NWC | NATIONAL WHISTLEBLOWER CENTER

SPECIAL REPORT FOR THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Analysis of the U.S. Fish and Wildlife Service's Wildlife Whistleblower Program, 2003-2016

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Introduction

The National Whistleblower Center (NWC) filed Freedom of Information Act (FOIA) requests to the U.S. Departments of Agriculture, Commerce, Interior, and Treasury, for documents related to their implementation of the Lacey and Endangered Species Acts' whistleblower reward provisions.

In response to the FOIA requests, the Departments of Agriculture, Commerce, and Treasury confirmed that they had no documents related to their implementation of these whistleblower laws. These FOIA responses confirmed the NWC's review of the department's websites and other public records concerning the failure to implement these wildlife protection laws.

The U.S. Department of Interior, Fish and Wildlife Service (FWS) confirmed that they had documents related to the payments of whistleblowers rewards. After refusing to expedite the release of their documents, the NWC sued the FWS in order to obtain timely access. Thereafter, the FWS produced documents.

The first was a release of 71 pages in October 2017.[1] The second was a release of 449 documents in January 2018.[2]

According to the FWS, they have now produced all documents responsive to these requests. These documents covered 53 cases over a 14-year time period (2003–2016).

This report is divided into three parts. Part I provides a review of our findings from the FWS FOIA documents. Part II reviews the contents of FWS investigative reports. Part III analyzes FWS responses to audit questions.

The FOIA documents can be found at: https://www.kkc.com/handbook/wildlife-trafficking under the section "FWS responses to NWC FOIA requests on the Lacey Act Reward Fund."

PART I.

Review of FWS Reward Cases: 2003-2016

1A

The FWS Failed to Implement a Targeted or Effective Whistleblower Program

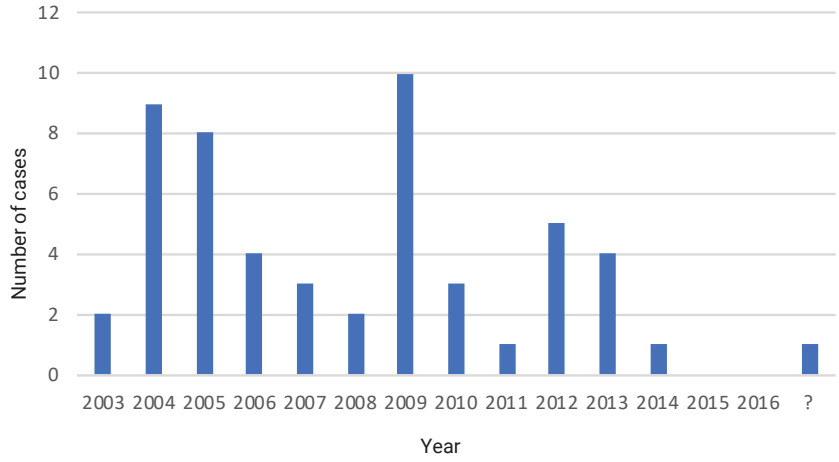
In response to the FOIA requests, the FWS conceded that they had no "proactive" whistleblower program.[3] The awards paid over the past 14 years were not publicized and the contributions made by these whistleblowers were not made public. There was no program to incentivize whistleblowers, despite an extensive record as to how the use of insiders is critical for detecting violations, providing key testimony enabling effective criminal prosecutions, and saving the United States hundreds of thousands of dollars in prosecutorial and investigatory resources.[4]

The records demonstrate that in numerous areas (such as international trafficking, illegal logging, and protection of marine life) few, if any, rewards were paid. The entire reward program can at best be described as an uncoordinated, hit-and-miss, semi-secret program. The FWS did not leverage the payment of rewards to incentivize whistleblowers or informants to come forward. International NGOs were never incentivized to assist in outreach to sources and no international whistleblower ever received a reward.[5]

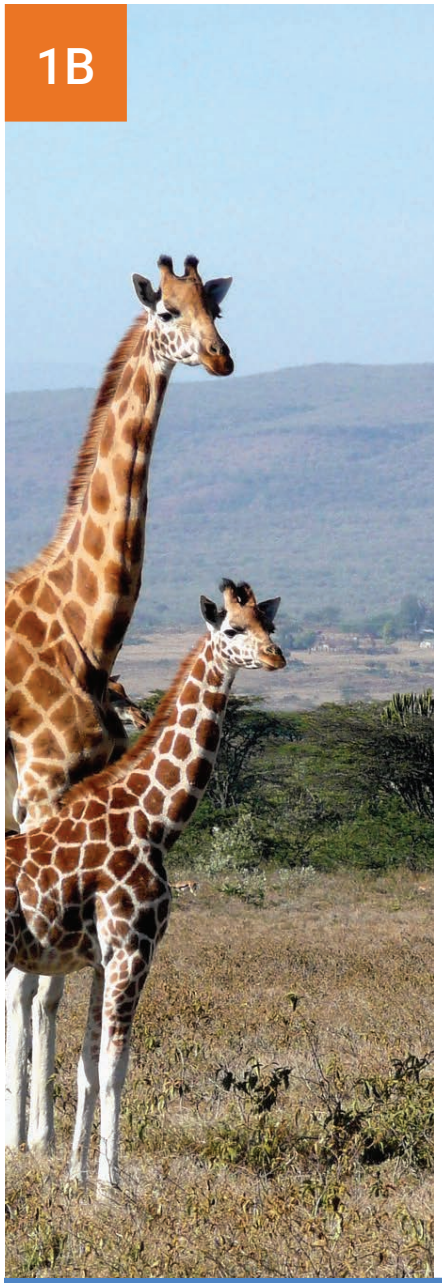
The FOIA documents reveal that whistleblower rewards are given on a random, agent-initiated basis. Currently, FWS uses its reward program on a "thank you" basis, rather than using the best practices demonstrated by other U.S. agencies.[6] The program has seen no growth over the years. In fact, since 2012 the program has suffered from a radical decline in use.

