



**PEER**  
PUBLIC EMPLOYEES  
FOR ENVIRONMENTAL  
RESPONSIBILITY

Webinar

# Whistleblowing and Anonymous Activism in the Age of Trump



# Agenda



## **Protecting Public Employees and the Environment in the Age of Trump**

*Tim Whitehouse, Executive Director, PEER*



## **Thoughts on Whistleblowing and Anonymous Activism**

*Paula Dinerstein, General Counsel, PEER*



## **Anonymous Activism: Focusing on the Message and Not the Messenger**

*Laura Dumais, Staff Counsel, PEER*



## **Promoting Transparency: FOIA and Speaking to the Press**

*Colleen Teubner, Litigation & Policy Attorney, PEER*





# **Protecting Public Employees and the Environment in the Age of Trump**

*Tim Whitehouse, Executive Director, PEER*

# What We Can Expect

- Attacks on the civil service
- Calls for loyalty tests – explicit and implicit
- Efforts to remake/privatize programs using questionable legal tactics
- Focused attacks on climate change, environmental justice, enforcement, chemical reviews, public lands, fisheries and other programs





# About



**PEER**  
PUBLIC EMPLOYEES  
FOR ENVIRONMENTAL  
RESPONSIBILITY

- Non-partisan
- Represent whistleblowers and work with "anonymous activists"
- Work with public employees at all levels, retirees and local and state governments
- Do not work on EEOC issues
- Coordinate and cooperate with other groups
- Refer "intakes" to other groups and law firms



# General Thoughts and Observations

- Engage with the unions
- Know your agency's rules and expectations
- Get a lawyer, if you can
- Science, good laws and policies and transparency are paramount

*"We must be prepared to engage in the never-ending and tedious process of continual oversight and review of our government."*

*Nancy Kassenbaum, former Senator*





# **Thoughts on Whistleblowing and Anonymous Activism**

*Paula Dinerstein, General Counsel, PEER*

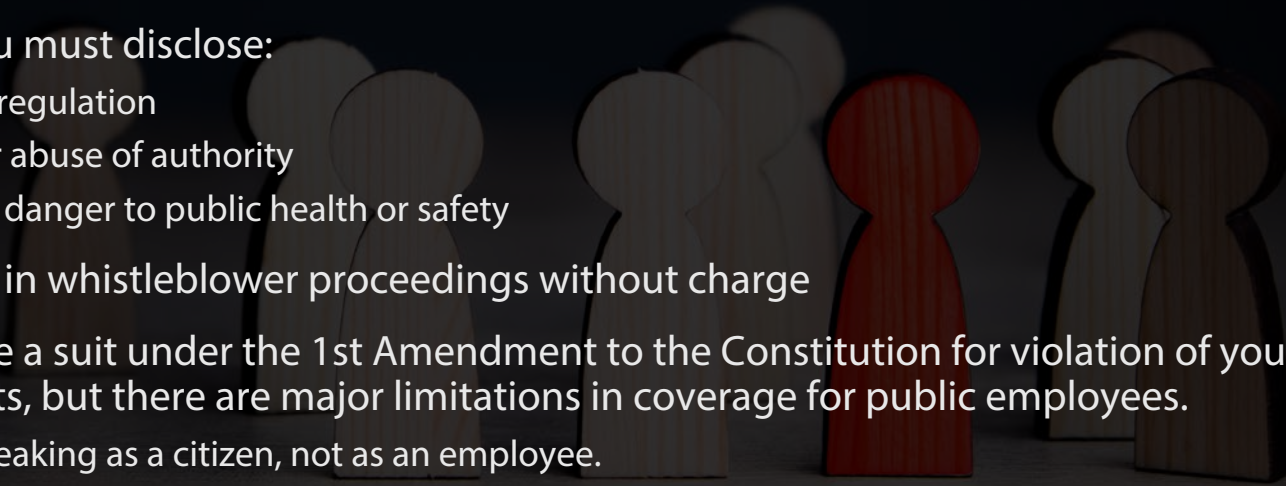
# Anonymous Activism – Your Safest Bet

- If you see a problem in the way your agency is enforcing or implementing environmental or public health laws or programs, the safest bet is anonymous activism
- PEER or another whistleblower organization can help you address the problem without revealing your identity or jeopardizing your career.
- In PEER's name (not yours) we can:
  - File information requests to expose wrongdoing and sue if the agency withholds it
  - File and litigate lawsuits against the agency (the employee can play no role in them!)
  - File scientific integrity complaints or
  - Data Quality Act complaints
  - Request inspector general investigations
  - Petition for rulemakings
  - Conduct employee surveys
  - Go to the press



