basis for discussion of whether projects are on track and whether timelines should be adjusted to reflect shifting priorities or a change in the level of effort needed for the project.

Project management principles and established timelines should also be applied to the RFR process to ensure cases stay on track and any delays are managed.

Improve the policy and special project process

Currently, staff members feel once they submit a draft policy document to their supervisor, they relinquish control or ownership of the document. This is partly because they feel they have thrown it over the wall and cannot see what is happening on the other side. The responsibility for the document throughout the review process should remain with the staff member, and they should be accountable for the necessary follow up, with guidance and oversight from the supervisor. They should continue to own and be engaged in the project through its conclusion. This shift would take the burden off of the supervisor and delegate it to the staff, who would retain ownership and gain a better understanding of the process. The review and clearance process is a challenge for many offices, but the more transparent the process is, the easier it is for staff to navigate, which reduces frustration. While it may be that OSHA culture requires certain communications to come from a supervisor or manager, the staff member responsible for the project should retain responsibility throughout.

Empower the staff and hold them accountable

Many managers have had training that includes the concept of “Who’s got the monkey?” based on a 1974 Harvard Business Review article and its many offshoots.³ In the article, the monkey symbolizes a problem or assignment. It describes how the monkey leaps off a staff member’s back and onto the manager’s back when the staff member successfully transfers the problem to the manager. As staff in DWPP described how they follow up with their supervisors to see if the supervisor has done the follow-up with the region after the DRF or to see where they were in the review process for a policy project, it became clear that the DWPP managers are collecting a lot of monkeys. Rather than the staff working for the managers, the managers find themselves in the position of working for the staff- doing the work that should be the responsibility of the staff member instead of focusing on management tasks.

DWPP managers should focus their efforts on implementing effective delegation. Managers’ time is better spent making assignments to staff, empowering the staff to develop their own solutions, providing guidance and instruction as needed, then holding the staff accountable

³ William Oncken, Jr. and Donald L. Wass, originally published November-December 1974.

for completing the task as agreed, rather than spent on doing the tasks themselves. Because the staff do not currently feel empowered, it may take more effort to manage this way in the short term, but the long term goal is to have staff that are more fully developed and better able to take responsibility.

In addition, staff responsibility can be developed by:

- Assigning project team leaders and team members the task of developing project plans that contain task assignments, meeting times and timetables for each member in order to meet the project's completion date.
- Expanding use of standard language or templates for routine correspondences to ensure consistency and allowing staff to sign off.

Improve Relationships with the Regions

Building effective, collaborative working relationships with the regions is important to DWPP's success in providing national leadership for the program. By working together with the regions on mission-focused projects, using working groups, taking advantage of communication opportunities, and reinstating a program of details to the regions, DWPP can build a culture of teamwork with the regions and demonstrate the value they bring to the program.

Build collaborative relationships

To improve relations with the regions, DWPP should focus on opportunities to act as a team and build collaborative working relationships. When organizations are under stress and different pieces are not working closely together, it is easy for the different pieces to say they don't know what the others are doing and to assume that because they don't know, it must not be valuable. By building collaborative relationships where DWPP and the field can coordinate and work in tandem on mission-focused projects, it will help everyone to see that they are all contributing toward the same mission. DWPP should build on successful activities such as the ARA conference and the process used to collect input on the IT system needs.

Collaborate with the field

As suggested by staff, there should be a working group made up of Investigators, RSIs, and ARAs with whom staff can engage in the development stages of the policy process to generate ideas and solutions that make sense in the field. This process would not supplant the WESC, but would provide the opportunity to get staff level feedback and buy-in before taking projects up the WESC more formally.

DEP has a process of using topic groups to facilitate staff-to-staff engagement on specific issue areas. A national office lead and regional office membership are assigned to the topic area. Issues may be raised directly to the topic group or through the RAs to DEP. The topic group then takes the lead on developing solutions with both DEP and regional perspectives represented. DWPP should adopt this approach, which has proven to be effective in the OSHA environment to help staff engage with the field.

These groups could be formed around the already identified partner agency liaisons who are responsible for developing relationships and expertise in specific statutes. These groups could be used to improve relationships with the field and demonstrate the value the

DWPP can bring by helping develop expertise, identifying issues, and working together to brainstorm solutions.

