House Committee on Financial Services

November 19, 2024

A Toxic Workplace: *The FDIC's Culture of Misconduct Under Chair Gruenberg and Needed Reforms*

Final Staff Report

This report has not been officially adopted by the Committee on Financial Services and may not necessarily reflect the views of its Members

FINANCIAL SERVICES

Committee

Chairman Patrick McHenry (NC-10) | Rep. Bill Huizenga (MI-04) | Rep. Andy Barr (KY-06)

TABLE OF CONTENTS

EXECUTIVE SUMMARY

On January 20, 2021, President Biden warned staffers and appointees, "I'm not joking when I say this: If you're ever working with me and I hear you treat another colleague with disrespect, talk down to someone, I promise you I will fire you on the spot… On the spot. No ifs or buts."[1] Clearly, that was an empty threat. Despite numerous allegations of misconduct and harassment, disgraced Federal Deposit Insurance Corporation (FDIC) Chairman Martin Gruenberg remains in his role.

In November 2023, the Wall Street Journal reported allegations of a toxic workplace culture, including harassment and discrimination, at the agency.[2] The article describes instances where senior managers abused their leadership positions by bullying young bank examiners and other subordinates.[3] The articles that followed further describe Chairman Gruenberg's own misconduct and mistreatment of FDIC staff.[4]

Since November 2023, the House Committee on Financial Services (Committee) has investigated the failures of the agency, which continue to foster a toxic culture that employees have endured for years. Information obtained by the Committee shows the consequences of Chairman Gruenberg's leadership at the agency over the last 20 years. In addition, an independent third-party review contemplated whether Chairman Gruenberg could lead the agency through the necessary cultural changes that must be made at the agency.[5]

The lack of action from President Biden by allowing Chairman Gruenberg to continue to lead the FDIC puts the safety and stability of our financial system at risk. Because the Biden-Harris Administration has failed to hold its leaders accountable, Subcommittee Chairmen Bill Huizenga (MI-04) and Andy Barr (KY-06), introduced H. Res. 1574 calling for the removal of disgraced FDIC Chairman Martin Gruenberg, effective immediately.

The next Chairman of the FDIC will need to undo the years of damage to morale and culture at the agency. While Chairman Gruenberg's expected imminent replacement by the incoming Administration is welcome news for FDIC employees and the financial system at large, it is not enough. Taken together, the findings of the Committee's investigation, Cleary Gottlieb's independent review, and Wall Street Journal reporting make clear that Chairman Gruenberg should never be allowed to lead another agency or organization again.

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[1] Shawna Chen, *Biden to staffers: "I will fire you on the spot" for disrespecting others*, AXIOS, Jan. 20, 2021.

[2] Rebecca Ballhaus, *Strip Clubs, Lewd Photos and a Boozy Hotel: The Toxic Atmosphere at Bank Regulator FDIC*, WALL ST. J., Nov. 13, 2023 [hereinafter "Article 1"].

[3] *Id.*

[4] Rebecca Ballhaus, *FDIC Chair, Known for Temper, Ignored Bad Behavior in Workplace*, WALL ST. J., Nov. 16, 2023 [hereinafter "Article 3"].

[5] CLEARY GOTTLIEB STEEN & HAMILTON LLP, REPORT FOR THE SPECIAL REVIEW COMMITTEE OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION (2024) [hereinafter "CLEARY REPORT"].

BACKGROUND

On November 13, 2023, the *Wall Street Journal* published the first in a series of articles detailing pervasive harassment, misogyny, and a toxic workplace culture at the Federal Deposit Insurance Corporation (FDIC).[6] Each article alleges incidents of misconduct at the agency's Washington D.C. and Virginia Square offices, as well as the regional and field offices.[7]

According to the articles, incidents of misconduct and harassment have disproportionately affected women and people of color.[8] Some of the alleged misconduct took place in the regional and field offices which are isolated from the FDIC's Division Directors and senior leadership; and include individuals who are charged to oversee their respective divisions and encourage employee confidence in the FDIC's anti-harassment policies.[9] Furthermore, the November 13, 2023 article reveals misconduct at the FDIC's Seidman Student Residence Center (Seidman Center), a building in Arlington, Virginia owned by the FDIC and used to house employees during training sessions.[10] The alleged events at the Seidman Center revolve around a "heavy drinking culture," and multiple instances of public intoxication charges filed against employees staying at the Seidman Center.[11]

The third article in this series, released on November 16, 2023, alleges specific acts of misconduct perpetrated by Chairman Martin J. Gruenberg, who has been at the FDIC for nearly 20 years.[12] Chairman Gruenberg served as Vice Chairman of the FDIC from August 2005 to July 2011, and served as FDIC Chairman from November 2012 to mid-2018. During his tenure as a Director on the FDIC Board of Directors, he has also served as Acting Chairman on numerous occasions.[13] He has been the current Chairman since January 2023.[14] The article highlights an incident in 2008 when then-Vice Chairman Gruenberg allegedly "lost his temper with a senior female FDIC official and castigated her," prompting then-Chairman Sheila Bair to solicit a third-party investigator to review his conduct.[15]

On November 17, 2023, in response to the allegations described in the *Wall Street Journal* articles, Republicans of the House Committee on Financial Services (Committee) launched an investigation into the allegations of Chairman Gruenberg's misconduct and the toxic workplace culture at the FDIC.[16] Chairman Patrick McHenry, along with Oversight and Investigations Subcommittee Chairman Bill Huizenga and Financial Institutions and Monetary

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[6] Article 1; Article 3; *see also* Rebecca Ballhaus, *FDIC Chairman Denies Being Investigated, Then Changes Testimony*, WALL ST. J., Nov. 15, 2023 [hereinafter "Article 2"].
[7] *Id*.
[8] *Id*.; CLEARY REPORT at 3.
[9] *Id*.
[10] *Id*.
[11] *Id*.
[12] *Fed. Deposit Ins. Corp. About Martin J. Gruenberg*, https://www.fdic.gov/about/martin-gruenberg/ (last visited Nov. 18, 2024).
[13] *Id*.
[14] *Id*.
[15] Article 3.
[16] Letter from Patrick McHenry, Chairman, H. Comm. on Fin. Servs., Bill Huizenga, Chairman, Subcomm. on Oversight and Investigations, Andy Barr, Chairman, Subcomm. on Financial Institutions, to Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp. (Nov. 17, 2023).

Policy Subcommittee Chairman Andy Barr, sent a letter informing Chairman Gruenberg of the scope of the investigation.[17]

Committee Republicans also opened a whistleblower hotline to allow current and former FDIC employees to anonymously share their experiences at the agency.[18] Throughout the investigation, current and former employees provided firsthand accounts, anecdotes, and documents related to the toxic workplace culture and harassment they witnessed at the FDIC. Several whistleblowers who came forward are individuals from outside entities who interacted with FDIC employees during bank examinations. Committee staff took measures to protect the identity of all whistleblowers and only disclosed their names with their explicit permission.

On November 21, 2023, the FDIC Board of Directors established a Special Review Committee (SRC) to oversee an independent review of the agency's culture.[19] The SRC was led by FDIC Board Directors Michael Hsu and Jonathan McKernan.[20] On December 11, 2023, the SRC announced the selection of Cleary Gottlieb Steen & Hamilton, LLP (Cleary Gottlieb), to conduct an independent review of the allegations of toxic workplace culture, including sexual harassment, discrimination, and interpersonal misconduct.[21] The SRC chose Cleary Gottlieb over Chairman Gruenberg's initial choice, BakerHostetler.[22]

On May 7, 2024, the FDIC made Cleary Gottlieb's 234-page report of its findings on the agency's workplace culture available to the public.[23] Cleary Gottlieb received reports from over 500 individuals through their hotline, interviewed another 167 individuals, and reviewed several thousand pages of documents to reach their conclusions.[24] In its report, Cleary Gottlieb cited 10 "root causes" that served as contributing factors for the workplace misconduct and culture issues at the FDIC,[25] and offered recommendations.[26] Despite outstanding recommendations made by Cleary Gottlieb, the FDIC Board of Directors terminated the Special Review Committee on May 30, 2024.[27]

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[17] *Id*.
[18] Press Release, H. Comm. on Financial Services, ATTENTION: Calling All FDIC Whistleblowers (Feb 28, 2024), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409157.
[19] Press Release, Fed. Deposit Ins. Corp., FDIC Board of Directors Establishes Special Committee to Oversee Independent Review of Agency Culture (Nov. 21, 2024), https://www.fdic.gov/news/press-releases/2023/pr23093.html.
[20] *Id*.
[21] Press Release, Fed. Deposit Ins. Corp., Special Committee of the FDIC Board Selects Cleary Gottlieb Steen & Hamilton LLP to Conduct Independent Review (Updated Feb. 14, 2024), https://www.fdic.gov/news/press-releases/2023/pr23104.html.
[22] Rajashree Chakravarty, *FDIC panel picks Cleary Gottlieb to review workplace culture*, BANKING DIVE, (Dec. 12, 2023).
[23] Press Release, Fed. Deposit Ins. Corp., FDIC Special Review Committee Releases Independent Report on Workplace Misconduct and Culture (May 7, 2024), https://www.fdic.gov/news/press-releases/fdic-special-review-committee-releases-independent-report-workplace-misconduct.
[24] CLEARY REPORT at 174.
[25] CLEARY REPORT at 4-5.
[26] CLEARY REPORT at 166-173.
[27] Press Release, Fed. Deposit Ins. Corp., FDIC Board Winds Down the Special Committee (May 30, 2024), https://www.fdic.gov/news/press-releases/2024/fdic-board-winds-down-special-committee.

On June 12, 2024, the Committee held a hearing entitled "Oversight of the FDIC's Failed Leadership and Toxic Workplace Culture."[28] The hearing included testimony from FDIC Directors Michael Hsu and Jonathan McKernan in their capacity as co-Chairs of the Special Review Committee, and Joon Kim and Abena Mainoo, attorneys from Cleary Gottlieb.[29] Despite a dedicated hearing to the FDIC's toxic workplace culture and numerous requests for his testimony, Chairman Gruenberg last appeared before the Committee on May 15, 2024 at a hearing entitled: "Oversight of Prudential Regulators."[30]

OBSTRUCTION AND OBFUSCATION OF CONGRESS

Throughout the investigation, the Committee faced obstruction and obfuscation by Chairman Gruenberg and staff at his direction. The FDIC's poor reputation for responding to Congressional requests is not unprecedented. In April 2018, the FDIC Office of Inspector General found that the FDIC provided document "productions that did not fully comply with Congressional document requests" and "could have provided should have been more clear in its communications with [Congress]."[31] Chairman Gruenberg himself continues to evade Congressional oversight by slow walking responses to the Committee and hiding behind agency processes.

