

## ADDRESS TO 2006 FDR CONFERENCE IN SAN ANTONIO

Thank you, Jerry Shaw and FDR for inviting me to this year's conference and good morning y'all. One of the things about San Antonio of course is the courageous spirit of the Alamo and the heroic fight against overwhelming odds. Kind of like the odds I'll get through my speech before Jerry gives me the "cut" sign.

Sometimes we think of heroes as people who perform such incredible feats that we could never be like them. Films today feature superhero icons; our stories focus on supernatural powers. There was even a spoof on all of this a couple of years ago, an animated movie called "The Incredibles" about a family of superheroes who are forgotten in a cynical world, and about how society rediscovers its need for real heroes. My three-year-old, Anna, calls it "The Incroybles."

But today I want to talk about some ordinary heroes. I am borrowing that phrase from the title of Scott Turow's recent and very fine World War II novel. What does it mean to be ordinary heroes? Well, the poet Rudyard Kipling says:

If you can keep your head when all about you  
    Are losing theirs and blaming it on you,  
If you can trust yourself when all men doubt you,  
    But make allowance for their doubting too;  
If you can wait and not be tired by waiting,  
    Or being lied about, don't deal in lies,  
Or being hated, don't give way to hating,  
    And yet don't look too good, nor talk too wise...

You probably recognize that from the poem, "If," which my father first quoted to me. It speaks of the courage needed in our everyday lives. Too often in government we see people losing their heads

and blaming everyone. Some even deal in lies or deception. We need ordinary heroes to restore our sense of ethics in government, our sense of decency and integrity in the process of how our country is run. I am lucky because I get to help such heroes every day, whistleblowers and other complainants who show real courage in speaking the truth about law violations or abuse of authority or threats to safety, all in spite of the threat of retaliation.

Like Leroy Smith, a Safety Manager at the Federal Bureau of Prisons (BOP) who disclosed to OSC that prison employees and inmates were being exposed to toxic substances when they smashed computer screens for recycling. OSHA warns that these materials can cause serious health problems or even death. These toxic metals were going into air vents and the cafeteria where people worked and ate. Federal employees were exposed to these substances without proper masks. Despite tests documenting these problems, management ordered reactivations of recycling operations without implementing recommended safety measures.

OSC demanded an investigation. BOP produced two reports substantiating some of Smith's allegations but ultimately concluding that "BOP adequately addressed" all of the whistleblower's concerns. But Mr. Smith provided OSC with documents showing that "management knowingly and willfully violate[d]" OSHA regulations, and showed that the investigation "was not impartial or comprehensive," even neglecting to interview crucial witnesses. I determined the agency's response was unreasonable and their investigation of other facilities cursory. Finally, the Department of Justice is doing an independent and impartial investigation. Mr. Smith was reprimed against, and we obtained corrective action for him. All it took for Mr. Smith to be heroic was the determination to do his job no matter the cost. In September we will be awarding him our Public Servant Award.

Many other important disclosures were made in the last year by Whistleblowers on security at our airports or on our borders, or the medical care for our veterans. Recently, OSC obtained a stay of a transfer of a DEA agent who blew the whistle on illegal interrogation practices. These and many other actions taken on behalf of Whistleblowers have positively affected safety and legality of agency behavior.

Guts is the middle name of those heroes who volunteer for our Reserve and National Guard. Texas boasts a large contingent of reserve and guard on duty in Iraq. My own son is a Marine in his third tour in Iraq right now. So I feel a special mission in protecting these brave volunteers by upholding the Uniformed Services Employment and Reemployment Rights Act, or USERRA, by getting them their jobs and benefits back and combating discrimination because of their service in our armed forces. OSC splits jurisdiction over federal sector cases with the Department of Labor as part of a three-year demonstration project.

In a recent case, the Air Force Academy denied a job to a serviceman who was the unanimous number one choice of the selection panel for an important faculty position. Amazingly, they decided that their quota for civilian faculty members took precedence and he was denied the job – solely because he was career military. OSC obtained a settlement with the Academy, he was appointed to the job effective this week.

In another case, a chemist, who previously worked in the great state of Texas, was denied promotion because she was absent from her agency due to military service and pregnancy. OSC obtained full corrective action for her: she was promoted and awarded back pay at the higher GS level.

In many cases, we get full back pay and other corrective action for service members who have been told after a year or two

that their case has no merit. We have obtained corrective action in more than 25% of the cases coming to us under the pilot program I mentioned, and we have slashed time frames for obtaining relief by more than 200 percent.

Our Hatch Act Unit shows that it has the courage to go after officials high and low, to ensure that our federal government is not used to further partisanship and coerce political activity. MSPB has handed down important decisions recently on use of e mail. MSPB granted OSC's appeal of an ALJ's decision to dismiss two OSC complaints for disciplinary action. Partisan e-mails for President Bush and Senator Kerry were sent by federal employees while on duty and in a federal building. The Board reversed and sent the case back for a hearing on the merits.

MSPB recently upheld a sixty-day suspension for a federal employee who sent an e mail to over 300 individuals, including co-workers, while on duty in a federal building, announcing a re-election party for a congressman. The Judge found the e-mail was "obviously directed toward the success of a re-election campaign."

In a significant victory, the Board upheld the removal of an attorney in the Small Business Administration, and a Green party officer, for engaging for three years in partisan political activity while on duty, including over 100 e mails through his government computer directed at the success of the Green Party, including fundraising, outreach and recruitment, drafts of party platforms, and the planning of a state-wide party convention.

Another ordinary hero was a whistleblower who reported a Presidential appointee for illegal activity, abuse of authority, and Hatch Act violations and was demoted and transferred for her courage. We just obtained corrective action for this brave whistleblower, and USDA's rural development director for the state of Alaska, a presidential Schedule C appointee, was forced to

resign for demanding that the Whistleblower fill out fraudulent travel vouchers and do his outside political work on the job.

This case was a hybrid of Hatch Act and our Investigation and Prosecution Division. Time does not permit me to tell you the many stories of courage and the many examples of our fine attorneys, personnelists and investigators in our screening unit and prosecution division obtaining corrective and disciplinary action, but you can read about them on our website at [www.osc.gov](http://www.osc.gov). OSC has slashed processing times by three hundred percent, and today OSC is backlog free, making it possible to provide justice for all filers. We not only get results at OSC, but we publish those results and educate the federal workforce about their rights and the courage of their fellows.

We don't need superheroes, but ordinary ones. Real Americans have done heroic things throughout history whether it is the firemen and policemen in New York on 9-11, or the heroes who braved terrible circumstances in New Orleans in rescuing Katrina victims, or the GS-11 next to you who reports wrongdoing. To me, they're all "incroybles" because they restore our faith in government and ourselves. Kipling's poem ends with this:

If you can fill the unforgiving minute

With sixty seconds' worth of distance run,

Yours is the Earth and everything that's in it,

And-which is more-you'll be a Man, my son!

If we can fill those unforgiving minutes of work in our federal government with sixty seconds of merit, if we can run the distance that our jobs require and honor, not reject, courageous whistleblowers who light the way for greater integrity, if we can hold up our heads and rise above partisanship on the job and protect the rights of our returning service members, then we too will be ordinary heroes.

Thank you.