Of the 53 reward cases documented in the over the past 14 years, approximately 70% were paid in just four fiscal years, and in some years no payments were made. It is also clear from these documents that the FWS did not utilize the payments to ramp-up its program, or attempt to increase the number of informants who voluntarily come forward with information over time.

fig. 1 Number of wildlife cases produced by the U.S. Fish and Wildlife Service (2003-2016)



1B



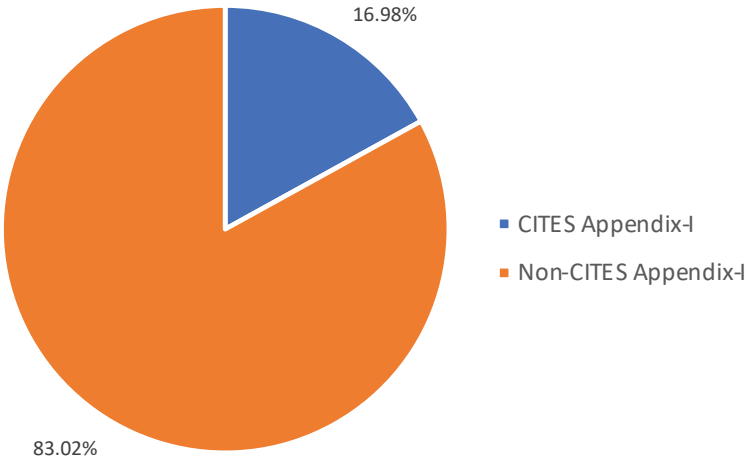
There was no focus within the FWS whistleblower program to target critically endangered species.

The FWS has neglected to focus on CITES Appendix-I species when using its reward program. CITES Appendix-I includes only those species that are threatened with extinction.[7]

The failure to have a proactive program has resulted in a scattering of cases in a variety of areas, without any concentration on critically endangered species, such as African elephants or rhinoceroses.

This lack of prioritization is further demonstrated by the fact that less than one fifth[8] of all cases rewarded whistleblowers who reported wildlife crimes related to CITES Appendix-I species. This stands in contrast to Congress' intention to use U.S. law to protect these species on the edge of extinction worldwide.[9]

fig. 2 | CITES Appendix-I cases identified by U.S. Fish and Wildlife Service (2003-2016)



1C

Over a 14-year period there were no whistleblower cases related to the poaching of rhinoceroses and the illegal trafficking of rhinoceros horn.

The FWS has not effectively utilized the reward program to protect rhinoceroses and police the illegal rhinoceros horn trade. The FWS did not use rewards in a single case concerning this crime during the entire 14-year time span.

Within this time span, South African rhinoceros populations have been decimated. From 2007-2014, South African rhinoceros poaching increased more than 9,300%.[10] Other species of rhinoceroses are also in danger. The last male northern white rhinoceros in the world died this year, bringing this subspecies to the brink of extinction.[11]

fig. 3 | Rhinoceros cases identified by the U.S. Fish and Wildlife Service (2003-2016)

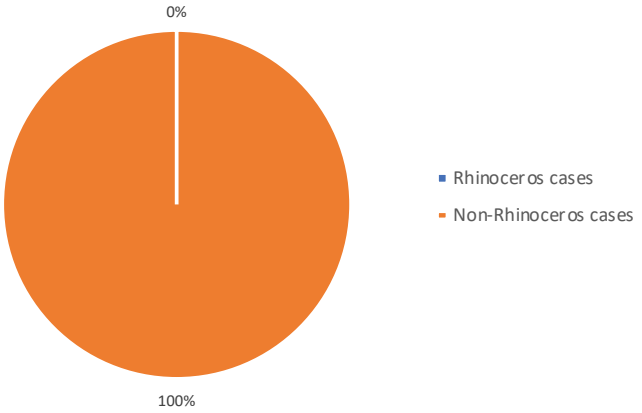
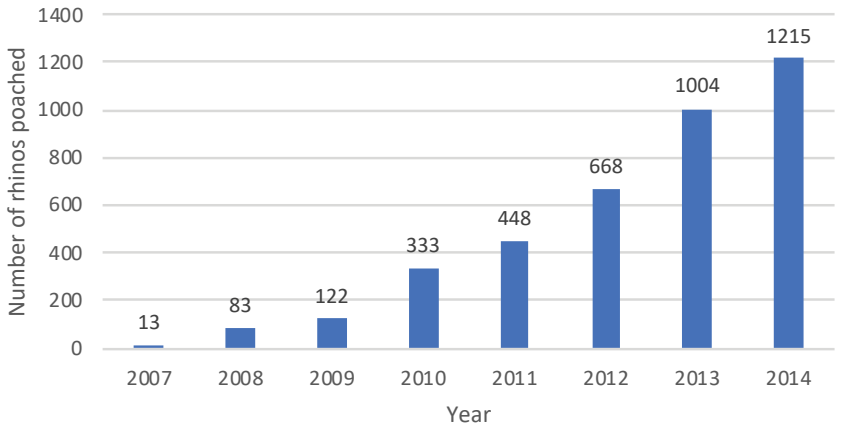


fig. 4 | Number of rhinoceroses poached in South Africa 2007-2014[12]



1D

Over a 14-year period the FWS rewarded only one informant concerning the illegal poaching of elephants and ivory trafficking.

Based on the FWS documentation, from 2003-2016 only one elephant ivory trafficking case was successfully prosecuted. As such, it is clear that the wildlife reward program has not been effectively utilized to protect elephants and police the illegal ivory trade.

Illegal ivory trade continues to have a devastating impact on the elephant population in Africa. African elephants are listed as a threatened species under the Endangered Species Act (ESA).[13]

The 2016 Great Elephant Census estimates that the African elephant population had decreased 30% across 18 African countries, with a current yearly loss of 8%, primarily due to ivory poaching.[14] The illegal ivory trade is responsible for the slaughter of some 27,000 elephants each year.[15]

fig. 5 | Elephant cases identified by the U.S. Fish and Wildlife Service (2003-2016)