During the May 15, 2024, hearing entitled, "Oversight of Prudential Regulators," Committee Members on both sides of the aisle called for a hearing solely dedicated to addressing the FDIC's workplace culture and the findings from the Cleary Gottlieb report.[32] In response to those requests, Chairman McHenry sent Chairman Gruenberg a letter on May 23, 2024, requesting his testimony on the workplace environment at the FDIC.[33] This notice allowed nearly three weeks of preparation time for a June 12 hearing to occur.[34]

Though Chairman Gruenberg declined to appear at the hearing on June 12, 2024, Committee Republicans made it clear it would need to hear from the Chairman himself at a later date. As the FDIC Board continued to consider an aggressive financial regulatory agenda, Committee Republicans sent a letter on August 14, 2024, requesting Chairman Gruenberg's appearance at a September 19 hearing – allowing for a full month of preparation.[35] The hearing was the second attempt to allow Committee Members to ask questions about changes being made at the agency related to workplace culture. Once again, Chairman Gruenberg declined to appear, citing the Prudential Regulators hearing in November, as a pretext for his refusal.[36] He stated,

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[28] *Oversight of the FDIC's Failed Leadership and Toxic Workplace Culture: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024).
[29] *Id*.
[30] *Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024).
[31] INSPECTOR GEN., FED. DEPOSIT INSURANCE CORP., OIG-18-001, THE FDIC'S RESPONSE, REPORTING, AND INTERACTIONS WITH CONGRESS CONCERNING INFORMATION SECURITY INCIDENTS AND BREACHES (APR. 2018).
[32] *Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs*., 118th Cong. (2024).
[33] Letter from Patrick McHenry, Chairman, H. Comm. on Fin. Servs., to Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp. (May 23, 2024).
[34] *Id*.
[35] Letter from Patrick McHenry et.al., Chairman, H. Comm. on Fin. Servs., to Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp. (August 14, 2024).
[36] Letter from Martin Gruenberg, Chairman, FDIC, to Patrick McHenry, Chairman, H. Comm. on Fin. Servs., (September 12, 2024).

"Given the close proximity of the two hearing dates, I committed to making myself available at the full Committee hearing in November."[37]

In response to Chairman Gruenberg's consistent refusal to accept responsibility for his own failed leadership, on September 11, 2024, Chairman McHenry sent a letter to Chairman Gruenberg requesting that he schedule a second transcribed interview with Committee staff.[38] The second interview was necessary to delve deeper into allegations raised subsequent to his first appearance before the Committee on the issue. Though FDIC staff conveyed Chairman Gruenberg's commitment to appearing for a transcribed interview, by mid-October an interview date had not been scheduled. FDIC staff indicated the Chairman was waiting for an opinion from the Legal Division to acquire indemnification for outside counsel.

On October 16, 2024, Chairman McHenry sent Chairman Gruenberg another letter requesting transcribed interviews with both the Director of Legislative Affairs and General Counsel to discuss the agency's indemnification process for outside counsel.[39] Additionally, Chairman McHenry requested Chairman Gruenberg's transcribed interview be scheduled by the end of that day.[40]

As of the publication of this report, Chairman Gruenberg has failed to appear for a second transcribed interview with the Committee.

SCOPE

The Committee has jurisdiction over "banks and banking, including depository insurance and federal monetary policy."[41] It is responsible for exercising oversight of the "organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within [the Committee's] jurisdiction," including the FDIC.[42]

Throughout the second session of the 118th Congress, the Committee's investigation specifically reviewed the FDIC's workplace culture, impediments to its improvement, reporting barriers, and structural dysfunction.[43] Committee staff focused on the potential impact that the widespread misconduct and toxic workplace culture had on the FDIC's ability to carry out its statutory duty of ensuring the safety and soundness of the banking system.[44]

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[37] *Id*.
[38] Letter from Patrick McHenry, Chairman, H. Comm. on Fin. Servs., to Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp. (September 11, 2024).
[39] Letter from Patrick McHenry, Chairman, H. Comm. on Fin. Servs., to Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp. (October 16, 2024).
[40] *Id*.
[41] Rules of the House of Representatives, R. X(1)1(h)(1) (Feb. 2023).
[42] Rules of the House of Representatives, R. X(2)(b)(1)(B) (Feb. 2023).
[43] Press Release, H. Comm. on Fin. Servs., Financial Services Committee Republicans Launch Investigation into Gruenberg Misconduct, Toxic Workplace at FDIC (November 17, 2023), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409051.
[44] *Id*.

As part of the investigation, Committee staff conducted voluntary transcribed interviews, received briefings, reviewed thousands of pages of documents, and held multiple hearings with FDIC leadership.[45] Committee staff interviewed FDIC staff ranging from line-level employees to senior leadership personnel, Division Directors, and the Chairman. The Committee received briefings from the Special Review Committee, the FDIC's Office of Legislative Affairs, the FDIC Office of Inspector General, and Cleary Gottlieb. In addition, the Committee received documents ranging from internal communications between FDIC employees to documentation and memoranda of FDIC policies and procedures on harassment and training.

FINDINGS

The Committee's investigation began with a focus on the toxic workplace culture and misconduct as well as the leadership failures of Gruenberg and other managers at the FDIC. The investigation reveals the dereliction of duty by high-ranking employees contributed to the entrenched toxic workplace culture. Committee staff heavily relied on testimony of past and present FDIC employees of all levels to understand the toxic workplace culture both in regional and field offices as well as the Washington D.C. and Virginia Square offices.

Testimony from transcribed interviews was critical to identifying and understanding employee concerns. These concerns related to the toxic culture and the inefficient and ineffective reporting avenues at the FDIC. Many of the witnesses and whistleblowers Committee staff interviewed bravely reported their personal experiences of harassment, discrimination, and misconduct.

Witness testimony was key in identifying the roadblocks to change at the FDIC. Transcribed interviews with current and former employees highlight the dysfunction of the structure of the FDIC. Additionally, Committee staff were able to better understand the structural inertia at the agency and how it contributes to an insular culture and favoritism.

The FDIC has failed to establish a reporting system that protects employees from workplace misconduct, discrimination, and harassment. The current system provides employees with several avenues to report, but there is a lack of clarity surrounding the specific avenues employees should use to report incidents, inherently inhibiting reporting. Several FDIC employees, including senior-level staff, interviewed could not properly outline or describe the correct processes for reporting unless those individuals directly worked in an office that intakes reports.

Committee staff found that when an FDIC employee reports harassment or misconduct in the workplace, the processes in place that provide for an investigation are filled with tension and lack proper controls. Much of the tension in the process stems from the friction between the Labor and Employee Relations Section in the Division of Administration and the Labor, Employment and Administrative Section in the Legal Division. Over time the tension has risen to

[45] Transcribed Interviews and Documents are on file with the Committee; *See, Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2023), *Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024), *Oversight of the FDIC's Failed Leadership and Toxic Workplace Culture: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024).

such an untenable level that the two sections implemented a Memorandum of Understanding to work together. Furthermore, the FDIC lacks a central repository to track complaints and trends in harassment, causing an asymmetry of information between the individual units charged with investigating reports of harassment.

Notwithstanding reporting measures at the agency, Gruenberg is responsible for perpetuating a toxic workplace culture replete with favoritism, fear of retaliation, and lack of accountability. Even in the face of an investigation into his own behavior, Gruenberg has not changed the way he interacts with FDIC staff. For years, Gruenberg's closest advisors have attempted to shield employees from his aggressive behavior and do so even after the *Wall Street Journal* articles detailing how Gruenberg mistreats employees.[46] In an interview with Committee staff, he failed to accept responsibility or acknowledge how his behavior could lead to an unsafe work environment.[47] As Chairman, Gruenberg puts his employees and the U.S. financial system at risk.

Leadership starts at the top, and Gruenberg's failure to properly lead the FDIC trickles down throughout the entire agency. Gruenberg's failure to take responsibility for his own conduct and mistreatment of staff set an expectation for all FDIC employees that workplace misconduct is tolerated at the agency.

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[46] Martin J. Gruenberg Transcribed Interview, Feb. 12, 2024, (on file with Committee) [hereinafter "Gruenberg Interview"].
[47] Gruenberg Interview.

I. THE FDIC'S REPORTING SYSTEM FAILED TO PROTECT FDIC EMPLOYEES.

The FDIC has multiple avenues for employees to report harassment or misconduct.[48] These avenues are frequently in tension and work against each other to the detriment of the victim of the alleged harassment or misconduct. As described below, the reporting avenues inhibit the development of a safe workplace due to the number of avenues, lack of transparency, and limited communication between offices and reporting employees. As a result, FDIC employees are confused about how the reporting process protects and addresses their complaints.[49] Employees who have filed complaints report little protection from retaliation and ostracization by colleagues.[50]

FDIC employees lack confidence in the reporting mechanisms for addressing cases of harassment and misconduct, undermining the effectiveness of the system.[51] This erosion of trust likely results in under reporting. Employees doubt their concerns will be appropriately addressed or resolved within a reasonable timeframe, if even at all.

During interviews with Committee staff, current and former employees stated they either did not remember taking annual and mandatory harassment training or could not speak to the quality of the trainings.[52] The *Wall Street Journal* articles prompted the FDIC to overhaul their anti-harassment training and procedures. In response to the articles and an increase in harassment and misconduct reports, the FDIC required all employees to attend in-person anti-harassment training throughout 2024. While anti-harassment training has been a part of FDIC procedures, employees are still generally unaware of the full scope of the reporting process and the available resources.[53] As a result, employees have been unable to navigate the overly complex reporting system when confronted with hostile working conditions.[54]

A. REPORTING AVENUES

The FDIC provides employees with six avenues for reporting harassment complaints: the Labor, Employment and Administrative Section (LEAS), the Labor and Employee Relations Section (LERS), the Office of Minority and Women Inclusion (OWMI), the Anti-Harassment Program Coordinator (AHPC), the FDIC's Internal Ombudsman, and FDIC managers or

[48] *See* Witness 9 Transcribed Interview 17-22, May 14, 2024 (on file with the Committee) [hereinafter "Witness 9"]; Witness 12 Transcribed Interview 27-29, June 13, 2024 (on file with the Committee) [hereinafter "Witness 12"].
[49] Witness 11 Transcribed Interview 24, May 28, 2024 (on file with the Committee) [hereinafter "Witness 11"]; *See* Witness 9 at 13-15; Witness 12 at 38-39.
[50] Witness 7 Transcribed Interview 9-10, Apr. 16, 2024 (on file with the Committee) [hereinafter "Witness 7"].
[51] *See* Witness 7 at 81-82; *see generally* Witness 11 at 47-48.
[52] Witness 11; Witness 5 Transcribed Interview, Mar. 22, 2024, (on file with the Committee) [hereinafter "Witness 5"].
[53] *Id*.
[54] *Id*.

supervisors.[55] The FDIC has separate procedures for Management-Initiated Investigations, which cover both Equal Employment Opportunity (EEO) and non-EEO complaints, and involve several of the same FDIC offices.[56]Additionally, the FDIC Office of the Inspector General is an avenue for reporting, while the Corporate University plays a key role in helping FDIC employees learn where they can report misconduct or harassment.

1. Labor and Employee Relations Section

The Labor and Employee Relations Section (LERS) falls under the FDIC Division of Administration Human Resources Branch.[57] LERS provides guidance to supervisors on personnel matters, employee performance, and conduct issues.[58] One LERS specialist is assigned to every regional office to handle personnel issues and cases that arise in the field offices of their region.[59] Employees may report harassment to the LERS Assistant Director and any LERS specialists.[60] In the event of egregious behavior, LERS can escalate the matter up to the Director of the Division of Administration. [61]

LERS is one of the primary channels responsible for investigating employee harassment reports. In this role, it advises management on appropriate actions and provides verbal recommendations on preventive or corrective measures as part of its report conclusions.[62] LERS is required to submit its investigation conclusion, findings, along with any recommended corrective actions, to both the AHPC and the supervising manager upon the conclusion of an investigation.[63]

LERS is also responsible for notifying both the reporting employee and the alleged harasser once an investigation has concluded.[64] Yet in recent years, LERS has received criticism for being less than transparent during the investigation process. Reporting employees may not receive responses to their inquiry for "months on end."[65]

Additionally, LERS serves as the primary liaison with the National Treasury Employees Union (NTEU) and handles many of the low-level union negotiations.[66] In this capacity, LERS participates in high-level negotiations alongside counterparts in the Legal Division.[67]

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[55] *See* FED. DEPOSIT INS. CORP., FDIC DIRECTIVE 2710.03, ANTI-HARASSMENT PROGRAM (2021) [hereinafter ANTI-HARASSMENT PROGRAM].
[56] *See* FED. DEPOSIT INS. CORP., STANDARD OPERATING PROCEDURES, CONDUCTING MANAGEMENT-INITIATED INVESTIGATIONS (2020) [hereinafter MANAGEMENT INVESTIGATIONS].
[57] OFF. OF THE INSPECTOR GEN. FED. DEPOSIT INS. CORP., EVAL-20-006, PREVENTING AND ADDRESSING SEXUAL HARASSMENT 6 (2020) [hereinafter "2020 IG REPORT"].
[58] Witness 9 at 13.
[59] *Id*. at 10-11.
[60] ANTI-HARASSMENT PROGRAM at 8.
[61] Witness 6 Transcribed Interview 50-51, Mar. 26, 2024, (on file with the Committee) [hereinafter "Witness 6"].
[62] ANTI-HARASSMENT PROGRAM at 10.
[63] Witness 13 Transcribed Interview 48, July 24, 2024 (on file with the Committee) [hereinafter "Witness 13"].
[64] ANTI-HARASSMENT PROGRAM at 10.
[65] Witness 12 at 21-22.
[66] Witness 9 at 13.
[67] *Id*.