# Whistleblowing

- If you are considering blowing the whistle, get legal advice as to how to do it in a way that you will be protected by whistleblower laws.
- Or, if you have already been fired or disciplined for speaking out, you may be able to use a whistleblower defense to a disciplinary action.
- If you are considering blowing the whistle, get legal advice as to how to do it in a way that you will be protected by whistleblower laws.
- There are a few different laws with somewhat different requirements and processes.
- Generally, to be covered you must disclose:
  - A violation of law, rule or regulation
  - Gross mismanagement or abuse of authority
  - A substantial and specific danger to public health or safety
- PEER represents employees in whistleblower proceedings without charge
- An additional option may be a suit under the 1st Amendment to the Constitution for violation of your free speech or freedom of association rights, but there are major limitations in coverage for public employees.
  - Primarily, you must be speaking as a citizen, not as an employee.
  - Again, consult an attorney.



# Whistleblower Cautions

- ⚠️ **WATCH OUT:** There is a 30-day time limit to challenge a disciplinary action under whistleblower laws
- ⚠️ **BE CAREFUL:** be squeaky clean to avoid a “legitimate reason” for firing or discipline:
  - You cannot disclose classified material or confidential business information
  - Be meticulous in proper time keeping, record keeping and use of government equipment and time (use only personal email, phone, etc .for whistleblowing activities and communications with your lawyers)
  - Be respectful and professional in all your dealings with management and other staff
  - Document your concerns, and all instances of retaliation
  - Reporters are not your friends. While you may want media attention, you cannot necessarily trust reporters to keep your identity or what you tell them confidential. Set boundaries. We can arrange and set ground rules.

# When just doing your job lands you in trouble

- Many of our clients never intended to be whistleblowers, or even anonymous activists
- Scientific work, implementing a program or enforcing the law in a way that offends the politics of management or industry interests gets them in trouble
- We may be able to use the whistleblower laws if qualifying disclosures have been made, but not always; sometimes we can challenge the disciplinary action directly as being unjustified under the law
- We can also use media, lawsuits, etc. to bring public pressure



# **Anonymous Activism: Focusing on the Message and Not the Messenger**

*Laura Dumais, Staff Counsel, PEER*



*If you must sin, sin against God and not the bureaucracy.  
For God may forgive your sins but the bureaucracy never will.*

*Hyman G. Rickover*



# Advantages of Anonymity



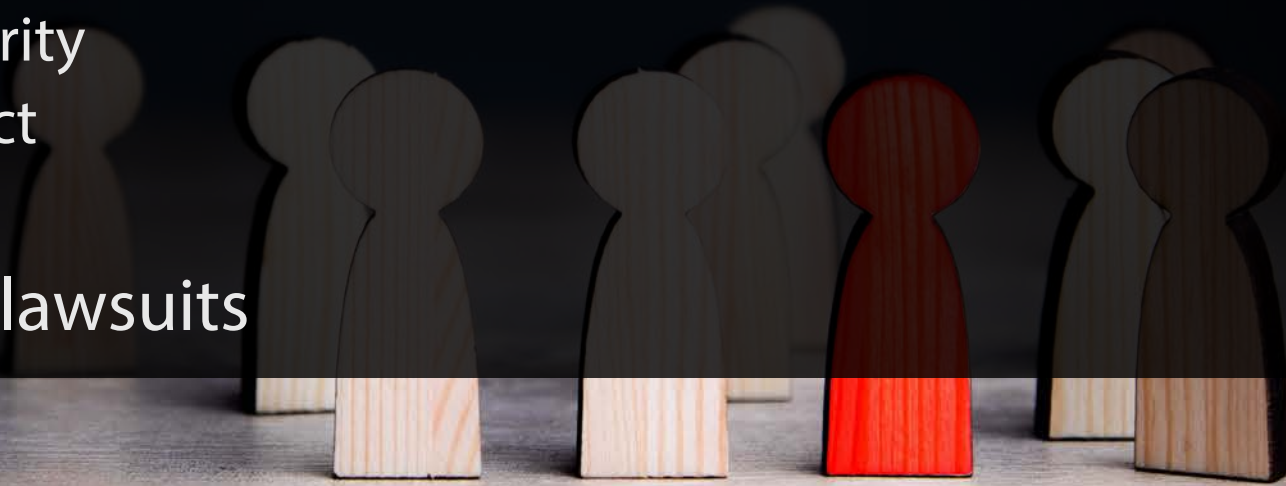
# When choosing an outside advocacy partner, make sure the group...