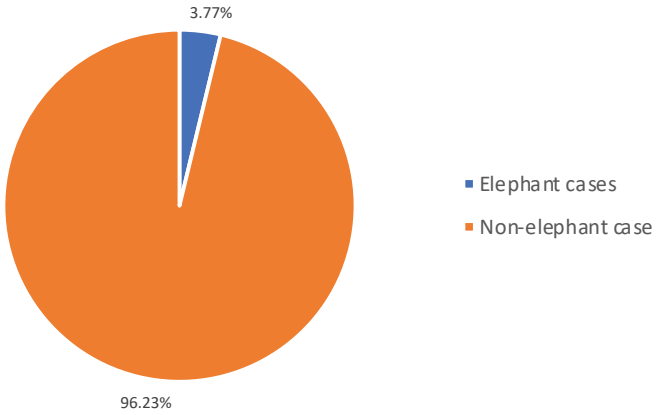
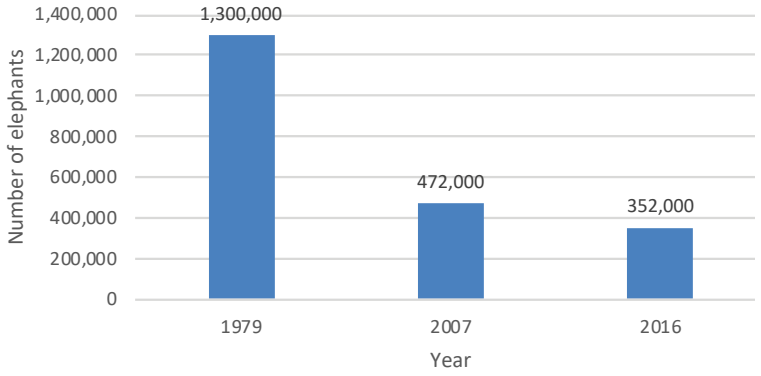


fig. 6 | African elephant population estimates from the years 1979, 2007, and 2016[16]



1E

Marine life was not targeted for protection through whistleblower reward incentives.

Illegal, unreported, and unregulated (IUU) fishing is one of the greatest threats to the oceans and the continued health of numerous fish and marine mammal species.

A UN and Interpol report estimates that illegal fishing to constitutes a $11 billion to $30 billion USD per year industry.[17] It is estimated that as much as 32% of wild-caught U.S. seafood imports are illegal.[18]

Despite the size of this problem, the FWS used whistleblowers in just six marine life cases during the past 14 years.

fig. 7 | Marine life cases identified by U.S. Fish and Wildlife Service (2003-2016)

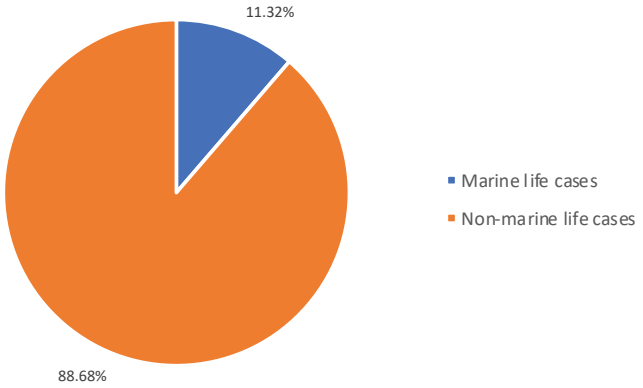
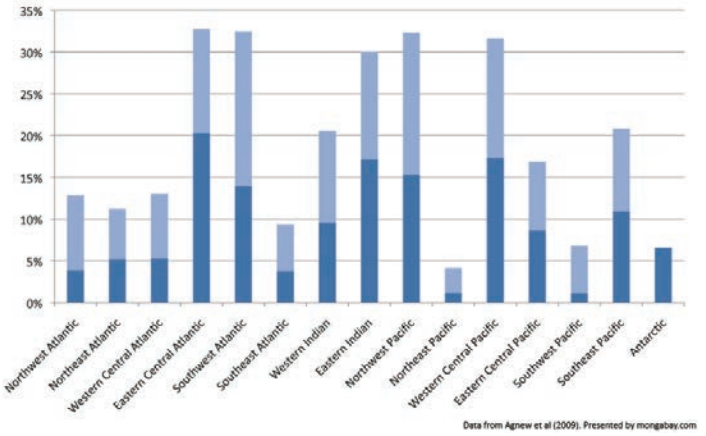


fig. 8 | Estimated illegal catch as a percentage of total fish catch by oceanic region (2009)[19]



1F

Plant and lumber cases were not prioritized.

Protections for illegal plant and lumber trafficking remains radically deficient. The FWS has produced only one case related to illegal plant trafficking, a CITES Appendix I-listed orchid.

It is concerning that there have been no cases related to illegal logging. The scale of the illegal lumber trade and forest crime is immense, estimated at $30 to $100 billion annually.[20]

The U.S. is one of the largest importers of wood-based products in the world.[21] A Chatham House study cites that "if illegal logging were eliminated, the value of US timber-sector products would increase by around $500–700 million annually."[22]

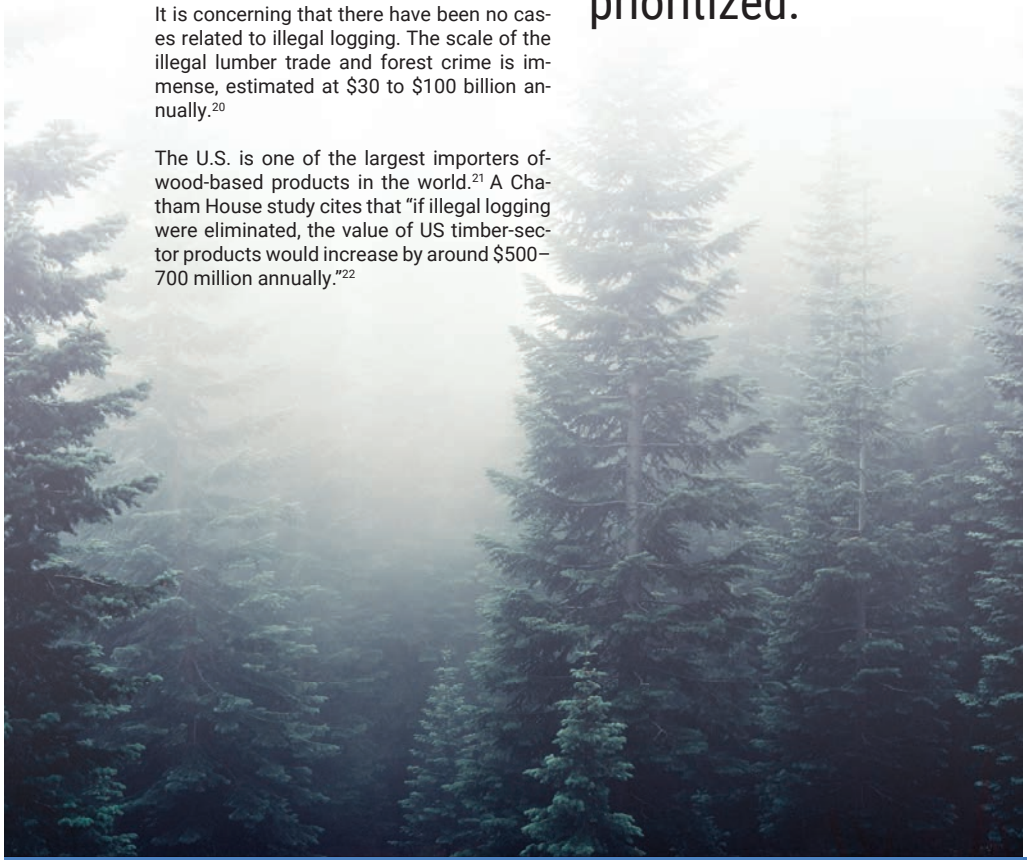


fig. 9 Plant and illegal lumbering cases identified by the U.S Fish and Wildlife Service (2003-2016)