Take advantage of communication opportunities

There are a couple of simple actions the Directorate can take to improve communication, create process efficiencies, and develop relationships with the Regions:

1. Encourage Regional Liaisons to conduct routine check-ins with ARAs to discuss office highlights, best practices and get agenda items for monthly ARA call. Regional Liaisons would then get together to draft the ARA call agenda, discussing their individual meetings and noting any trends or emerging concerns.
2. Revamp the ARA monthly call to spend less time debriefing on project list and more time highlighting region activities, providing legal updates, planning national priorities etc.
3. The Regional Liaisons should also serve as pilot POCs. If the pilots are effective then ideally they would produce new or revised policy. After approving the pilots, DWPP does not currently appear to stay involved throughout the pilot or provide consistent evaluation on pilot effectiveness. By staying involved as pilot projects progress, DWPP could more quickly turn promising pilots into national solutions.
4. Encourage staff to contact ARAs with inquiries on RFRs.

Details to regions

An increased exposure to a variety of cases in various stages of investigation would benefit DWPP staff and the Whistleblower Protection Program as a whole. In addition to fostering relationships, this exposure will enhance their technical assistance skills, and develop more accurate quality control measures and field relationships. We recommend that DWPP reinstate the DWPP Regional Detail Program, but allow for remote rotations. DWPP line staff would detail to a Region for a minimum of 30 days, and up to 9 months. The details can be conducted remotely because most investigative activities in the field are done telephonically.

- First, DWPP staff would shadow Investigators and assist Investigators in completing cases by: taking notes during intake; inputting data into IMIS; documenting whether the allegations warrant investigation; drafting charges; taking notes during complainant, witness and respondent official interviews; drafting information requests; analyzing evidence for sufficiency and relevancy; and participating by telephone in closing conference and settlement negotiations for 4 to 6 weeks (or shorter depending on length of detail).
- Second, after completing of the shadowing period, a DWPP staff member can handle a caseload (possibly backlog cases) for intake and investigation.

In addition to assisting the field with inventory reduction, DWPP staff will be able to observe how the Regions implement guidance, policies, and procedures. Staff will be able to analyze how a policy has been implemented and its impact on efficiency, effectiveness, and sustainability. Also, these experiences will influence the development of future guidance. Lastly, DWPP staff can develop training and best practices for field investigations based on its observations and participation in case management.

Provide Mentoring and Training

In order for DWPP to provide national leadership for WPP and be an agent for implementing innovation throughout the program, they will need to undertake a committed change management effort and have skilled staff and managers who are knowledgeable and prepared to lead. To support that goal, we recommend training and mentoring for managers, to ensure they have the skills and support needed to lead the organization through change. We also recommend building a structured staff development program to ensure staff have requisite skills and support a career ladder.

Training and mentoring for managers

OASAM's Performance Management Center (PMC) recently launched the Modern Government Management Training (MGMT), targeted at managers across DOL. The training is based on Google Project Oxygen, as adapted by the Performance Improvement Council and DOL, and focuses on the following traits:

1. Be a good coach
2. Empower your team and don't micromanage
3. Express interest in your team members' success and well-being
4. Be productive and results-oriented
5. Be a good communicator and listen to your team
6. Help your employees with career development
7. Have a clear vision and strategy for the team
8. Have technical skills so you can advise the team

The training offers a simple way for manager to enhance their role in employee engagement by adopting the management behaviors that Google managers have used to manage their high-performing organization. This free training is currently being offered under the Human Resources Center. DWPP should send its Division Chiefs to this free training.

In addition, if resources permit, the Director, Deputy, and Division Chiefs should have leadership coaches. In order for DWPP to implement the changes described in this report and effectively change the mindset of staff, it will require a carefully planned change management initiative. People often react to change the same way they react to loss. The fear of change/loss breeds resistance to the best of intentions and efforts. An effective change management strategy will address this for all staff. This will then flow into a larger strategy addressing the risk aversion and resistance to change that plagues DWPP. This includes improving communication flow both vertically and horizontally.

Training for staff

The variety and complexity of the cases on which the DWPP works, as well as the policies and procedures that it develops, necessitates a thorough understanding of the 22 statutes under OSHA's enforcement responsibility. We recommend developing a robust training program that includes not only basic training for newly hired Analysts, but emphasizes ongoing professional development, education and career enhancement opportunities to ensure that DWPP employees have the requisite knowledge, skills, and capabilities to guide the field in accomplishing the program's complex mission – the effective investigation of 22 federal statutory provisions.