- shares your goals and priorities
- has the resources, connections, and expertise to address the problems you identify
- is serious about protecting your anonymity and will work with you to get legal help to protect your interests if needed



# Some actions organizations like PEER can take to tackle the concerns that anonymous government employees raise:

- Request IG investigations
- Propose rulemaking
- File various types of complaints
  - Scientific integrity
  - Data Quality Act
  - OSC disclosure
- File and litigate lawsuits





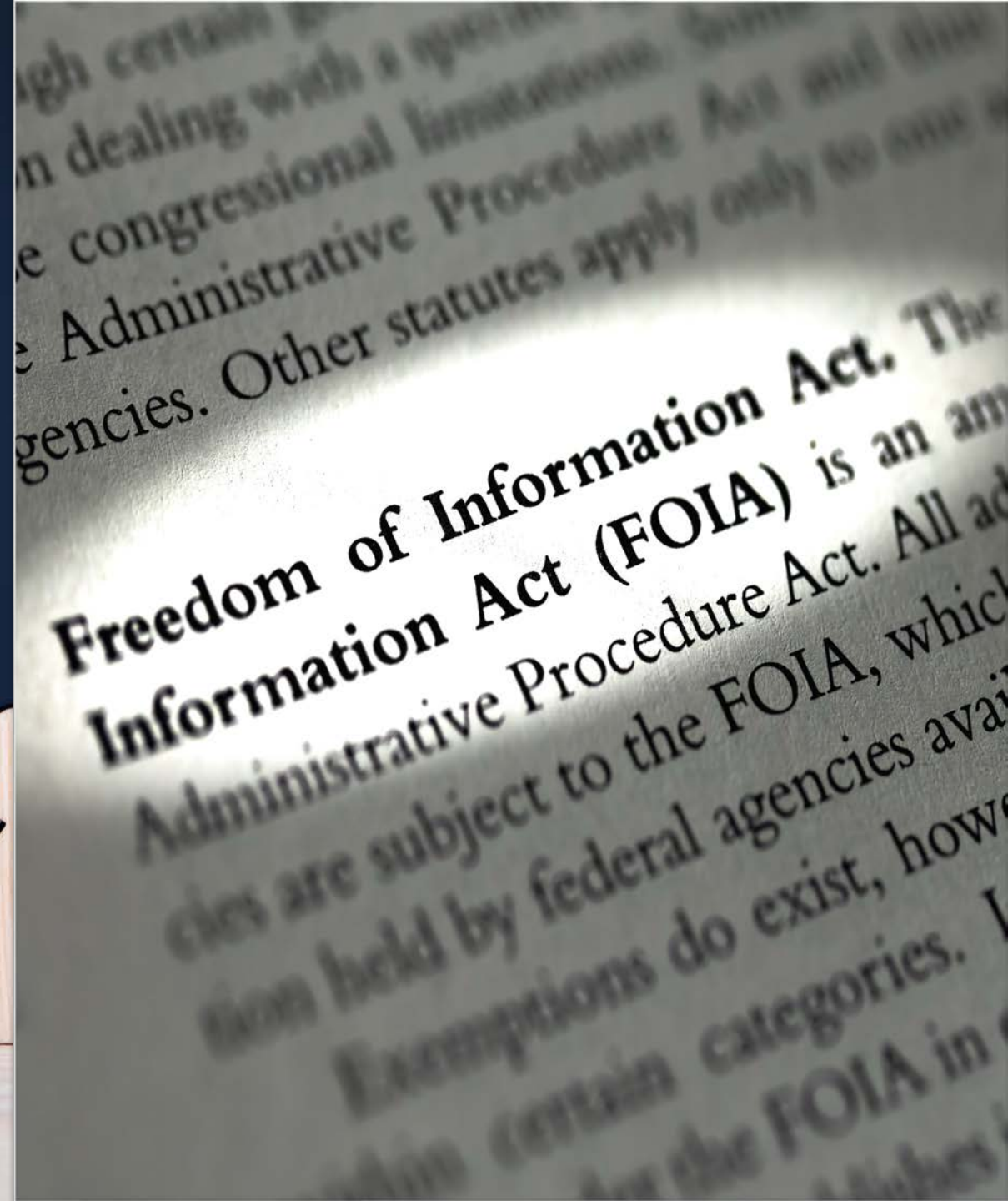


# **Promoting Transparency: FOIA and Speaking to the Press**

*Colleen Teubner, Litigation & Policy Attorney, PEER*

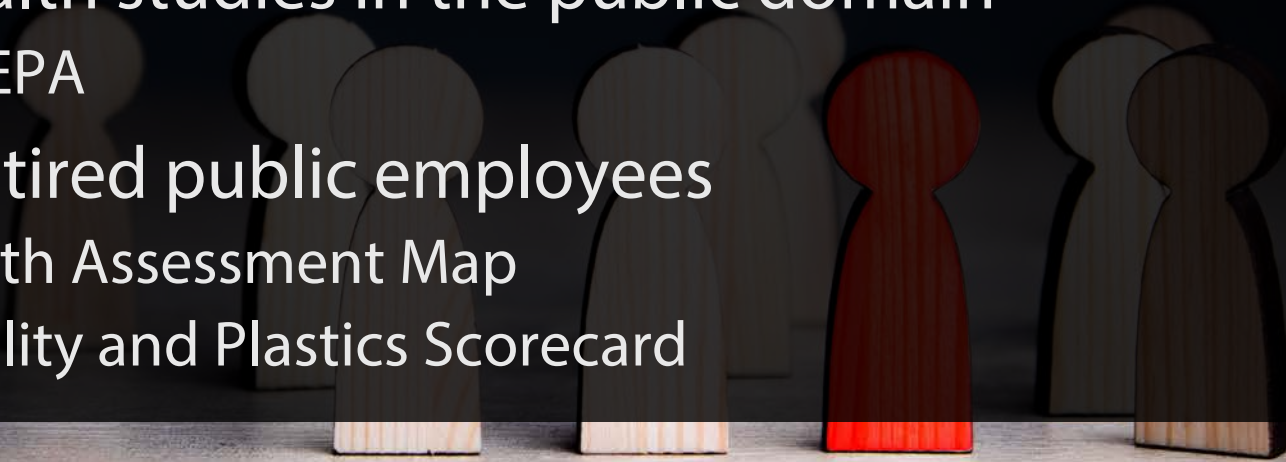
# FOIA as a Tool

- FOIA's Purpose: transparency and accountability
  - Learn more about FOIA: [peer.org/foia-webinar](https://peer.org/foia-webinar)
- Current State of FOIA: under resourced agencies + increase in requests = backlog
  - Efforts to Preserve Records outside of FOIA: End of Term Web Archive
  - Visit [eotarchive.org](https://eotarchive.org)