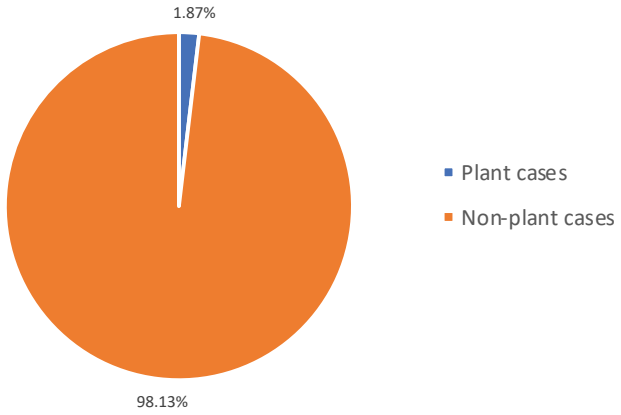
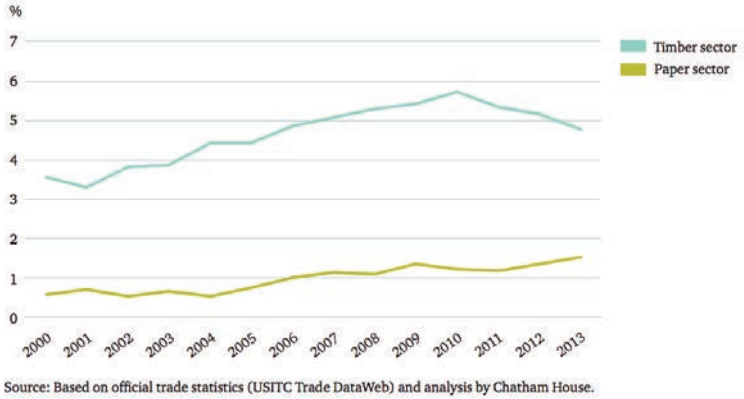


fig. 10 Estimated percentage of U.S. imports of timber- and paper-sector products at high risk of illegality by Roundwood Equivalent Volume (2000-2013)[23]

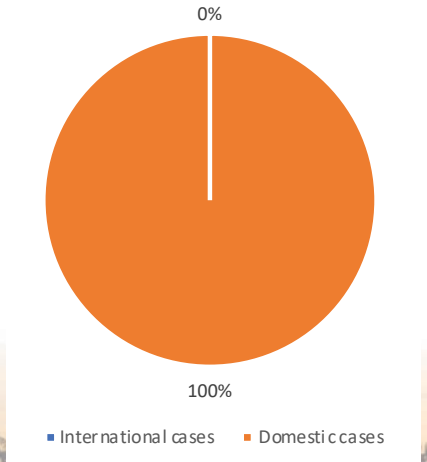


Source: Based on official trade statistics (USITC Trade DataWeb) and analysis by Chatham House.

1G

The FWS failed to pay rewards to any international whistleblower.

fig. 11 | International whistleblower cases identified by the U.S. Fish and Wildlife Service (2003-2016)



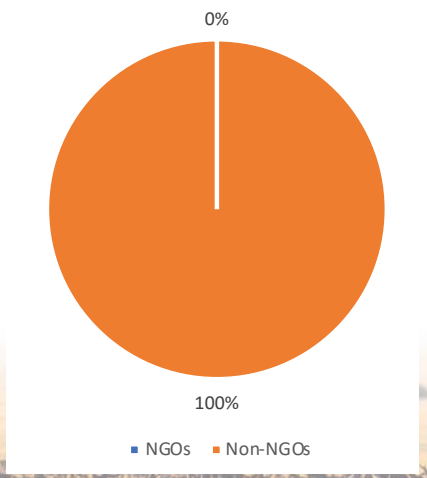
Given the transnational nature of wildlife crime supply chains[24], internationally-located whistleblowers are key to halting illegal activity. An effective FWS whistleblower program must utilize international informants in order to combat wildlife crime in the U.S.

Over the past 14 years, no international whistleblower was paid a reward under the Lacey Act or paid for information under the Fish and Wildlife Improvement Act.

1H

NGOs were never incentivized to facilitate whistleblower disclosures.

fig. 12 | Whistleblower awards granted to NGOs from the U.S. Fish and Wildlife Service (2003-2016)



The FWS has not recognized the role NGOs play in facilitating and helping international whistleblowers. Although the Lacey and Endangered Species Acts explicitly permit the payment of rewards to corporations, including NGOs, an arbitrary FWS policy currently prohibits such payments. This policy directly contradicts the requirements of these laws and conflicts with the practical reality of how international informants/whistleblowers can assist U.S. law enforcement.

11

Annual appropriations earmarked by Congress to pay whistleblowers under the Fish and Wildlife Improvement Act were not utilized to incentivize whistleblowers.

Under the Fish and Wildlife Improvement Act, the U.S. Congress authorized the FWS to pay whistleblowers for information prior to obtaining fines and sanctions under the Lacey or Endangered Species Acts.[25] These laws authorize FWS to pay informants/whistleblowers for information on trafficking *before a defendant is even indicted*.

