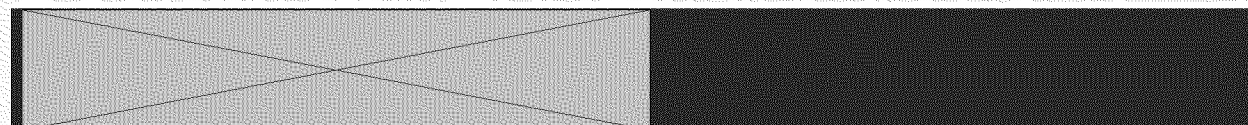


**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** The Washington Post  
**Sent:** Wed 6/7/2017 4:00:22 PM  
**Subject:** [SPAM] Federal Insider: Special Counsel Lerner leaves office as Trump rejects highly praised whistleblower advocate



## **Special Counsel Lerner leaves office as Trump rejects highly praised whistleblower advocate**

By Joe Davidson

Shirine Moazed and Elizabeth McMurray (L-R ) look on as Special Counsel Carolyn Lerner hands whistleblower James Parsons an honorary award in 2012. Parsons works at the Dover Mortuary. The whistleblowers' case resulted in major changes in the way soldiers' remains are treated at the Dover Air Force Base mortuary. (Photo by Daniel C. Britt / The Washington Post)

The defining moment for the Office of Special Counsel (OSC) after Carolyn Lerner became head of the agency was a gruesome one about body parts and a dismembered Marine.

It's not the usual fare for the office on M Street NW that deals with Hatch Act violations and prohibited personnel practices. But protecting whistleblowers is where OSC makes its reputation — as in the 2011 case involving the Defense Department's Port Mortuary in Dover, Del.

Soon this little but powerful office will have a new special counsel. Rejecting the advice of Republicans and Democrats to keep Lerner, President Trump has nominated Henry Kerner to take her place. He is a former Republican congressional staffer and currently assistant vice president at the Cause of Action Institute, a small-government advocacy organization.

Lerner, who leaves office on June 14, had been on the job only a few months when she revealed reports by federal employees of grisly transgressions at the morgue operated by the Air Force. Body parts were lost in two cases, and in another, the office reported that the mangled body of a Marine “was dismembered with a saw in order to make the body fit inside a military uniform, without the consent or notification of the family.”

With a staff that wouldn't begin to fill one Pentagon hallway, Lerner humbled and embarrassed the Defense Department, the government's largest agency. Lawmakers were appalled. The Air Force secretary at the time

expressed his sincere “regret” for “lapses in our standards at Dover,” a non-apologetic understatement.

The action of the Office of Special Counsel — no relation to a special prosecutor or to Robert S. Mueller III, the special counsel investigating Russian meddling in the 2016 presidential election — secured mortuary reforms and protected the employees who were targets of Air Force retaliation.

“I think that we have sent the federal community a message that whistleblowers should be valued,” Lerner said Monday in her office overlooking St. Matthew’s Cathedral. “Whistleblowers now feel comfortable coming forward, and that is helping our government.”

### **Will VA chief be voice of reason on climate change and**

The Port Mortuary case really helped the federal community understand that the increased caseload leads to bigger backlogs, but it also demonstrates OSC was robust enforcer of whistleblower laws,” she added that employees are more willing to trust the office with sensitive cases.

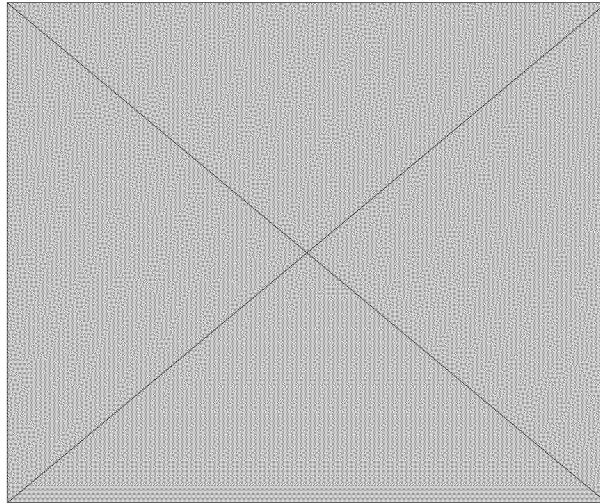
Considering the widespread retaliation against federal whistleblowers, her ironic criticism comes from James J. Wilson, the agency’s chief human capital officer. He filed a whistleblower retaliation complaint against Lerner with the Office of Special Counsel is a more robust agency than the moribund place they found before she got there. Wilson filed a complaint with the Council of the Inspectors General on Integrity and Efficiency. Regarding his complaints to the council, Wilson, who previously filed grievances against it moved from last-resort option to first choice for getting relief for former employees at two other agencies, signed an affidavit saying, “I received final decisions closing these four matters with no further action being taken.”