LERS has custody over recordkeeping of all harassment reports.[68] Though, the LERS database is generally not accessible by other divisions at the FDIC.

2. Labor, Employment, and Administration Section

The Labor, Employment, and Administration Section (LEAS) falls under the FDIC's Legal Division.[69] LEAS attorneys work with LERS specialists as fact finders, investigating allegations of harassment.[70] LEAS has approximately 50 employees in its section.[71] LEAS is subdivided into units depending on area of expertise.[72] Every regional office is assigned at least one LEAS attorney responsible for handling personnel issues and cases arising in the field offices of their region.[73]

LEAS collaborates with LERS on harassment investigations, with LEAS attorneys primarily overseeing the internal investigations.[74] Both LERS and LEAS have authority to conduct investigations.[75] LEAS reports investigation findings to the appropriate management officials, such as a supervisor.[76] Working in coordination with LERS, LEAS conducts the initial intake of harassment allegations and determines whether immediate action or further investigation is warranted.[77]

During the course of the investigation, parties are required to engage in some level of settlement discussions, if a settlement is challenged; this requirement is set by the EEOC.[78] LEAS ultimately considers several factors when determining whether to settle including, the strength of the case, the cost of litigation, and the convenience of settling.[79] Final settlement deals are negotiated without the alleged offender's input, and are handled by the immediate supervisor.[80] Settlements under $50,000 are signed by the Assistant General Counsel for LEAS, with consultation from the Branch Chief of EEO Division and Director of OMWI.[81] Settlements over $50,000 must be signed by the Chief Operating Officer, in consultation with the General Counsel or their designee, and the Chief Financial Officer.[82]

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[68] Witness 9 at 82.
[69] MANAGEMENT INVESTIGATIONS at 1.
[70] ANTI-HARASSMENT PROGRAM at 10.
[71] Witness 12 at 18-19.
[72] *Id*. at 10. ("We have four units in the section. We have the Labor Unit, we have the Employment Unit, we have the Labor and Employment Field Unit, and then we have the Administration Unit.").
[73] *Id*. at 10-11.
[74] MANAGEMENT INVESTIGATIONS at 2.
[75] *Id*. at 2-4.
[76] ANTI-HARASSMENT PROGRAM at 10.
[77] *Id*.
[78] *Id*.
[79] *Id*.; *see also* Witness 3 Transcribed Interview 57, Feb. 9, 2024 (on file with the Committee) [hereinafter "Witness 3"].
[80] Witness 3 at 59.
[81] *Id*. at 59-60.
[82] *Id*. at 60.

Ultimately, LEAS acts in the best interest of the FDIC and provides recommendations that align with the agency's position and objectives.[83] Currently, there is no designated employee advocate or counselor representing or supporting the reporting employee as they navigate through the investigation process.[84]

LEAS uses its own proprietary system, the Advanced Legal Information System (ALIS), to maintain files exclusively for the Legal Division, separate from the AHPC and LERS.[85]

3. Office of Minority and Women Inclusion

The Office of Minority and Women Inclusion (OMWI) was created in 2011 pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.[86] OMWI oversees the FDIC's Anti-Harassment Program[87] and has independent authority over EEO complaint processing.[88] OMWI is responsible for implementing FDIC diversity and inclusion policies, enforcing civil rights laws, and establishing programs for minorities and women.[89] OMWI processes discrimination and harassment complaints according to EEOC regulations.[90] OMWI's mission is to ensure the FDIC is "inclusive, free from unlawful discrimination and harassment, and provides equal opportunity and access to all employment and business activities."[91]

4. Anti-Harassment Program Coordinator

The Anti-Harassment Program Coordinator (AHPC) is housed within OMWI.[92] The AHPC oversees the FDIC's Anti-Harassment Program.[93] The AHPC is the subject matter expert for the FDIC's Anti-Harassment Program. It coordinates implementation of the program, oversees relevant material for FDIC employee training, and reviews the program.[94] If a supervisor, manager, LERS, or LEAS receives a harassment complaint, the receiving employee must notify the AHPC immediately.[95]

The AHPC coordinates with LERS, LEAS, and other divisions at the FDIC when necessary.[96] The AHPC also advises and assists managers in preventing and addressing

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[83] Witness 12 at 36-37.
[84] *Id.*; Witness 13 at 51; Witness 9 at 40-41.
[85] *See* Witness 12 at 82; *see also Fed. Deposit Ins. Corp. Doing Business with the FDIC: Outside Counsel Deskbook*, https://www.fdic.gov/about/doing-business/outside-counsel/alis.html (last visited Nov. 18, 2024).
[86] *Fed. Deposit Ins. Corp, Diversity and Inclusion*, https://www.fdic.gov/about/diversity/ (last visited Nov. 18, 2024).
[87] CLEARY REPORT at 33.
[88] MANAGEMENT INVESTIGATIONS at 2.
[89] ANTI-HARASSMENT PROGRAM at 4.
[90] O2020 IG REPORT at 5.
[91] ANTI-HARASSMENT PROGRAM at 4.
[92] 2020 IG REPORT at 6.
[93] ANTI-HARASSMENT PROGRAM at 9.
[94] *Id*. at 9-10.
[95] *Id*. at 6.
[96] *Id*. at 9.

harassment allegations.[97] Finally, the AHPC is charged with gathering and reporting data on harassment allegations to the EEOC, Congress, and other agencies.[98]

The AHPC manages the initial intake of a report and refers it to LERS to determine if the allegation falls under the Anti-Harassment Directive and if additional investigations are warranted.[99] If further investigation is necessary, it must be initiated no later than 10 calendar days after receiving the report.[100]

The AHPC is a one-person department, managed by the chief of the Affirmative Employment, Diversity, and Inclusion Branch. The Chief also oversees operations and staff in the affirmative employment program.[101] Prior to 2023, the AHPC role had not been permanently filled since 2021. During this period the AHPC was a collateral duty role that was filled on a 90-day rotating basis by internal employees.[102]

5. Managers

Harassment can be reported directly to a victim's supervisor, the supervisor of the person alleged to have committed the harassment, or any management official with supervisory responsibility.[103] Once an allegation is received, the manager must notify AHPC immediately.[104] Managers must cooperate with the investigation and are required to take immediate action to stop any harassment or retaliation.[105]

Managers are mandatory reporters of harassment, including all members of the Senior Leadership and Division Directors. [106] However, multiple senior leaders interviewed did not know if they were mandatory reporters.[107]

Managers who are authorized to propose disciplinary action may request a LEAS-LERS investigation into a workplace issue (management-initiated investigation), including investigations into EEO complaints.[108] In those cases, the requesting official will identify the appropriate investigator from LERS and LEAS to conduct the investigation.[109]

Under Management-Initiated Investigations, LEAS supervises investigations into employee misconduct regardless of the source of the complaint or formality of the

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97 *Id*. at 9.
98 *Id*. at 10.
99 *Id*. at 7.
100 *Id*. at 7.
101 Witness 13 at 11.
102 *Id*.
103 ANTI-HARASSMENT PROGRAM at 6.
104 *Id*. at 6-7.
105 *Id*. at 8.
106 Witness 1 Transcribed Interview 16, Feb. 7, 2024, (on file with the Committee) [hereinafter "Witness 1"].
107 Gruenberg Interview at 24; Witness 2 Transcribed Interview 20, Feb. 8, 2024, (on file with the Committee) [hereinafter "Witness 2"].
108 MANAGEMENT INVESTIGATIONS at 4.
109 *Id*.

investigation,[110] while LERS "has primary responsibility for conducting investigations into employee misconduct."[111] Managers determine the most appropriate investigator for the case, which will usually be a LERS specialist, but can be an investigator from LEAS.[112]

6. Internal Ombudsman

The Internal Ombudsman is another channel for FDIC employees to report harassment.[113] The Internal Ombudsman informs employees of the options available to report harassment or misconduct.[114] The Internal Ombudsman cannot perform any investigatory function nor take any action on behalf of the complainant.[115] However, FDIC employees can engage with the Internal Ombudsman to speak confidentially about grievances.[116]

Employees who report harassment to the Internal Ombudsman are provided a safe space to discuss their report and are referred to the AHPC.[117] The Internal Ombudsman can direct employees to the Anti-Harassment Program, LERS, or LEAS. Alternatively, the Internal Ombudsman can make a call to those channels on behalf of the employee.[118] However, due to confidentiality requirements, reporting harassment to the Internal Ombudsman's Office does not constitute notice to the FDIC and it is not considered an official reporting office.[119]

7. Office of Inspector General

FDIC employees are required to report any actual or suspected wrongdoing or harassment to the Office of Inspector General (OIG). This requirement takes on added importance when the alleged wrongdoing or misconduct involves senior officials and is spelled out in the FDIC Policy Directive 12000.01.[120] In an interview, an FDIC employee indicated that this expectation was not clearly communicated until 2024.[121]

In response to the FDIC's failure to disclose reports of harassment to the OIG and management's inconsistent implementation of the directive, the OIG issued a management advisory to the FDIC on May 23, 2024. The advisory directed OMWI, LERS, and LEAS to identify any additional allegations that had not been reported to the OIG.[122] The advisory also reiterated the previous Directive, emphasizing the requirement to report any alleged

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110 *Id.*
111 *Id.* at 2.
112 *Id.* at 4.
113 ANTI-HARASSMENT PROGRAM at 6.
114 Witness 12 at 80.
115 *Id.*
116 *Id.*
117 ANTI-HARASSMENT PROGRAM at 7.
118 CLEARY REPORT at 45.
119 ANTI-HARASSMENT PROGRAM at 7.
120 INSPECTOR GEN., FED. DEPOSIT INSURANCE CORP., FDIC DIRECTIVE 12000.01, COOPERATION WITH THE OFFICE OF INSPECTOR GENERAL PROGRAM 6B (2021).
121 Witness 12 at 30.
122 FED. DEPOSIT INS. CORP. OIG., MANAGEMENT ADVISORY MEMORANDUM ON REPORTING ALLEGATIONS OF MISCONDUCT 3-4 (May 2024).

inappropriate actions and conduct related to programs and operations at the FDIC.[123] The Inspector General wrote:

> To ensure the concerns identified in this management advisory are effectively resolved, at a minimum, the FDIC offices primarily responsible for receiving allegations of misconduct (i.e., OMWI, LERS, and LEAS) should coordinate with the OIG to develop and implement a process to notify the OIG of misconduct allegations. Further, all corporate-wide communications to employees about the various options for reporting misconduct should include the OIG Hotline as an option. Lastly, we suggest the Chairman and Inspector General send a Global Message to the FDIC workforce restating FDIC employees' obligation to report allegations of misconduct to the OIG. [124]

Employees can also file a report directly with the OIG. In most cases the OIG will refer cases back to the agency to undergo the standard investigation process.[125] In exceptional circumstances, such as those involving potential criminal conduct or a senior manager, the OIG may conduct its own independent investigation, separate from the FDIC.[126]

8. Corporate University

While Corporate University is an independent division within the FDIC tasked with providing comprehensive training programs to educate employees on harassment prevention, it also informs employees of the available resources and avenues for reporting workplace harassment.[127] Corporate University is not an official avenue for employees to report harassment or other claims, but it is central to employees understanding where to report.