DWPP is responsible for providing guidance and developing policies and procedures for field staff. DWPP Program Analysts should receive training similar to what the Red Team recommended for Whistleblower Investigators (See: *The Whistleblower Protection Program's New Way Forward*, January 5, 2017, Page 18; and *Investigator and Leadership Competencies*, 2016). We recommend building a Program Analyst Career Development Program that incorporates required training and professional development at various levels of the DWPP career. Appendix C summarizes the major components of such a program.

Conclusion

DWPP is a relatively new Directorate that has expanded significantly in the past several years. It has an opportunity to establish its value by providing national leadership to drive change and innovation across the Whistleblower Protection Program. To do this, DWPP needs to change its culture and create an environment where staff feels empowered to innovate. DWPP should strive for a proactive, collaborative, supportive role in its engagements with the field. The Directorate should view itself as a partner for innovation with the field and work more proactively with the field to implement innovation and the recommendations from the Red Team and other program and process reviews. To reach its full potential, the Directorate should clearly define its mission, align its organization to support the mission, consider ways to improve its processes, and improve relations with the regions.

RFR Detailed Process

As described by staff, the process of RFRs is as follows:

1. DWPP receives a letter requesting review either from the complainant or the field office, someone in DWPP (Currently the RFR Coordinator) checks IMIS to determine whether the case is under 11c and checks the date that review was submitted (Complainants have 15 days to ask for a review). IMIS is then updated to include the RFR.
2. If the request is timely and involves the correct statute, the coordinator drafts an opening letter and submits it to the Field Operations Division Chief for signature. About 40% of the time the coordinator contacts the Regions for tracking information to determine timeliness. If it is unclear, complainants are given the benefit of the doubt.
3. After DWPP opens the review case, the RFR coordinator looks on the shared drive for pertinent materials (about 80% of the time it is not on the shared drive). The Region is asked to upload it within two weeks. OSHA policy requires that the Regions upload the files within 45 days. However, sometimes, uploads are delayed. This is a pain point of tension between the Regions and DWPP. Staff do not like confrontations with the RAs over RFRs, therefore, this task usually falls to the Division Chief. Some improvements have been made, as the average time for the regions to upload the files has fallen from 19 days in FY 2016 to 10 days in FY 2017.
4. After the Regions upload the investigation file the Division Chief assigns the case to two people. RFR assignment is based on workload and coordination with the policy chief, because members of both teams work on RFRs. The two staff members review the file independently. One has the primary task of writing the dismissal letter and the other does a quality review. Each of them completes an RFR form and, at the end of their respective reviews, they make a recommendation.
 - a. If both reviewers recommend closing then the Division Chief reviews the recommendation. The Division Chief also reviews the draft dismissal letter, which is then sent up the chain for signature by the Director or Deputy Director.
 - b. If they do not agree, or either of them thinks there should be a discussion, then there is a DRF to discuss next steps. The entire staff is invited to participate in the DRF.
 - c. The next steps can be: closure (with a dismissal process as described above), go back to regions for more investigation or information, or speak to SOL about an issue. Speaking to SOL (a process that is called a DOL Review Committee or DRC) happens rarely. If there is a discussion with the regions after the DRF, a supervisor needs to participate in the call.
 - d. If the region needs to do additional work, the decision needs to wait until after the region provides the information. At that point, the overwhelming majority of the time, the case will be dismissed

Policy and Special Project Detailed Process

Staff described the process of developing a policy document or special project.

1. DWPP identifies a need for a policy change, or a problem or issue leading to a special project.
2. The issue is assigned to a staff member or, for more complex projects, a team.
3. The staff member or team reviews and researches the issue, including by looking at existing guidance, talking to SOL, talking to the field, and talking to the Office of Communication for outreach issues.
4. The staff member or team drafts a policy memo, WB Manual change, SOP or other document addressing the issue.
5. The draft is submitted to the chief of the Division of Policy, Planning, and Program Development.
6. The Division Chief provides the draft to the Deputy Director and Director for review. This is the step where staff seem to believe they lose control and ownership of the document, as the rest of the review process is managed by the Division Chief. Comments received during the rest of the process are sometimes returned only to the Division Chief without staff inclusion and sometimes without the Division Chief noticing that the staff member has not been included, causing delays.
7. The Director provides the document to the WESC for review. The WESC may not buy in to the proposed solution sending comments back through the chain.
8. The document, which should represent an agreed upon approach by all of WPP, is provided to SOL for review. SOL may then question the approach or push for more field review sending the document back to an earlier stage in the process.
9. After SOL issues are resolved, the document is usually but not always sent out to the field for final review.
10. The document is finalized, unless it requires OSHA front office sign-off, in which case it goes through additional review.