In 1987, the FWS testified before Congress as to the importance of paying informants for information under the Fish and Wildlife Improvement Act.[26] In its testimony, FWS stated that, **"it has been found in case after case that the most effective techniques for combatting this type of crime is purchasing evidence and information through informants and offering cash rewards to private citizens for useful information."**[27]

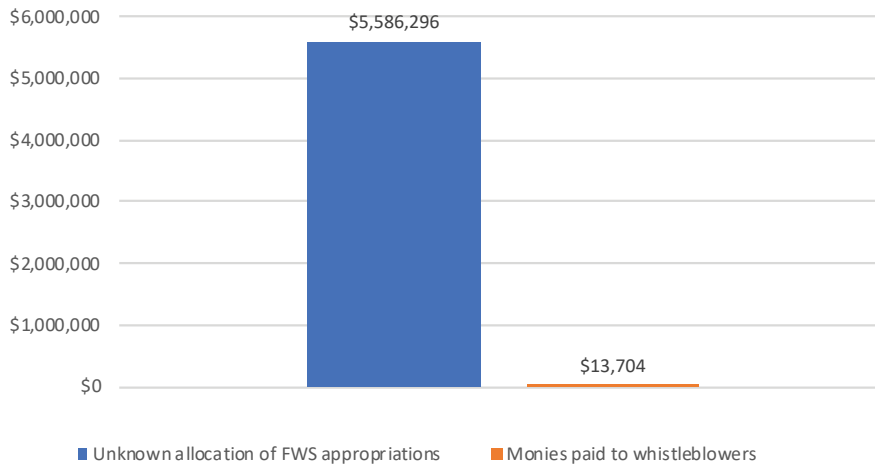
FWS, then, received, an annual appropriation of $400,000 based on this testimony, primarily intended to pay whistleblowers for providing information that assists in efforts to combat wildlife trafficking.[28] These are payments that can be made to the whistleblower upfront—that is, even before prosecution occurs, and to both U.S. and non-U.S. citizens alike.

Over the 14-year period, Congress appropriated $5.6 million, primarily to be used for paying informants up-front.

The FWS FOIA documents show that only 0.2% of the $5.6 million was used to pay for information consistent with the requirements of the Fish and Wildlife Improvement Act (*See* fig. 15).

Although included in our FOIA request, the FWS did not provide any documentation as to how the remaining amount, over $5.58 million, has been spent.

fig. 13 | Allocation of the U.S. Fish and Wildlife Service whistleblower appropriations (2003-2016)



1J

A mandatory requirement under the law for a certificate from the Office of the Secretary appears to remain ignored and unfulfilled by DOI.

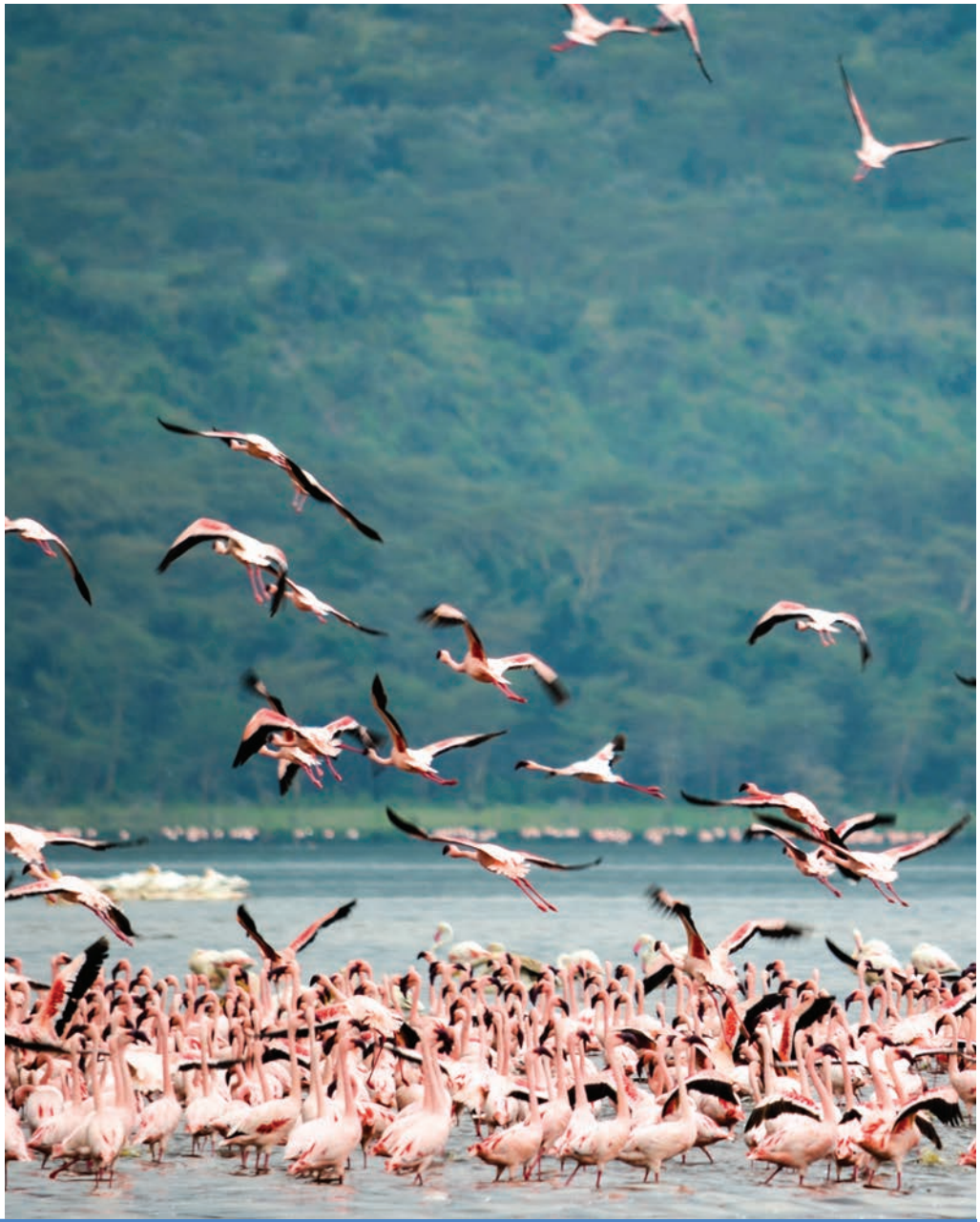
Congress requires that the $400,000 annual appropriations be approved **"for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violation so laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses in enforcement activities, authorized or approved by the Secretary and to accounted for solely on his certificate."**[29]