Corporate University is responsible for providing all FDIC employee training programs, both technical and educational.[128] Prior to the November 15, 2023, *Wall Street Journal* article, in-person training was predominantly reserved for bank examiner and leadership programs. Annually required trainings regarding Whistleblower and Anti-Harassment programs, as well as those required under the No Fear Act, are conducted virtually.[129]

B. LEAS-LERS INVESTIGATIVE PROCESS

While the reporting avenues intend to offer employees easy access to officials, often these channels are perceived to be confusing, inefficient, and ineffective. Moreover, the process is opaque. It lacks transparency and clear communication between complainants and the employees conducting the investigation. Complainants may go months without receiving any

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[123] *Id.*
[124] *Id.*
[125] Witness 9 at 17.
[126] *Id.*
[127] Witness 6 at 12-13.
[128] Witness 14 Transcribed Interview 13, Sept. 12, 2024, (on file with the Committee) [hereinafter "Witness 14"].
[129] Witness 6 at 30-33.

information regarding the investigation and may only be notified once the investigation has completed.[130] The inconsistencies in the investigations contribute to the lack of confidence the employees have in the investigations process, likely leading to decreased use of official reporting channels.

Aggrieved employees expressed concerns to Committee staff that if they came forward to report workplace misconduct or harassment, managers and colleagues may retaliate against them for doing so.[131] These employees stated that when they spoke out against workplace misconduct and the toxic work environment at the FDIC, they began to face retaliation in the form of bullying and other inappropriate behavior.[132]

FDIC employees are also hesitant to use reporting channels due to a perceived conflict of interest and the belief that LEAS and LERS prioritize the protection of management and the FDIC.[133] Further, fear of retaliation or desire to not "rock the boat" likely also factors into why employees fail to report harassment.[134]

The reporting system in place at the FDIC requires LEAS to have a close working relationship with LERS. LEAS works with LERS as fact finders.[135] However, in several interviews, witnesses detailed the tense relationship between LEAS and LERS.[136] The LEAS-LERS division of responsibility is codified in a May 19, 2020 Memorandum of Understanding (LEAS-LERS MOU).[137] The MOU outlines the aligned goals with respect to the investigations of the reports.[138] While the LEAS-LERS MOU gives authority for LEAS to lead investigations, the tension remains.[139]

1. Intake and Investigation Plan

Investigations begin with the complainant reporting an incident, which can take many different forms. According to LEAS and LERS officials, the most common way a complainant reports an incident is by having a conversation or sending an email to a LEAS or LERS employee.[140]

Another commonly used reporting avenue, is a direct report to the AHPC, who then sends the information to LERS.[141]After conducting their own initial intake, a LERS specialist and LEAS attorney will develop an investigation plan based on the allegations and available

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[130] *See* Witness 12 at 21-22; Witness 9 at 22-23.
[131] Witness 7 at 10, 41-42, 79, 102, 110; Witness 11 at 11-19, 37-38, 48-49, 53, 63-63; *See* Witness 6 at 36-37; *See* Witness 9 at 43; *See* Witness 1 at 46-47.
[132] Witness 11 at 12, 63-64; Witness 7 at 80-82.
[133] Witness 13 at 51-53.
[134] Witness 6 at 36.
[135] ANTI-HARASSMENT PROGRAM at 10; MANAGEMENT INVESTIGATIONS at 2.
[136] Witness 12 at 34; Witness 9 at 18-19.
[137] MANAGEMENT INVESTIGATIONS at 2.
[138] Witness 12 at 33.
[139] *Id*. at 40.
[140] *See* Witness 9 at 13-19; Witness 12 at 15-16.
[141] Witness 13 at 27-28; *See* Witness 9 at 13-19; Witness 12 at 15-16.

information.[142] The timeline of the investigation depends on various factors, including the complexity of the case, the number of witnesses, the number of issues raised in the complaint, and the individuals involved.[143] The FDIC Investigation Standard Operating Procedure (SOP) does not prescribe a timeline to conduct an investigation.[144] Once an action plan has been developed, the assigned LEAS attorney and LERS specialist begins interviewing witnesses and collecting relevant data and documents not included in the initial report.[145] According to an employee within LEAS, supervisors from LEAS and LERS meet weekly to review ongoing high-profile cases and address any discrepancies that arise.[146]

The LERS specialist is charged with the initial intake of the complaint and handles the first draft of the corresponding report.[147] The report is a recitation of facts and does not include recommendations for management.[148] The LEAS attorney then reviews and edits the reports.[149] All reports must receive final approval from the Assistant Directors of LERS and LEAS before being submitted to the manager of the aggrieved employees.[150] Despite a requirement for LERS to submit its investigation conclusion and findings to the AHPC and the relevant supervising manager, the AHPC is often not notified by LERS.[151]

Prior to the release of the *Wall Street Journal* articles, the FDIC did not have a standard script or document explaining the investigative process for complainants.[152] Complainants are not notified about what to expect during the investigation process, nor is it explicitly explained that LERS and LEAS ultimately represent and advise management of the FDIC.[153] The FDIC is currently contemplating developing a template email or notice to send to a complainant at the beginning of an investigation to inform them of the investigative process, and their rights as a complainant.[154]

There is tension between LEAS and LERS under the current investigation SOP. Because LEAS and the Legal Division are concerned about potential legal action against the FDIC, LEAS is authorized to make technical changes to the report.[155] LERS often perceives this action as a usurpation of their power to perform investigations.[156]

Since publication of the *Wall Street Journal* articles, LEAS has begun taking a more active approach in overseeing the AHPC and the investigation process, with plans to increase

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142 *See* Witness 12 at 13; Witness 9 at 18.
143 Witness 12 at 23.
144 Witness 12 at 22-23
145 *See* Witness 9 at 21.
146 Witness 12 at 31.
147 Witness 12 at 20-21.
148 Witness 9 at 20.
149 *Id*. at 19-20.
150 *Id*. at 19-20.
151 Witness 13 at 48.
152 *See* Witness 9 at 70-71.
153 Witness 12 at 36-38.
154 *Id*.
155 *Id*. at 14-15, 19-20.
156 *Id*. at 34

involvement in the future.[157] Internally, Committee staff found that LERS specialists are skeptical of LEAS' growing involvement in the investigation process, believing these investigations fall within their purview.[158] This has led to increased tension between the offices as they struggle to define their responsibilities.[159]

2. Recommendations to Management

LEAS and LERS recommend disciplinary measures to management. However, the final decision of any disciplinary action is ultimately left to the discretion of the manager.[160] Though recommendations offered by LEAS and LERS are discussed in conversation with management, they are not formally recorded in the investigative report or otherwise.[161]

In egregious cases, where the management disciplinary response is disproportionate to the findings of the case, LEAS and LERS can elevate the issue for further review.[162] LEAS and LERS cannot dictate the course of action management takes but can elevate the case if it is determined the action would put the FDIC in legal jeopardy.[163]

3. Case File Custody

LERS has primary responsibility for maintaining the official repository of case files.[164] Currently, there is no comprehensive database or official repository that provides equal access to both LEAS and LERS.[165] Without a robust recordkeeping system, the FDIC has been unable to properly identify trends of harassment and misconduct.[166] In a report issued by the OIG, the FDIC was notified its recordkeeping and file system was "not effective."[167] The OIG recommended the FDIC prioritize instituting a comprehensive database to properly maintain records of sexual harassment.[168]

LEAS uses its own proprietary database, Advanced Legal Information System (ALIS), to maintain files exclusively for the Legal Division.[169] Because the Legal Division does not have equal access to the official repository of case files maintained by the LERS, the Legal Division uses ALIS to store its own records.[170]

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157 Witness 9 at 40-41.
158 Witness 12 at 33-34.
159 Witness 12 at 33-34; Witness 9 at 19.
160 Witness 9 at 48-49.
161 Witness 12 at 19-20.
162 *Id*. at 54.
163 *Id*. at 54.
164 *Id*. at 29.
165 *Id*. at 28-29.
166 *See generally* Witness 13 at 27; OFF. OF THE INSPECTOR GEN., FED. DEPOSIT INS. CORP., EVAL-24-05, THE FDIC'S SEXUAL HARASSMENT PREVENTION PROGRAM (2024) [hereinafter "2024 IG REPORT"].
167 *Id*. at 35-41.
168 *Id*. at 41.
169 *See* Witness 12 at 35; *see also Doing Business with the FDIC: Outside Counsel Deskbook*, FDIC, https://www.fdic.gov/about/doing-business/outside-counsel/alis.html (last visited Nov. 18, 2024).
170 Witness 12 at 28-29.

II. REPORTING AVENUES DO NOT WORK IN PRACTICE

While many employees noted confusion surrounding harassment reporting due to the number of avenues, Committee staff found that even when the avenues were utilized, they are often ineffective. Employees described instances of ineffective communication between the investigating entities leading to bad working relationships, insufficient record keeping, and fear of retaliation, among other things.

A. THE RELATIONSHIP BETWEEN LERS AND LEAS NEGATIVELY AFFECTS INVESTIGATIONS

The Memorandum of Understanding (MOU) between LEAS and LERS has failed to solve the long-standing problems between the two sections.[171] Despite the investigative procedures put in place, as it stands, they are not followed.[172] A senior FDIC employee explained:

> As a practical matter, I would say, for the most part, [LEAS supervising all complaint investigations] doesn't happen. And I think that's one of the -- one of the flashpoints is -- is who is in charge. And I think that's where sometimes we do run into trouble… in terms of these investigations being completed in a timely and thorough way.[173]

Another FDIC employee stated in a transcribed interview that in an ideal world, LEAS and LERS staff would be able to work together, however in practice that is not the case. For example:

> COMMITTEE STAFF: And you said in an ideal world, what do you mean by that?
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> FDIC EMPLOYEE: Well, I think if you read the Cleary report, that you will see that there has been some tension between LERS and LEAS historically. You know, I have worked for five different places, I don't think it's Federal agencies. I don't think it's unusual at all for the H.R. staff and the legal staff to have you know, I think it was described in the report as being frenemies…I think that that's not uncommon, right? So I think for the most part, our LERS

[171] *Id.*
[172] *Id.*
[173] *Id.* at 40.

staff works very well with our LEAS staff. I think that, you know, you probably saw some documents and instances where there has been some territoriality between the two groups.

COMMITTEE STAFF:	For territoriality, is that at the end of the investigation when a document has to be produced, or an action has to be recommended…?
FDIC EMPLOYEE:	So I think, for the most part, when we get to the substance of the investigation or the process or the end report, there's usually LEAS and LERS have come together at that point… For territoriality, I mean. And, really, I'm speaking for the most part of when I was in LEAS. When I supervised LEAS, you know, in 2018, in 2019, I think there was a territoriality issue with LERS specialists not wanting LEAS to take over their roles, right? So LERS specialists you know, and I'm speaking generally believed that they were responsible for doing the investigations, and the LEAS attorneys, obviously, wanted to be involved. So I think that there was that, you know, there was a little bit of contentiousness at times. But I think for the most part, that has been addressed, and I think is much better now.[174]

In another transcribed interview, a different FDIC employee highlighted that LERS specialists believes LEAS attorneys encroach on their investigative responsibilities which has led to, tension between the two sections. The employee stated:

COMMITTEE STAFF:	Why do you think the investigations specifically are contentious? Or why

[174] Witness 9 at 18-19.

is there tension between the two offices?