	Trainee Program Analyst (Year One)	Program Analyst (Years Two and Three)	Senior Program Analyst
Day-to-day	<ul style="list-style-type: none"> Gains on the job training by: <ul style="list-style-type: none"> Field Ops: Working with a Sr. Program Analyst in conducting Requests for Review (RFRs); providing guidance to the field, etc. Policy/Planning: Working with a Senior Program Analyst in drafting policy, developing training for the field, etc. Completes a minimum thirty-day rotation in the field and shadows Senior Investigators on OSH Act Sec. 11(c) investigations. 	<ul style="list-style-type: none"> Under the close supervision of a Sr. Program Analyst: <ul style="list-style-type: none"> Field Ops: Conducts Requests for Review (RFRs); provides guidance to the field, etc. Policy/Planning: Drafts policy, develops training for the field, etc. Completes a second minimum thirty-day rotation in the field and shadows Senior Investigators on whistleblower investigations conducted under the "other" statutes. 	<ul style="list-style-type: none"> Independently performs, and trains others to perform, the following tasks: <ul style="list-style-type: none"> Field Ops: Requests for Review (RFRs); providing guidance to the field, etc. Policy/Planning: Drafting policy, developing training for the field, etc. Serves on a National Audit Program team. Serves on details at agencies with primary enforcement authority for one or more of the 21 "other statutes" so as to gain knowledge of the details of those laws and the manner in which those agencies conducts enforcement activities. Serves as the DWPP's subject matter expert for one or more of the 21 "other statutes".
On-The-Job Training	<ul style="list-style-type: none"> Participates in Mentor program as a Mentee to a Sr. Program Analyst. Completes formal and detailed mandatory program of guided readings, webinars, and on-the-job training in preparation for Course #1420. 	<ul style="list-style-type: none"> Participates in Mentor program as a Mentee to a Sr. Program Analyst. Completes formal and detailed mandatory program of guided readings, webinars, and on-the-job training in preparation for Course #1460. 	<ul style="list-style-type: none"> Gains leadership and management training by acting as a mentor to analysts-in-training.
Classroom Training	<ul style="list-style-type: none"> Course #1420: Whistleblower Investigation Fundamentals 	<ul style="list-style-type: none"> Course #1460: Basic Whistleblower Investigations Federal Statutes (to be reinstated) Course #1610: Interviewing Techniques for Whistleblower Investigators Course #1630: Written Communication and Report Writing for Whistleblower Investigators Course #2710: Legal Concepts for Whistleblower Investigators 	<ul style="list-style-type: none"> As needed, completes refresher webinars on the "other" whistleblower statutes. Attends other OTI courses (http://intranet.osha.gov/dte/LAP/dte/courses.html) with Division Chief's approval.

	Trainee Program Analyst (Year One)	Program Analyst (Years Two and Three)	Senior Program Analyst
Professional Competencies⁴	<ul style="list-style-type: none"> • Accountability • Oral & Written Communication (<i>active listening</i>) • Continual Learning • Flexibility • Initiative • Integrity/Honesty • Interpersonal Skills • Planning/Organizing • Problem Solving • Self-Awareness • Teamwork • Technical Knowledge 	<ul style="list-style-type: none"> • Course #2720: Whistleblower Complaint Resolution and Settlement Negotiations • Accountability • Oral & Written Communication (<i>active listening</i>) • Continual Learning • Flexibility • Initiative • Integrity/Honesty • Interpersonal Skills • Planning/Organizing • Problem Solving • Self-Awareness • Teamwork • Technical Knowledge • <i>Critical Thinking</i> • <i>Interviewing</i> 	<ul style="list-style-type: none"> • Decisiveness • Developing Others • Influencing/Negotiating • Project Management • Team Building • <i>Dealing with difficult people</i> • <i>Crisis Management</i>
Professional Development		Annual Whistleblower Training Conference	

⁴ Competencies marked by *italics* are WPP-specific (i.e., in addition to OPM's EECQs)