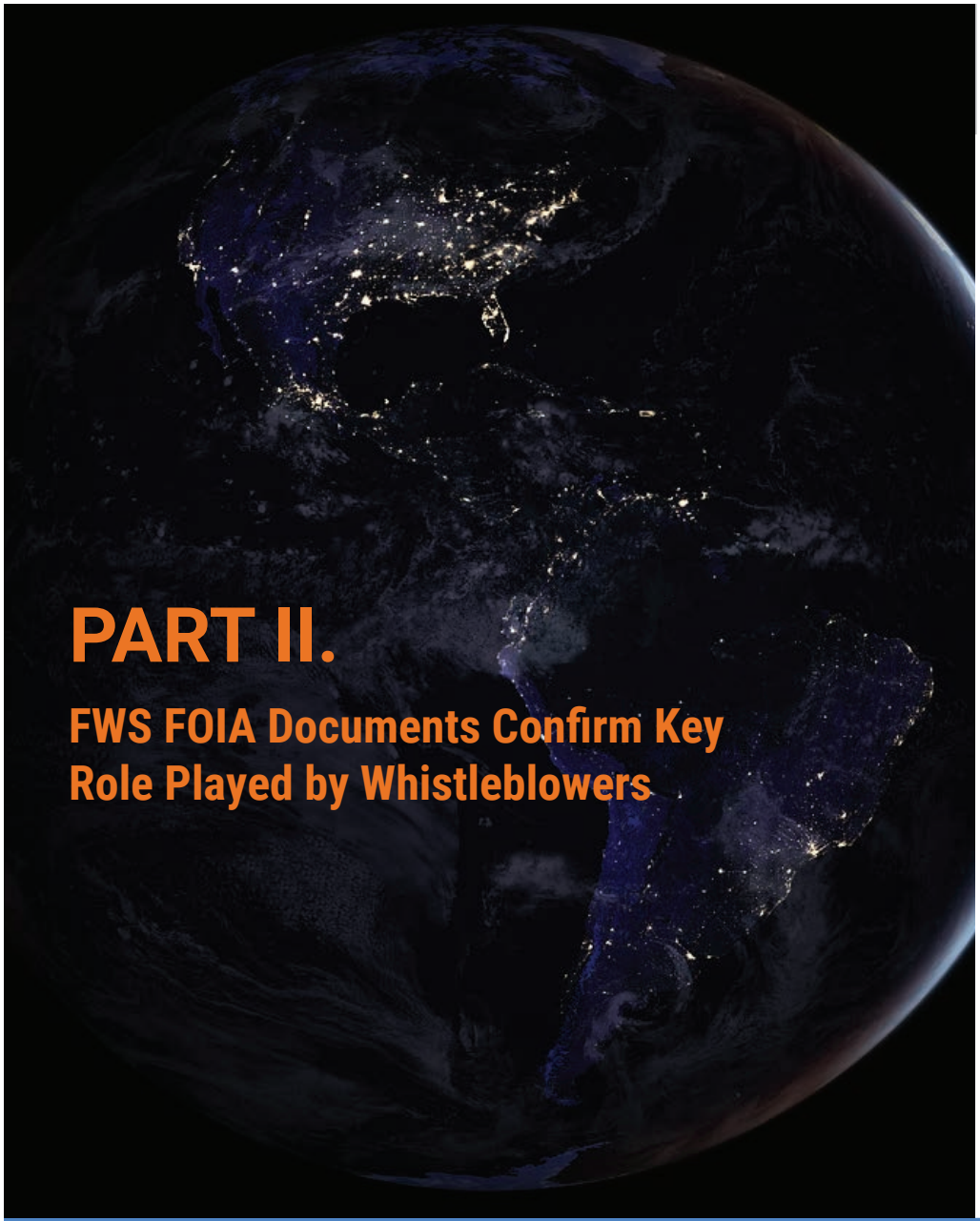
In a FOIA request, the NWC asked the Secretary of Interior to produce these certificates.[30] In response, the Secretary's office stated that no such records existed.[31]

This is extremely troubling, as Congress required that these certificates be issued for all such payments.[32] While the matter is currently under appeal, FWS has never produced a single such certificate. Such appropriations have been made to FWS since 1988, meaning that there are millions of dollars in unaccounted-for appropriations.

The failure to produce these certificates indicates a radical deficiency in the record- keeping requirements underpinning this allocation.

Moreover, without access to these certificates, it is impossible to determine whether the DOI spent the money as intended by Congress.



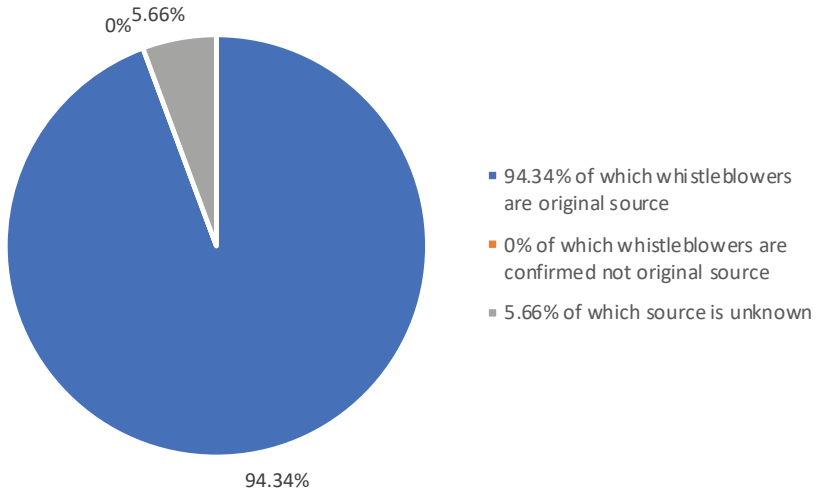


PART II.

FWS FOIA Documents Confirm Key Role Played by Whistleblowers

2A

fig. 14 Source of tips for wildlife cases brought to U.S. Fish and Wildlife Service (2003-2016)



Evidence in the FWS FOIA documents demonstrate the urgent need to implement an effective whistleblower reward program.

You cannot prosecute a trafficking case if a crime is not detected. In case after case, these documents demonstrate that whistleblowers, as the source of on-the-ground information, are critical for the detection of criminal activity.

This conclusion is validated through FWS' own documentation.[33] In a review of the 51 cases we found that in 49 cases the investigators' narrative confirms the whistleblower was the original source of detection of criminal activity. In only two cases was it unclear whether or not the whistleblower was the original source.