FDIC EMPLOYEE:	I think there are some LERS specialists who, you know, believe it's within their purview and that LEAS really shouldn't have much of a role. And, you know, our view is, ultimately, if an action is challenged down the road, we're going have to be defending it, and so there are certain changes that we recommend or make that LERS doesn't necessarily think are necessary. And so they see us as nitpicking, and we obviously don't; we have reasons for it. Which is why I come back to why communication is important. Because I do feel like opening those lines of communication and making sure they understand why we're doing what we're doing is important. So, you know, it's a process. We're continuing to work through it. But I do foresee us taking a more active role going forward to try to, you know, expedite some of these investigations.
COMMITTEE STAFF:	And how long have LERS and LEAS been working together on these cases? Was one office created before the other, or are you aware of if they've always been working together?
FDIC EMPLOYEE:	Yeah, I got to the FDIC in 2014, and when I got there, this was the structure.[175]

[175] Witness 12 at 34.

B. EMPLOYEES AND MANAGERS ARE UNCERTAIN OF REPORTING LINES

Managers appear to be uncertain about their reporting requirements when they learn of harassment incidents. Some members of Senior Leadership were unsure of the specific requirements with respect to reporting harassment and whether the requirements applied to them. One senior official opined, "I think it would depend on what they tell me. And how [the reporting employee] would want to proceed. So I want to be careful about that. But I think that it would -- I don't know for sure if I would be mandated."[176]

A Division Director interviewed by the Committee did not know what factors made them a mandatory reporter, but "believed" that s/he was required to report:

COMMITTEE STAFF: Are you a mandatory reporter if someone confides in you that they are being harassed or bullied?

DIVISION DIRECTOR: I believe I am.

COMMITTEE STAFF: Why are you a mandatory reporter?

DIVISION DIRECTOR: I'm a supervisor. I'm a manager.

COMMITTEE STAFF: So the threshold for being a mandatory reporter is being a supervisor or manager?

DIVISION DIRECTOR: I think that might be one of them.

COMMITTEE STAFF: Okay.

DIVISION DIRECTOR: I'm not entirely clear of the criteria.[177]

Chairman Gruenberg stated in his transcribed interview that he would only report if the individual requested it. This, despite the fact, the Chairman is required to report under FDIC policy:[178]

COMMITTEE STAFF: if you received a complaint [of harassment], are you obligated to report it yourself?

[176] Witness 2 at 20.
[177] Witness 6 at 30.
[178] ANTI-HARASSMENT PROGRAM at 6-7.

MR. GRUENBERG:	Report it to – well, I think that really depends on the wishes of the individual… I mean, they have to make a decision as to how they want to pursue this. And that's an interesting question. I would want to check on that… But I think, in the first instance, the individual needs to make a judgment, and I think you'd want to respect the wishes of the individual. And I'd want to – I might well seek advice in terms of any obligation I might have to report it as well.[179]

Other senior level FDIC employees who were interviewed by Committee staff said that FDIC policy requires managers to report harassment. However, they could not confirm if other management personnel knew of their obligations and requirements.[180] Despite requirement that every employee receive training when onboarded at the FDIC, one Division Director stated s/he received no formal training their mandatory reporting responsibilities at the FDIC:

COMMITTEE STAFF:	Who does that mandatory reporting requirement apply to?
DIVISION DIRECTOR:	Managers at the FDIC are supposed to do that –
COMMITTEE STAFF:	Okay.
DIVISION DIRECTOR:	-- as part of their responsibilities. That's what I've always regarded as my responsibility as a manager.
COMMITTEE STAFF:	Is that because you think that's the right thing to do, or is that a requirement as a part of your job as a manager?
DIVISION DIRECTOR:	As a manager, that's the right thing for me to do, but managers are obligated to bring those issues forward.

[179] Gruenberg Interview at 24.
[180] Witness 6 at 30-31.

COMMITTEE STAFF:	Okay. Are managers trained about how to do that?
DIVISION DIRECTOR:	I don't know that I've ever received any formal training.[181]

C. RECORDKEEPING IS INSUFFICIENT

Currently, the FDIC does not have a single, comprehensive system for recordkeeping. An FDIC employee explained:

> The tracking systems that have been put in place have been less than stellar. And so there is a tracking system that LERS has but it's not something that LEAS has regular access to at this point. That's something we are in the process of developing, consistent with the recommendations in the [Cleary] report.[182]

The current system is disjointed and fails to provide the necessary access to all persons who require access to records. In addition, FDIC staff confirmed that LEAS and LERS have separate record-keeping systems.[183] Despite a formal OIG recommendation to implement a sexual harassment tracking system, the FDIC has failed to put in place any type of comprehensive recordkeeping system capable of supporting a large, complex organization for any type of report, including harassment.

Both Cleary Gottlieb and the FDIC OIG reports highlight significant deficiencies in the FDIC's current sexual harassment tracking system.[184] The reports reveal a fragmented approach to reporting, with each Division utilizing its own processes for handling and monitoring cases.[185] The lack of standardization results in inconsistent and often inaccurate reporting.[186] In fact, the OIG found significant discrepancies in the records maintained by LERS, LEAS, and OMWI.[187] These discrepancies include unaccounted for allegations in their entirety, despite senior officials' awareness of these complaints and prior investigations conducted by LERS.[188]

The FDIC has committed to executing the 24 recommendations included in the OIG's 2024 evaluation report to minimize sexual harassment in the workplace.[189] These recommendations call for the development and implementation of a comprehensive centralized

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[181] Witness 1 at 16.
[182] Witness 12 at 28-29; *see generally* 2024 IG REPORT. ("We found that the FDIC does not have an effective complaint tracking system to ensure allegations of sexual harassment misconduct are tracked, addressed, and documented consistently.").
[183] *Id*. at 35.
[184] CLEARY REPORT at 81; 2024 IG REPORT.
[185] 2024 IG REPORT at 36.
[186] *Id*.
[187] *Id*.
[188] *Id*.
[189] *Id*. at 69.

tracking system by the year 2025.[190] The 2024 report reveals that the FDIC implemented three different tracking tools since 2020, all of which have fallen short of the previous stated standards, and "the most recent tracking tool (Labor Employee Relations Case Tracking (LERCT)) does not include pertinent data fields specifically recommended in [the OIG's] prior report and agreed to by the FDIC."[191]

Further, insufficient resources and failure to establish a permanent anti-harassment program coordinator for years, led to a lapse in sufficient record-keeping by the AHPC. For example, an FDIC employee opined:

> The directive lists a lot of things [the AHPC] should be doing, which is typical for an anti-harassment program. But based on [the AHPC] roles and responsibilities, [the AHPC] didn't necessarily have the tools to do it. And when I say, "the tools to do it," monitor investigations and so forth, where [the FDIC] didn't have a tracking system where [the AHPC] could have access…
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> And a lot of things [the AHPC] created [itself] to try to get some things in the system, not understanding there were other stuff. Because you had a person that was doing this job for a long period of time, and then [that employee] left, and someone else just came in every night and day, so it wasn't a continuation of what should be done.[192]

D. THE LENGTHY AND OPAQUE INVESTIGATION PROCEDURE DOES NOT INCENTIVIZE FDIC EMPLOYEES TO USE THE REPORTING AVENUES

FDIC employees expressed little confidence that reported cases of harassment or misconduct could be effectively resolved through the reporting avenues. Even staff employed in LEAS and LERS expressed concern about the length of these investigations. One FDIC employee stated, "I mean, one of the things that I've been particularly concerned about is the timing and how long these investigations take."[193]

Moreover, lack of communication with the complainant during the course of an investigation has undermined transparency and severely eroded employees' trust in the process. One FDIC staff member familiar with the described the lack of transparency for the complainants and the need for improvement:

> One of the criticisms that we've heard is that the process is really not transparent, and complainants will sometimes report something and then just not hear anything for months on end. And so we are in the process of amending our procedures to make sure that

[190] *Id.*
[191] *Id.*
[192] Witness 13 at 27.
[193] Witness 12 at 69.

> complainants are notified once the referral is made to LERS and LEAS, once the investigation starts. If the investigation drags on, there are periodic updates provided to the complainant. And then, at the end of the process, the complainant would be notified that the investigation has been completed.[194]

Often, employees who are submitting complaints never fully understand the roles of the people to whom they are submitting their complaints. One employee stated, "We didn't have a lot of insight into who exactly these people were. Were they HR-HR or were they regional-HR, or were they examiners? So, it's somewhat unclear sometimes, as far as who exactly is performing these functions and who is aware of where and when."[195]

E. EMPLOYEES FEAR RETALIATION AND THEREFORE DO NOT REPORT CASES OF HARASSMENT AND MISCONDUCT

Retaliation is when an employer takes "adverse action against an employee for engaging in a protected activity."[196] Senior officials admitted that the fear of retaliation is a serious impediment to reporting. One senior official said, "others might be fearful of retaliation or it not being worth the time."[197] Another senior official explained,

> I think that if an employee has been harassed, there are so many different entities that they can report it to, that if they want to address it, I think they can go. I think a bigger problem is the fear of retaliation. And I think that that is a real problem.[198]

During a transcribed interview with Committee staff, a Division Director discussed the reasons for underreporting harassment and misconduct.[199] The Division Director highlighted that several women do not believe in the investigative process and are deterred from coming forward due to fears of retaliation:

> DIVISION DIRECTOR: But I can tell you what women have told me. So, as I've met with representatives from our employee resource groups that focus on women, they have said that they just don't believe that anything is going to happen, and so they just don't trust the

[194] *Id*. at 22.
[195] Witness 7 at 82.
[196] *U.S. Dep't of Labor Wage and Hour Division*, *Retaliation*, https://www.dol.gov/agencies/whd/retaliation#:~:text=What%20is%20retaliation?,impact%20on%20overall%20employee%20morale. (last visited Nov. 18, 2024) (Defining an adverse action: "An adverse action is an action which would dissuade a reasonable employee from raising a concern about a possible violation or engaging in other related protected activity. Retaliation can have a negative impact on overall employee morale.").
[197] Witness 6 at 36.
[198] Witness 9 at 43.
[199] Witness 5 at 33-34.

process. So they try to handle it themselves. They don't tell anybody. Or, if they did tell somebody, you know, they received advice not to move forward because it will be bad for you, you know, so

COMMITTEE STAFF: So you're saying there would be retaliation?