Relief for individual whistleblowers also can mean systemic improvements for federal agencies and taxpayers. The Department of Veterans Affairs is whistleblowers and members of Congress. Whatever the criticism of Lerner, it is outweighed by praise from the obvious example. Congress approved VA improvements following a 2014 scandal over the coverage of long patient wait times, which was revealed by whistleblowers. Whistleblower disclosures also led to a new earlier this year. His was the first federal whistleblower case heard by the Supreme Court and MacLean credits his victory largely to work done by OSC. Lerner’s office was instrumental in both.

Devine’s strong praise for OSC is not unqualified. “The bad news is they operate at a molasses pace” in some instances, he said. He added that he would like Lerner to be more aggressive about taking legal action against federal agencies that violate whistleblower rights.

“Leading the Office of Special Counsel requires a deep appreciation for the patriotic work that whistleblowers do to shine a light on fraud or misconduct. Despite the slow pace, agency statistics show impressive gains. There were 276 favorable actions for whistleblowers and other victims of PPPs in government. Carolyn Lerner has been a steadfast advocate for government whistleblowers, and I am grateful for her service at OSC,” said

[prohibited personnel practices] this past year, more than double the annual average,” the office said in its budget justification to Congress. “In the last two years, OSC has achieved *five* times the number of favorable actions in whistleblower retaliation complaints than in any prior two-year period in agency history.... In FY 2016, for the second straight year, OSC received upwards of 6,000 new matters, a 25 percent increase over the prior two-year period.”



Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Judiciary Committee. “Her leadership should be a road map for future leaders of this office.”

The Senate Whistleblower Protection Caucus, founded by Grassley and Sen. Ron Wyden (D-Ore.), had urged the Trump administration to retain Lerner.

“I am disappointed the president chose not to take Sen. Grassley’s and my recommendation to renominate Carolyn Lerner, who is an experienced leader with bipartisan support,” said Wyden.

It’s also bicameral. Before Trump’s decision, Rep. Rod Blum (Iowa), Republican chairman of the House Whistleblower Protection Caucus, led a bipartisan House letter saying Lerner deserved another term. Among those who signed was Rep. Elijah Cummings (Md.), the ranking Democrat on the House Oversight and Government Reform Committee.

Lerner turned the Office of Special Counsel “into a model agency and set the bar as the head of that office,” Cummings said by email Monday. “She

**More from Federal Insider** courage and tenacity to hold agency officials accountable when they retaliated against whistleblowers.”

**Read more:**

**[Trump’s new VA office to help fire feds faster also could hurt, not protect, whistleblowers]**

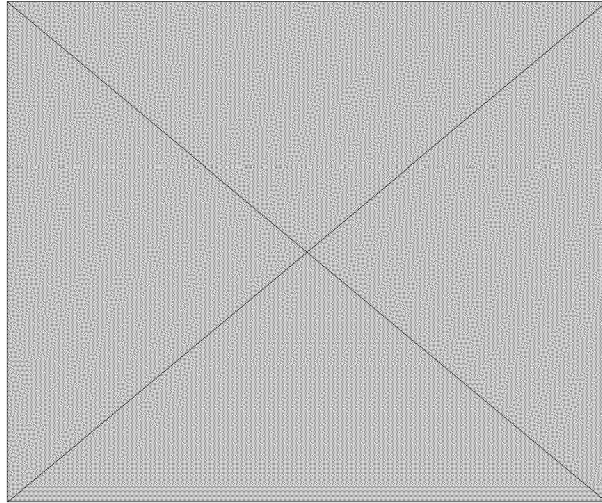
**[Energy Department whistleblower finally gets justice, despite agency neglect]**

**[Trump withdraws reappointment nomination of popular whistleblower advocate]**

**medical marijuana in Trump administration?**

By Joe Davidson | Columnist • [Read more »](#)

ADVERTISEMENT



**Recommended for you**

**The Energy 202**

Your daily guide to the energy and environment debate.

[Sign Up »](#)

Share Federal Insider: [Twitter](#) [Facebook](#)

Trouble reading? [Click here](#) to view in your browser.

You received this email because you signed up for Federal Insider or because it is included in your subscription. For additional free newsletters or to manage your newsletters, [click here](#).

We respect your [privacy](#). If you believe that this email has been sent to you in error or you no longer wish to receive email from The Washington Post, [click here](#). [Contact us](#) for help.

©2017 The Washington Post, 1301 K St NW, Washington DC 20071