2B

Whistleblowers are a critical source for detecting wildlife crime.

In the words of FWS law enforcement agents:

"Without Mr. [redacted] candor in coming forward with this information, his willingness to aid Service agents by contacting former employees, and to provide testimony in federal court, this case would have never reached fruition."

— Lochridge Ranch, FWS Second FOIA PP. 207-210

"Without the assistance of [redacted] it would have been unlikely we would have received the information about the illegal activity."

— Operation Plantando Las Semillas, FWS First FOIA PP. 001-005

"The case would not have been possible had [redacted] not first made law enforcement aware of the crime and second, worked with law enforcement."

— Sheldrake Game Ranch Leopards, FWS First FOIA PP. 037-046

[The whistleblower] "voluntarily came forward and provided critical eye witness information regarding a conversation he overheard about the illegal hunting activities..."

— FWS Second FOIA PP. 310-318

2C

Whistleblowers are instrumental in providing crucial information to law enforcement agents.

In other whistleblower programs, the quality of the information produced by whistleblowers has been identified and praised. One such example is the U.S. Securities and Exchange Commission (SEC) whistleblower program.

> The whistleblower program . . . has rapidly become a tremendously effective force-multiplier, generating high quality tips, and in some cases, virtual blueprints laying out an entire enterprise, directing us to the heart of an alleged fraud.[34]
>
> — Chair of the SEC, Mary Jo White

In the words of FWS law enforcement agents:

"Without the individual's cooperation, knowledge, and commitment the investigation would not have been successful. […] The investigation and prosecution of the main defendant in this case, was a direct result of [redacted]'s assistance and expertise."

— Black and Whites, FWS Second FOIA PP. 367-381

"[The whistleblower] provided information for prosecution; including who [redacted] sold the angelfish to and the amount he earned for the sales of the fish. […] In receiving this information, [redacted] was able to approximate the total number of fish that were illegally imported and was able to identify and corroborate testimony from individuals who has purchased the fish..."

— Operation Angelfish, FWS Second FOIA PP. 331-336

"Without the information provided by the informant, the defendant in the investigation would not have been apprehended for violation of the Endangered Species Act and Lacey Act."

— FWS Second FOIA PP. 104-107, 427-432

2D

Whistleblowers save the government thousands of dollars.

Whistleblowers alert the government to fraud that would otherwise go undetected. As such, incentivizing whistleblowers is a powerful tool to recover tax dollars.

Other laws with whistleblower reward provisions, such of the False Claims Act (FCA), have led to the recovery of billions of dollars in federal funds. In 2017 alone, whistleblowers helped recover $3.4 billion under the FCA.[35]

> The False Claims Act and its [whistleblower] provisions remains the government's most effective civil tool in protecting vital government programs from fraud . . . The dollars involved are staggering.[36]
>
> — Former Associate Attorney General Bill Baer

In the words of FWS law enforcement agents:

"Mr. [redacted]'s involvement saved the covert team thousands of dollars… [and] without the cooperation of Mr. [redacted] it would have taken in excess of five years…"

— Operation Hanging Rock, FWS Second FOIA PP. 090-093; 419-422

[The whistleblower] "provided crucial information resulting in saving the U.S. Fish and Wildlife service thousands of dollars and investigator hours…"

— Asian Elephant Tusk and QT Aquarium, FWS First FOIA PP. 011-016

"[W]ithout the assistance of [the whistleblower the costs to the FWS] would be in excess of $90,000…"

— Operation Board, FWS Second FOIA PP. 085-089

"Without [the whistleblower's] assistance, the Service would have... requir[ed] additional agents, investigative hours and equipment at significant cost."

— Iowa Army Ammo Plant, FWS Second FOIA PP. 157-168

2E

Whistleblowers take enormous risk and contend with adverse consequences for assisting the government.

Whistleblowers are frequently victims of retaliation from their employers or other parties when they decide to come forward with information.

This stresses the importance of a monetary reward for whistleblowers. They might be risking their career or even personal security when they decide to blow the whistle.

> Not only is honest behavior not rewarded by the market, but it is penalized . . . Given these costs, however, the surprising part is not that most [...] do not talk; it is that some talk at all.[37]
>
> — Dyck, et al., Booth School of Business

In the words of FWS law enforcement agents:

"[The whistleblower] began receiving threats, harassment and property damage. [...] One of the defendants blamed him for the entire investigation and indicated that the whistleblower 'would pay' […]"

— Operation Board, FWS Second FOIA PP. 085-089

"[M]ade numerous threats against federal witnesses. […] U.S. District Judge Susan Weber Wright found the threats by [redacted] against the witness so credible that she detained the defendant pending formal sentencing…"

— FWS Second FOIA PP. 218-222

"In January 2005, the informant was physically assaulted as he entered his residence. The informant suffered minor lacerations and was bruised all over his head and body…"

— Operation Angelfish, FWS Second FOIA PP. 331-336

[The whistleblower] "exposed himself to possible severe repercussions by the main defendant in this investigation."

— FWS Second FOIA PP. 310-318

[The whistleblower] "voluntarily came forward and provided critical information regarding [redacted] smuggling activity at the expense of losing her job and financial hardship."

— Oak Creek Elk Ranch, FWS Second FOIA PP. 319-324

2F

The quality of whistleblower information is key to successful implementation of law.

Whistleblowers provide critical information for successful investigations and prosecutions. Their assistance has been recognized in uncovering other types of criminal activity, such as APPS prosecutions.

It is important that monetary rewards are utilized to (i) incentivize individuals to come forward with information and (ii) to compensate the individual for their assistance and the quality of information.

> An award to [the] witness . . . encourage[s] those with information about unlawful conduct to come forward and disclose that information to authorities—information otherwise difficult, if not virtually impossible, to obtain.[38]
>
> — U.S. Attorney Brian Albritton
> *U.S. v. STX Pan Ocean Co., Ltd.*

In the words of FWS law enforcement agents:

"Without the assistance of [redacted] it would have been unlikely we would have received the information about the illegal activity and never been able to identify the subjects involved. […] In the unlikely event that we were able to identify the subjects, it easily could have taken additional years…"

— Operation Plantando Las Semillas, FWS First FOIA PP. 001-005

The whistleblower "[w]illingly met with investigators and provided them information critical to the investigation. […] If [redacted] had not come forward, the investigation would not have resulted in the successful prosecution of the three defendants because critical evidence had been destroyed or covered up."