DIVISION DIRECTOR: Yes, yeah. And so those are the hurdles that we have to overcome and address in our action plan that we're working on, is creating an environment where everybody feels safe and confident in bringing forward something bad that's happened to them.[200]

Numerous whistleblowers described retaliation they faced after the publication *Wall Street Journal* articles were published. A whistleblower explained to Committee staff that they were demoted from their position because their supervisor believed that the individual provided information about their supervisor to the *Wall Street Journal*.[201]

F. FDIC'S INEFFECTIVE REPORTING AVENUES MAKE IT DIFFICULT TO TRACK HISTORIC TRENDS OF HARASSMENT AND MISCONDUCT

The multiple reporting avenues, along with insufficient tracking systems, prevent the FDIC from effectively tracking historical trends of misconduct. Senior level staff at the FDIC confirmed that no aggregate reporting data is provided to them or the Board, which inhibits the FDIC's ability to see trends over time.[202] An FDIC employee admitted that the failure to accurately track cases hurts the agency's ability to see trends over time and emphasized a push to ensure a new, effective tracking system is in place.[203] FDIC employees explained:

> And, you know, part of the reason for making sure we get the tracking system right is to be able to do that, to be able to monitor trends, identify -- identify, you know, if there are certain units, if there are certain sections, if there are certain field offices where there are issues, to be able to identify those as early as possible so we can address them appropriately.[204]

[200] Witness 5 at 34.
[201] Notes on file with the Committee.
[202] Witness 2 at 43-44.
[203] Witness 12 at 62.
[204] *Id.*

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> If you read the directive, the directive lists a lot of things … typical for an anti-harassment program. But based on [the] roles and responsibilities, [the AHPC] didn't necessarily have the tools to do it. And when I say, "the tools to do it," monitor investigations and so forth, where we didn't have a tracking system where I could have access, so I had to go and ask someone, could you give me a copy of the spreadsheet so I can look and see, making sure you're doing it.[205]

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> Well, I will say, you know, as you have probably read, our recordkeeping has been, you know, not good at the FDIC… LERS implemented an off the shelf tracking process, and it wasn't particularly it didn't function particularly well. And so, we replaced that with a SharePoint system which we are currently using now. That is not ideal either, you know. Obviously, it enables us to keep some track of some statistics, et cetera, but I loved, and I will hopefully take all of the action plan, The Wall Street Journal article, et cetera, as an opportunity to be able to procure an off the shelf, topnotch tracking system which we need.[206]

Yet, others in senior leadership have been under the impression that there is a centralized tracking system but no centralized reporting system, and that LEAS, LERS, and the AHPC had the ability to alert those directors to trends in their respective divisions:

> There's centralized tracking. Those -- LERS and LEAS and Anti-Harassment have a responsibility to let me know if there's some kind of trending, you know, if there's one area, one office, that is the subject of a number of issues. But there's no kind of centralized recording that I see. And that is something we've spent a great deal of time talking about in the action plan, that there needs to be regular, centralized reporting that we can see to understand what's happening.[207]

Notwithstanding the issues of the tracking system, members of senior leadership believe that they received reports of harassment. However, they were unclear which Division maintained control or the content of said report. For example, an FDIC employee explained:

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[205] Witness 13 at 27.
[206] Witness 9 at 52.
[207] Witness 5 at 54.

COMMITTEE STAFF:	Do you know if the No FEAR Act requires a tracking system for reports?
FDIC EMPLOYEE:	I don't know that specifically, but that would certainly -- being able to track reports, it was part of the IG's recommendations.
COMMITTEE STAFF:	So does the FDIC have a tracking system in place?
FDIC EMPLOYEE:	In response to the recommendation, it is my understanding – and -- I've actually -- I've seen a sample report there is a tracking system in place.
COMMITTEE STAFF:	What does it track exactly?
FDIC EMPLOYEE:	Oh, the print was so tiny. I think claims, perhaps, types of claims, and timeframes and outcomes. But I can't swear.
COMMITTEE STAFF:	Okay.
FDIC EMPLOYEE:	That sort of passed under my nose.
COMMITTEE STAFF:	Who's the input for that system?
FDIC EMPLOYEE:	That, I don't if it's LERS or LEAS, I just don't.
COMMITTEE STAFF:	But one of those.
FDIC EMPLOYEE:	One of those I would expect.[208]

[208] Witness 2 at 71.

I. THE CREATION OF THE FDIC'S ACTION PLAN WAS RUSHED BY GRUENBERG AND EXCLUDED CRITICAL STAFF OUTSIDE OF HIS INNER CIRCLE

During the Committee's Prudential Regulator Hearing on November 15, 2023, Ranking Member Maxine Waters requested Chairman Gruenberg commit to providing a "detailed written plan on the steps the FDIC plans to take to address [the workplace misconduct issues within 15 days of the hearing.]"[209] On December 1, 2023, the FDIC submitted its plan to the Committee, titled "Action Plan for a Safe, Fair, and Inclusive Work Environment" (Action Plan).[210]

The Action Plan contains eight broad topics to address and a total of 34 action items.[211] Most action items have a projected completion date.[212] At the end of the Action Plan, a disclaimer states that "the FDIC Board of Directors chartered an independent, third-party review of allegations of sexual harassment and personal misconduct…and any management response."[213] Moreover, the disclaimer adds that "the [Action] Plan does not include items projected to be within the scope of reviews conducted by the Office of the Inspector General."[214]

A. CRITICAL EMPLOYEES WERE LEFT OUT OR REMOVED FROM THE CREATION AND IMPLEMENTATION OF THE ACTION PLAN AT THE DIRECTION OF GRUENBERG

The FDIC misled the public and Committee Republicans by stating the Action Plan was developed and created through a collaborative effort by FDIC employees.[215] The plan was "prepared at the Chairman's request by FDIC senior leadership and staff led by [then-Deputy] to the Chairman for External Affairs and Director of the Office of Minority and Women Inclusion."[216] According to the FDIC, the plan reflects "comments and suggestions received during listening sessions with FDIC employees" and "input from a range of FDIC stakeholders."[217] When interviewed, Chairman Gruenberg claimed that the FDIC gave everyone an opportunity to participate in the Action Plan:

> It's one of the reasons that in implementing this action plan, every division and office director has a leadership role in implementing

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[209] *Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024) (statement of Rep. Waters, Ranking Member, H. Comm. on Fin. Servs.).
[210] Fed. Deposit Ins. Corp., *Action Plan for a Safe, Fair, and Inclusive Work Environment*, Dec. 1, 2023 [hereinafter "FDIC Action Plan"].
[211] *Id.*
[212] *Id.*
[213] *Id.* at 13.
[214] *Id.*
[215] *See Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2024) (statement of Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp.).
[216] Letter from Off. of Legis. Affs., Fed. Deposit Ins. Corp, to Maxine Waters, Ranking Member, H. Comm. on Fin. Servs. (Dec. 1, 2023).
[217] *Id.*

> our action plan, senior executives below the director level. And we are giving employees, at all levels of the agency, the opportunity, if they wish, to participate. We've put out expressions of interest, so employees want to volunteer, and it can be different levels of engagement in this.[218]

However, employees with expertise in human resources and harassment reporting were either entirely excluded from the drafting of the Action Plan or, despite initial involvement, have since been sidelined from its implementation.[219] Specifically, while the FDIC stated the then-Director of OMWI led the creation of the Action Plan,[220] it is unclear how influential s/he was in the implementation of the plan itself.

One FDIC employee stated in their transcribed interview that during the formulation of the Action Plan, the then-Director of OMWI became upset and left a meeting.[221] That individual stated that the Director felt "[their] ideas were being overlooked or dismissed" by the Chairman.[222] Regarding the implementation of the Action Plan, another employee stated the Director was not, at that time, taking part in the implementation.[223] Another employee, who directly reported to the Director, was unsure whether the Director was involved in the implementation of the Action Plan at all.[224]

Committee staff interviewed other FDIC employees with expertise in human resources and the EEO process, who explained they were not involved in the creation of the Action Plan.[225] For example, the Chief Human Capital Officer or "head of HR" was not included.[226] Despite their expertise in the subject matter, the human resources team was consulted on parts of implementation but "didn't have a final decision on what was in [the Action Plan] and what wasn't in it."[227] Although employees with human resources expertise are now involved with the implementation of the Action Plan, an employee stated that the then-Director of OMWI was mostly responsible for creating the plan.[228] The employee further clarified that although the Director helped create the plan, s/he does not appear to be a part of the team responsible for the action plan's implementation.[229] The employee explained:

> FDIC EMPLOYEE: So coming up with the action plan was mostly [the Director of OMWI]. And, you know, we, meaning H.R., the legal division, were consulted

[218] Gruenberg Interview at 39.
[219] *See* Witness 9 at 30.
[220] Letter from Off. of Legis. Affs., Fed. Deposit Ins. Corp, to Maxine Waters, Ranking Member, H. Comm. on Fin. Servs. (Dec. 1, 2023).
[221] Witness 6 at 80.
[222] *Id*.
[223] Witness 9 at 30.
[224] Witness 13 at 83.
[225] *See* Witness 9 at 30; Witness 12 at 74; Witness 13 at 82-83.
[226] Witness 9 at 29-30.
[227] *Id*. at 30.
[228] *Id*.
[229] *See* Witness 9 at 30-35; Witness 13 at 83.

with various parts of the action plan, but we ultimately didn't have a final decision on what was in it and what wasn't in it.

COMMITTTEE STAFF:	Who had final decision on that?
FDIC EMPLOYEE:	[the Director of OMWI].
COMMITTEE STAFF:	And is [s/he] part of the implementation team for the action plan?
FDIC EMPLOYEE:	I don't believe [s/he] is right now.[230]

Later in the interview, the employee stated that "the Chairman has a very small circle of trusted advisers," and despite their familiarity with human resources, they are not one of them.[231] That small circle, according to the witness, consists of the Chairman's Chief of Staff, the Chief Operating Officer, and the General Counsel.[232]

Committee staff also interviewed an employee in LEAS.[233] This employee mentioned that they were also not a part of creating the Action Plan, but is responsible for part of its implementation.[234] When asked if they knew who was responsible for creating the plan, the employee stated said that they were not sure, but that the Chief Operating Officer "was active in that process" and that the plan "came together relatively quickly."[235] Another employee under OMWI revealed that they were not involved in creating the Action Plan, despite having a role and expertise in harassment reporting.[236]

FDIC employees were left unsatisfied with the Action Plan and its implementation.[237] A whistleblower who has been with the agency for over 35 years revealed additional concerns, which were shared among non-managerial employees.[238] The witness characterized the plan as "a paper exercise" and "a Band-Aid on a problem that never will be able to be fixed."[239] Specifically, the employee questioned a FDIC Division Director about the purpose of the Action Plan stating, "Why would you be developing a plan that is so detailed without the findings of an independent report from Cleary Gottlieb? How can you effectively develop a plan which

[230] Witness 9 at 30.
[231] *Id*. at 71.
[232] *Id*. at 75.
[233] Witness 12 at 9.
[234] *See Id*. at 73-74.
[235] *Id*. at 74.
[236] Witness 13 at 82-83.
[237] Witness 11 at 13.
[238] *See generally Id*. at 26-27, 61-63.
[239] *Id*. at 61-62.

addresses a problem that you don't even know the scope of?"[240] This employee also expressed concern with the individuals that are responsible for creating and implementing the Action Plan:

> And that's of great concern to me, because if you have people that have been complicit and have actively participated in egregious behavior as discussed as described in the report, how can they effectively... As an employee, how can I trust that that plan has people that are supervising it and implementing it that have outstanding allegations that the Cleary report very succinctly identified?[241]

The employee found it problematic that the Action Plan was implemented despite Cleary Gottlieb's ongoing independent review of the FDIC.[242] Additionally, the employee was concerned about the ability of FDIC Senior Leadership to be impartial while overseeing cultural transformation. The employee described senior leadership's work as the "fox watching the hen house."[243]

CHAIRMAN GRUENBERG'S BEHAVIOR

The FDIC is led by a five-person Board of Directors (Board) comprised of the Chairman, Vice Chairman, FDIC Director, and the heads of the Office of the Comptroller of the Currency and Consumer Financial Protection Bureau.[244] The Chairman, Vice Chairman, and FDIC Directors are appointed by the President and confirmed by the Senate.[245] The Board oversees the operations and meets to discuss matters related to the FDIC's supervision, corporate, and resolution activities.[246] The Chairman serves as head of the Board for a term of five years.[247]

Chairman Gruenberg has been with the FDIC since August 2005.[248] He served as Vice Chairman from August 2005 to July 2011.[249] He became Chairman in November 2012 and served in his first term until 2018.[250] Throughout his tenure he has served as an Acting Chairman on numerous occasions.[251] His second chairmanship began in January 2023.[252] On May 20, 2024, Chairman Gruenberg announced that he planned to step down as Chairman once a successor was

[240] *Id*.
[241] *Id*. at 27.
[242] *Id*. at 61-62.
[243] *Id*. at 70-75.
[244] *See* 12 U.S.C. 1811 et seq.; *see also* 12 U.S.C. § 1812(a).
[245] *See* FED. DEPOSIT INSURANCE CORP., BYLAWS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION (2024).
[246] *See* 12 U.S.C. § 1812(a)-(b); *see also Fed. Deposit Ins. Corp. FDIC Board Matters*, https://www.fdic.gov/news/board-matters (last visited Nov. 18, 2024).
[247] 12 U.S.C. § 1812(a).
[248] *Fed. Deposit Ins. Corp. About Martin J. Gruenberg*, https://www.fdic.gov/about/martin-gruenberg/ (last visited Nov. 18, 2024).
[249] *Id*.
[250] *Id*.
[251] *Id*.
[252] *Id*.

confirmed by the Senate.[253] President Biden nominated Christy Goldsmith Romero to be Chair and Member of the FDIC Board on June 13, 2024.[254] Chairman Gruenberg continues to serve actively as Chairman as of the release of this report.