# Examples of PEER FOIA Actions

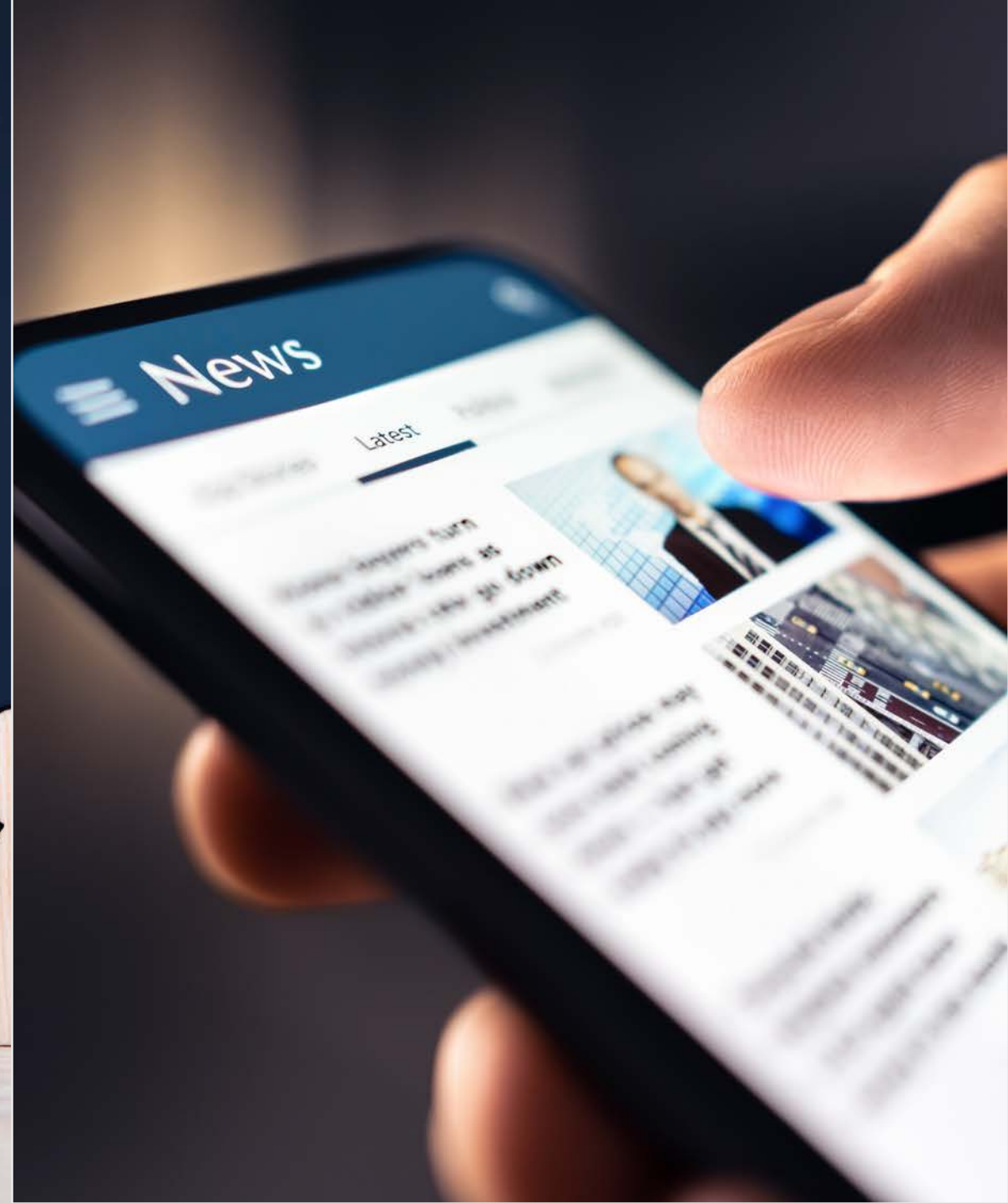
- Requesting documents that support agency official statements (in these cases they couldn't)
  - Scott Pruitt Climate Change Claims
  - EPA's PFAS Definition
- Suing to get health studies in the public domain
  - PEER & CEH v. EPA
- Working with retired public employees
  - BLM Land Health Assessment Map
  - NPS Sustainability and Plastics Scorecard





# Speaking to the Press

- Pros: inform the public
- Cons: risk anonymity, not in control of the narrative, potential personnel/legal action
- Takeaway: know your agency's policy about speaking to the press and consider speaking to a lawyer before contacting the media directly





# Live Q&A

- Type your question in the Q&A box
- Upvote questions you'd like to hear answered
- If you have a question that wasn't answered during the webinar, email us at [info@peer.org](mailto:info@peer.org)



# Thank you for joining us!

## Resources

- PEER Legal Resource Center – [peer.org/resource-center](https://peer.org/resource-center)
- Caught Between Conscience and Career (POGO, GAP, PEER) – [peer.org/survival-guide](https://peer.org/survival-guide)
- Government Accountability Project – [whistleblower.org](https://whistleblower.org)
- Climate Science Legal Defense Fund – [csldf.org](https://csldf.org)
- Civil Service Strong – [civilservicestrong.org](https://civilservicestrong.org)
- For more information, contact us at [peer.org/consult-attorney](https://peer.org/consult-attorney)

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