Witnesses described Chairman Gruenberg as someone known at the FDIC for having a temper and expressing anger toward employees.[255] While some FDIC employees describe the Chairman as "soft-spoken,"[256] he is also known to raise his voice at employees or speak to them with a disdain during meetings.[257] FDIC staff stated they "coach up" other employees on how to appropriately respond to Chairman Gruenberg's body language and advise them to "[not] talk if he's thinking."[258] Furthermore, FDIC staff have in the past apologized to their employees for Chairman Gruenberg's behavior after he lost his temper in meetings with them.[259] Several have had to comfort colleagues who were uncomfortable or left a meeting with Chairman Gruenberg crying due to his behavior.[260] In stark contrast, Chairman Gruenberg stated during his initial transcribed interview that "[from his point of view he] tries to treat every FDIC employee with respect and courtesy, and [he] values each of them and try to act accordingly."[261]

I. CHAIRMAN GRUENBERG'S FAILED LEADERSHIP HAS PUT THE SAFETY AND SOUNDNESS OF THE UNITED STATES FINANCIAL SYSTEM AT RISK

The mission of the FDIC has been an essential part of the United States financial system since 1933.[262] The FDIC is charged with maintaining "stability and public confidence in the nation's financial system."[263] As a prudential regulator, the FDIC's statutorily assigned duties include deposit insurance and management of the deposit insurance fund (DIF), examination and supervision of financial institutions for safety and soundness, resolution of financial institutions, and management of receivership.[264]

In this role, the FDIC is responsible for managing public trust in the United States financial system. Its statutorily defined mission is crucial to the soundness of the United States banking system. However, Chairman Gruenberg's leadership and behavior has made it difficult for many FDIC employees to fulfill their duties. His treatment of staff when they are delivering

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[253] Press Release, Fed. Deposit Ins. Corp., Statement by FDIC Chairman Martin J. Gruenberg (May 20, 2024), https://www.fdic.gov/news/press-releases/2024/statement-fdic-chairman-martin-j-gruenberg.
[254] Press Release, The White House, President Biden Announces Key Nominations, (Jun. 13, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/13/president-biden-announces-key-nominees-76/?utm_source=link.
[255] *See* Witness 6 at 76-78; Witness 9 at 70-71, 81-82; Witness 9 at 71-73; *See generally* Witness 5 Interview 76-90.
[256] *See* Witness 2 at 74-75; *see generally* Witness 3 at 66, 80.
[257] *See* Witness 6 at 77-78; *see generally* Witness 5 at 80, 86-87; Witness 2 at 74; Witness 1 at 71-73; Witness 9 at 81-82.
[258] Witness 5 at 83-84; *See* Witness 6 at 79-80.
[259] Witness 1 at 72-73.
[260] Witness 5 at 78-79; Witness 6 at 82-83
[261] Gruenberg Interview at 76.
[262] *Fed. Deposit Ins. Corp. History of the FDIC*, https://www.fdic.gov/about/history/ (last visited Nov. 18, 2024).
[263] *Id*.
[264] *See Fed. Deposit Ins. Corp. A Brief History of Deposit Insurance in the United States*, https://www.fdic.gov/resources/publications/brief-history-of-deposit-insurance/book/brief-history-deposit-insurance.pdf (last visited Nov. 18, 2024); *see also* 12 U.S.C § 1821 et seq; *see also* 12 U.S.C § 1823 et seq; *see also* 12 U.S.C. § 5390 et seq.

critical information that can be considered "bad news," chills communication and makes FDIC employees less likely to communicate important information quickly.

Chairman Gruenberg's leadership fosters an insular, toxic workplace culture at the FDIC that undermines the mission of the FDIC. Chairman Gruenberg placed his trust in a small circle of individuals from FDIC senior leadership.[265] Chairman Gruenberg's insular treatment of staff[266] disincentivizes the free flow of information at the FDIC so much that he was surprised by the reports of the deep-seated, toxic culture at the FDIC.[267]

Throughout his tenure, Chairman Gruenberg isolated himself to a few trusted advisors. When he did receive reports from staff members outside his circle, he was "degrading," "prosecutorial," and spoke in a disrespectful or inappropriate manner.[268] Often, favored senior employees prepare their staff before meetings with Chairman Gruenberg.[269] These senior leaders warn their subordinates that information has to be presented in a "certain way,"[270] or illustrate the necessity to pay attention to Chairman Gruenberg's body language, speak slowly, and prepare for a significant number of questions.[271] Chairman Gruenberg's treatment of staff prevents the free flow of information limiting the critical information regarding the safety and soundness of banks to be shared with him.

A. CHAIRMAN GRUENBERG'S TEMPER AND UNACCEPTABLE BEHAVIOR IS WELL-KNOWN THROUGHOUT THE FDIC

1. History of Misconduct and Abusive Treatment of Employees

Chairman Gruenberg's behavior has been a longstanding issue and "water cooler" talk at the FDIC.[272] According to a whistleblowers who spoke with Committee staff, Chairman Gruenberg's temper was well-known when the whistleblower began working at the agency.[273] The first documented occurrence of such behavior took place in 2007, when then-Vice Chairman Gruenberg lost his temper on a group of FDIC employees during a briefing.[274] The group of employees were not ultimately responsible for the matter that upset the Chairman. Nonetheless he became furious, screamed profanities, and questioned the employees' competence for nearly an hour.[275] Employees noted that the interaction was completely unprofessional, and that Chairman Gruenberg's berating was sufficiently shocking enough to stay with one of the employees to this day.[276] When asked about this instance, Chairman Gruenberg did not recall getting angry or losing his temper.[277]

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[265] *See* Witness 6 at 21-24; *see also* Witness 5 at 38.
[266] *See* Witness 6 at 77-78; *see generally* Witness 5 at 80, 86-87; Witness 1 at 71-73; Witness 9 at 81-82.
[267] *See* Gruenberg Interview at 75.
[268] CLEARY REPORT at 94.
[269] Witness 5 at 83-84; *See* Witness 6 at 79-80.
[270] Witness 9 at 79; Witness 5 at 83-84; *See* Witness 6 at 79-80.
[271] Witness 5 at 84; *See* Witness 6 at 79-80.
[272] *See* Witness 11 at 89-90; *See* Witness 9 at 70-73
[273] Witness 7 at 110.
[274] CLEARY REPORT at 91.
[275] *Id.*
[276] *Id.*
[277] *Id.*

The Chairman's temper extends to members of senior leadership, driven by beliefs of conspiracies to subvert his authority.[278] The paranoia has led the Chairman to interrogate employees about their loyalty as well as publicly question their professionalism and competence in front of other employees.[279]

For example, on March 26, 2008, then-Vice Chairman Gruenberg had an exchange with a Division Director that ultimately prompted an external firm's investigation into his behavior.[280] That day he met with several senior executive staff, one of those individuals scheduled an annual leadership conference for February 12-14, 2008, dates which conflicted with Chairman Gruenberg's required attendance at the International Association of Deposit Insurers meeting in Switzerland, for which he served as Chairman.[281]

Chairman Gruenberg became so upset, he accused the senior executive of "participating in a conspiracy to disenfranchise [him]" and began questioning the senior executive about whether [s/he] thought [Gruenberg's] attendance was necessary.[282] One meeting participant described Chairman Gruenberg's tone as that of a "prosecuting attorney, asking rhetorical questions, badgering a witness."[283] That participant called Chairman Gruenberg's treatment of the senior executive a "verbal attack," with Chairman Gruenberg "red faced, jabbing his finger, leaning forward, bombastic, out of control."[284] Following the questioning period, Chairman Gruenberg began berating the senior executive, telling that individual that s/he did not have any respect for him or his office.[285]

Following this interaction, then-Chairman Shelia Bair met with Chairman Gruenberg to discuss the incident. Subsequent to that, Chairman Gruenberg was told to meet with consultants about his communication style.[286] When asked about the investigation at a hearing before the Committee, Chairman Gruenberg denied he was investigated for any misconduct, but later recanted and acknowledged he was interviewed in connection with the March 2008 incident.[287]

The 2008 Management Inquiry conducted at the request of then-Chairman Bair revealed other examples of Chairman Gruenberg's behavior, including demeaning, belittling, and disrespecting FDIC employees.[288] Then-Chairman Bair contracted with the law firm Delany Siegal Zorn and Associates, Inc. to conduct an investigation into the allegations against Chairman Gruenberg.[289] The firm interviewed all parties involved, including Chairman

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[278] CLEARY REPORT at 91-92.
[279] *Id.*
[280] *Report of Management Inquiry*, DELANY SIEGEL ZORN AND ASSOCIATES, INC. 1 (May 30, 2008) [hereinafter 2008 Report].
[281] *Id.* at 1, 3 n. 4.
[282] *Id.* at 4.
[283] *Id.* at 8-9.
[284] *Id.* at 9.
[285] *Id.* at 4.
[286] Article 3.
[287] *Oversight of Prudential Regulators: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (2023) (statements of Martin J. Gruenberg, Chairman, Fed. Deposit Ins. Corp.); Article 2.
[288] 2008 Report at 15.
[289] *Id.*

Gruenberg, and issued a report on the matter. Investigators interviewed four other employees, all of whom were promised anonymity.[290] The report explains,

> Each person I spoke with had praise for Mr. Gruenberg describing him as very intelligent, honest, and passionate about issues including consumer protection. However, they all described a variety of interactions in which they felt Mr. Gruenberg communicated distrust or disrespect, either orally, through language and/or tone, or through body language. Further, each described at least one meeting at which s/he perceived that Mr. Gruenberg was angry. Their perceptions were that the distrust/disrespect or anger was directed in a personal way toward them or someone else at the meeting. Several indicated that they brought up their perceptions with Mr. Gruenberg but had not noticed a subsequent change in his behavior. Everyone describing a situation in which s/he perceived Mr. Gruenberg to be angry noted that he did not yell or raise his voice. Instead, the perception that he was angry was based on tone of voice, the pointed language used, a prosecutorial manner, and body language.[291]

The 2008 incident, though the most prominent, was not an isolated occurrence. Despite being coached on how to improve his communication style, the issue was not resolved. Chairman Gruenberg's temper and poor communication continues, straining his relationships with subordinates.[292]

Chairman Gruenberg's inappropriate behavior is not limited to verbal attacks. In 2009, Chairman Gruenberg "chewed out" an FDIC employee during a briefing.[293] The employee raised an issue with which Chairman Gruenberg disagreed. The disagreement prompted the Chairman to become hostile toward the employee and throw papers "against a wall in anger."[294] When asked, Chairman Gruenberg had no recollection of throwing anything during any of his meetings at the FDIC.[295] This is not the only instance in which Chairman Gruenberg has been accused of throwing items in anger; several current and former FDIC employees have alleged that Chairman Gruenberg has thrown or broken phones out of frustration.[296]

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[290] *Id*. at 15.
[291] *Id*.
[292] Article 3.
[293] CLEARY REPORT at 92-93.
[294] *Id*.
[295] *Id*..
[296] Article 3.

2. Chairman Gruenberg's Temper Disincentivizes Employees from Sharing Information with Him

The Chairman is responsible for managing the agency's supervision, corporate, and resolution and receivership activities.[297] Under the FDIC's directives, periods of financial instability are inevitable, likely causing stressful interactions. Throughout his tenure, Chairman Gruenberg has overseen many stressful instances of banking stability, like the March 2023 bank failures.

Employees have described some of Chairman Gruenberg's reactions to briefings with bad news as "harsh," "demeaning," and "insulting."[298] Even when project objectives are met, the Cleary Gottlieb report highlights Chairman Gruenberg's anger and outbursts when receiving bad news beyond the employees' control.[299]

For example, during the midst of the COVID pandemic in 2020, FDIC staff participated in a bank acquisition in Kansas.[300] The officers of the acquiring bank did not wear masks.[301] Although the closure was a success, Chairman Gruenberg was upset by the fact that some non-FDIC employees did not wear masks, and "lost it" on the employees reporting back to him about the meeting.[302] As this was a virtual meeting, some employees turned off their camera during the "attac[k]."[303] Documented messages, obtained by Cleary Gottlieb, from FDIC employees who were present for the meeting corroborate this account, show that the meeting was "very poo[r]," "a disaster," "horrible," "awful," "very personal, "[v]ery very bad," and even caused one employee to comment "I might cry…I want to quit."[304] A former FDIC employee discussed this event during an interview with Committee staff:

> After the closing, when [the Division Director] went in to brief then Director Gruenberg about the incident, there was--he was very upset about it, said [the FDIC was] negligent and we had put the staff at risk, you know, incredibly, you know, negligent…that's what [the Division Director] reported to me. When [s/he] came out of that meeting, [s/he] called me...I think there were other employees at the meeting, based on the description in the Cleary report. But [the Division Director] was very upset. [S/he] called me and said, I just had a very rough meeting with Director Gruenberg. Here's what he said. And he [was] very upset…I was concerned enough that I called Director Gruenberg right after [the Division Director] called me…My recollection is that he said that he thought that it--the

[297] *See Fed. Deposit Ins. Corp. FDIC Board Matters*, https://www.fdic.gov/news/board-matters, (last visited Nov. 18, 2024).
[298] CLEARY REPORT at 94.
[299] *Id.*
[300] *Id.* at 93.
[301] *Id.*
[302] *Id.*
[303] *Id.*
[304] *Id.*

> conversation was fine, even though [the Division Director] was in tears.[305]

When asked, Chairman Gruenberg did not recall the specific meeting but had a vague recollection of such a meeting during the pandemic.[306] Chairman Gruenberg's inability to recall instances of his verbal abuse is evidence suggests that he is delusional about his behavior and the impact it has on FDIC employees.[307]

Many employees who have experienced Chairman Gruenberg's abusive behavior can detail the dates, circumstances, and nature of the exchanges.[308] In contrast, Chairman Gruenberg was unable to recall any issue related to those exchanges when interviewed.[309] Chairman Gruenberg's inability to recall his own instances of bad behavior or acknowledge that it leads to an unproductive and unsafe work environment calls into question his ability to lead the organization.

In May 2023, at an internal governance and prudential regulation meeting, which followed the March 2023 bank failures,[310] Chairman Gruenberg switched the topic of the meeting to direct his anger about the bank failures at a single participant.[311] He also threatened that he had the power to "fire" or "reassign" any employee of his choosing.[312] Teams messages, obtained by Cleary Gottlieb, from FDIC employee participants show that other employees were instructed to drop the virtual meeting because it had devolved to an unproductive level.[313] Chairman Gruenberg recalled the meeting but did not recall being upset or angry.[314]

3. Staff Who Do Not Meet Often with Gruenberg Are Warned About His Behavior

Because FDIC employees are aware of Chairman Gruenberg's behavior, employees often issue warnings to those meeting with him.[315] Some senior staff stated that Chairman Gruenberg does not yell and scream but speaks with intensity and a raised voice. One senior employee commented, "I would say he raised his voice from his normal, very low volume talking. I think there's a real difference between raising your voice and yelling … But he raised his tone of voice. He did not yell."[316] Another senior employee characterized Chairman Gruenberg's communication style as, "He's not yelling. I would argue that he's a low talker."[317]

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[305] Witness 10 Transcribed Interview 73, May 24, 2024 (on file with the Committee).
[306] CLEARY REPORT at 93.
[307] *See* Gruenberg Interview at 76-78.
[308] Witness 1 at 71-73; Witness 6 at 76-78, 80-82; Witness 9 at 70-71, 81-82; *See generally* Witness 5 at 76-90.
[309] *See* Gruenberg Interview at 76-78.
[310] *See* Kevin Wack, *Dramatic Collapses Made 2023 the Biggest Year Ever for Bank Failures*, AM. BANKER (Dec. 21, 2023) https://www.americanbanker.com/list/dramatic-collapses-made-2023-the-biggest-year-ever-for-bank-failures.
[311] CLEARY REPORT at 94.
[312] *Id.*
[313] *Id.*
[314] *Id.*
[315] Witness 5 at 83-84; *See* Witness 6 at 79-80.
[316] Witness 5 at 86.
[317] Witness 3 at 66.

However, several other FDIC senior level employees testified they had to apologize to their staff for Chairman Gruenberg's raised voice.[318] A senior-level employee has "had to have conversations with individuals on [their] team, when [Chairman Gruenberg] raised his voice and seemed angry, that it wasn't at them or their actions, that [the Senior Employee is] responsible for what happens, so not to feel like this is anything that [the employees have] done or not done."[319]

Chairman Gruenberg's "raised voice" and intensity during staff meetings have upset staff to the point where employees have felt the need to comfort one another. An FDIC employee recalled a meeting with Chairman Gruenberg where "[another senior-level employee] became very upset, stood up, and left the meeting, and [s/he] did not cry during that meeting, but afterwards, when [I] went to see [them], [s/he] was crying."[320] This was not the only instance of a senior-level employee becoming visibly upset after a meeting with Chairman Gruenberg.[321] In fact, numerous employees have needed to be comforted after meetings with Chairman Gruenberg.[322]

Senior-level employees also prepare their subordinates for meetings with Chairman Gruenberg because of his communication style.[323] One senior-level employee "advised staff in any briefing with the Chairman, which is necessarily going to be about, you know, some kind of significant topic, to be prepared and to expect questions."[324] They added that they have discussed Gruenberg's body language and recommended employees "don't talk if he's thinking. I mean, you can tell when he's really thinking about something and don't--let him think, be comfortable with pauses."[325]

Another senior FDIC executive confirmed they "provide coaching to [their] staff before [they] present to the Chairman on a number of things."[326] One FDIC employee who received advice from a Division Director on how to present to Chairman Gruenberg stated that the "concern is that if you present something to the Chairman and the Chairman doesn't like the way it's presented, that he will immediately shoot it down without giving it due consideration."[327]

These statements are contrary to claims that Gruenberg encourages open dialogue during meetings with FDIC employees.[328]

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318 Witness 1 at 72.
319 *Id*. at 72-73.
320 Witness 6 at 80.
321 *Id*. at 81.
322 *Id*. at 82.
323 Witness 5 at 84.
324 *Id*.
325 *Id*.
326 Witness 6 at 79.
327 Witness 9 at 79.
328 *See e.g.* Witness 6 at 93-94, ("The nature of him asking questions has always, to me, felt like somewhat of a compliment, that he was paying attention, that he was interested in the topic, that he was absorbing the material, and that he was curious."); Witness 5 Interview at 90-91, ("You've got to give [Chairman Gruenberg] time to hear what you are saying, ask questions, and have a back-and-forth.").

B. CHAIRMAN GRUENBERG'S INSULAR AND HOSTILE LEADERSHIP STYLE CREATES FEAR THROUGHOUT THE AGENCY

One whistleblower noted that fear is palpable because Division Directors and other senior-level employees cover the actions of the Chairman.[329] Another whistleblower stated that Division Directors run their divisions in a similar manner to the Chairman - leading through fear and favoritism.[330]

In transcribed interviews, FDIC employees stated that Chairman Gruenberg maintains trust in only a small group of senior leaders.[331] This small group includes his Chief of Staff, General Counsel, and the Chief Operating Officer.[332] This small group of FDIC leadership maintains close ties with the Chairman, even when making decisions that will impact the entire agency. For example, Chairman Gruenberg had a separate meeting with the small group to discuss the November 13, 2023, article the day it was released, without the full composition of the senior leadership team.[333]

Certain FDIC employees found this problematic for several reasons. The small leadership group is extremely loyal to the Chairman, and often does not, or will not, provide analytical advice, rather deferring to the Chairman on whatever decision he chooses.[334] In other cases, the small group is the only advice and feedback the Chairman seeks.[335]

Many FDIC employees believe that members of the small leadership group and Chairman Gruenberg have similar leadership styles – stoking fear in their direct reports and other FDIC employees.[336] One FDIC employee stated in a transcribed interview that, like the Chairman, one Division Director has a "very small, close-knit group of people that run [that] division, that provide – that afford a level of protection to [the Division Director,] that afford a level of insular behavior that is impenetrable."[337]

The senior leadership group was seen by some FDIC employees as the main decision makers in the Action Plan, and in FDIC matters prior to the recognition of the toxic work environment at the FDIC. This insular culture and the nature of their leadership is concerning to FDIC employees who hope to see change come from the Cleary Reports recommendations.

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329 Notes on file with the Committee.
330 *Id*.
331 Witness 9 at 70.
332 *See Id*. at 75; *See* Witness 6 at 22-25; *See* Gruenberg Interview at 22-23.
333 Gruenberg Interview at 22-23.
334 *See* Witness 11 at 55; *See* Witness 6 at 79.
335 Witness 9 at 78.
336 Witness 7 at 18-19, 27-29.
337 Witness 11 at 18.

CONCLUSION

The safety, security, and soundness of the American banking and financial system is dependent on the employees of the agencies who regulate it. The FDIC's toxic workplace environment threatens our banking system. The promotion of a boy's club attitude in particular led to an insular culture leaving employees feeling isolated and alone. At the same time, the FDIC is attempting to ensure the safety and stability of the financial system. It is evident that these issues existed prior to his arrival, however, Chairman Gruenberg has only exacerbated the toxicity of the workplace environment at the FDIC over his near twenty-year tenure.

Chairman Gruenberg has a hostile, insular, and toxic managerial style. He has demonstrated he will not change his behavior or managerial style, nor will he step down and cede control of the agency until the incoming Administration is sworn in. Because of this inability to change, it is clear that he is not the right leader for the FDIC—or any other agency or organization.

The FDIC needs a cultural change now. However, this cultural change cannot progress until Chairman Gruenberg steps down or is removed and allows the FDIC to move on from his failed leadership. Committee Republicans agree with the recommendations of the Cleary Gottlieb report.