— FWS Second FOIA PP. 261-265; 266-283

"[T]estimony in trial that was instrumental in the conviction and sentencing of all subjects involved. […] [Redacted] provided invaluable ongoing current intelligence gathered […] for the duration of the investigation and prosecution phase."

— Operation Board, FWS Second FOIA PP. 085-089

PART III.

Analysis of FWS Responses to Audit Questions

The FOIA documents contain FWS reponses to audit questions concerning their implementation of wildlife whistleblower laws. The FWS responses both confirm the need to reform and improve the reward program, and demonstrate some of the significant deficiencies under current practices. This section analyzes the FWS own statements and admissions concerning their current program.

3A

FWS acknowledged that rewards are required across all levels of investigations.

FWS Statement | Page FWS-Second-071

The FWS made the following statement about the use of rewards to encourage informants to step forward: "the payment of rewards is warranted across all levels of investigations."[39]

Analysis

This conclusion is strongly supported by the FWS documentation concerning the invaluable contributions made by whistleblowers who have provided information on wildlife crimes, and based on the success of similar reward laws, such as the FCA, APPS, and SEC.

3B

FWS acknowledged that rewards are a useful tool in both the domestic and international context.

FWS Statement | Pages FWS-Second-073-074

The FWS made the following statement: "the payment of rewards is a useful tool for both domestic and international investigations." It further acknowledged that the "purchase of information" that is permitted under the Fish and Wildlife Improvement Act, and the "offering a reward for information which leads to a positive outcome in an investigation" are "useful tools."[40]

Analysis

These findings further support the need to establish a workable program that leverages these "useful tools."

Despite this acknowledgement, the documents confirm that the FWS has failed to pay a reward to any international whistleblowers during the 14-year time period covered under the FOIA request. Moreover, the FWS has failed to reward any NGOs that have worked with international whistleblowers, and have been the key bridge to providing information from international whistleblowers to federal law enforcement.

3C

FWS acknowledged the need to review their current whistleblower reward policy.

FWS Statement | Pages FWS-Second-001; 061; 071

The FWS made the statement that they have "no relevant regulations pertaining to implementing the reward provisions" of any of the reward laws for which the FWS has jurisdiction, including the Lacey and Endangered Species Acts.[41] The FWS stated that "it would be good to develop guidance on proposed reward amounts and [the FWS] will be reviewing potential policy."[42] Further, it states that "a review of our current policy regarding the payment of rewards is warranted."[43] The FWS also stated that it would be "interested in receiving copies of any reward polices you have received from other federal agencies with 'like' programs."[44]

Analysis

The FWS should adopt the best-practices from other agencies' highly successful whistleblower programs, including the IRS and SEC whistlebower programs.

3D

FWS conceded that they do not have a uniform record-keeping system for the rewards program.

FWS Statement | Pages FWS-Second-005-006; 062

The FWS made the statement that, "the information we provided regarding rewards to individuals was pulled manually from hard copy files. There is no LEMIS report run that would supply that data. . .There is currently not a systematic process of review in place to assure [the data] accuracy."[45] It also acknowledged that "there are benefits to having a single system to track all rewards data, regardless of their source of funding . . . [and] look at the rewards program holistically rather than on a transactional basis as is currently being done."[46]

Analysis

Accurate record-keeping is essential to monitor the activities of the whistleblower program, and ensure that the use of these rewards is targeted to assist in the detection and prosecution of crimes related to CITIES Appendix-I species.

It will also enable the FWS to better vet and prioritize cases. Additionally, it is critical to ensure that the FWS complies with FOIA requests as mandated by law.

3E

FWS has failed to acknowledge the key role whistleblowers play in detecting hidden crimes, such as wildlife trafficking.

FWS Statement | Page FWS-Second-056

The FWS made the following statement about the use of rewards to encourage informants to step forward: "[W]e believe there are other investigative tools available to be used first vs. financial tools such as purchasing information or offering/paying a reward. We believe it would not be fiscally responsible to offer to pay a reward early on in an investigation when there are other investigative tools available which could and should be used first."[47]

Analysis

This statement contradicts the words of the FWS' own law enforcement agents, which demonstrate the key role whistleblowers play in the initial detection of wildlife crimes.

The statement is also illogical, as you cannot have an "investigation," unless you have an original source. That initial source is often a whistleblower.

All whistleblower reward laws focus on the difficulty law enforcement has in detecting hidden crimes, such as bribery or wildlife trafficking. The laws recognizes the importance of the reward in incentivizing potential sources to step forward and take the risk of disclosing the information to law enforcement.

It is impossible to use various "investigative tools" to prosecute a case, if the government is not aware of the crime.

3F

FWS improperly implemented a blanket prohibition of paying rewards to foreign government employees.

FWS Statement | Page FWS-Second-056

The FWS justified its exclusion of "foreign officials" from the reward laws based on the provision of the law excluding U.S. law enforcement officials from obtaining rewards ["Foreign officials were included in our policy because of the statement above in the Lacey Act," i.e. precluding U.S federal and state government officials from obtaining a reward].[48]

Analysis

A blanket exclusion of foreign officials is not provided for in the law. In fact, foreign officials are often key witnesses of waste, fraud, and abuse, as many wildlife crimes originate outside of the U.S.

Wildlife rangers and enforcement officers face extreme safety risks when they blow the whistle, sometimes putting themselves into life-threatening situations. As such, it is highly important that they are compensated for taking that risk, and incentivized to bring forward information.

Each year, it is estimated an estimated 100 park rangers are murdered in line of duty with many of their deaths due to poachers.[49]

Rules governing foreign government employees should be distinct from those governing non-government employees. But a blanket prohibition does not recognize the localized corruption that often makes honest government employees the target of retaliation and the best source of information about illegal trafficking.

3G

FWS' current "thank you" policy is highly problematic and inconsistent with whistleblower law.

FWS Statement | Page FWS-Second-057; 072-73

The FWS stated that under its current policy "rewards are primarily used as an after-the-fact 'thank you' to an individual for providing information which lead to an investigative outcome."[50] The FWS also stated "we use the payment of rewards as a 'thank you' for individuals who came forward and provided information which lead to an outcome in an investigation."[51]

Analysis

This policy is inconsistent with the law. The reward laws are primarily intended to promote the initial reporting of violations that are unknown to the United States.

"Thank you" payments, especially when not publicized, serve little to no purpose. Reward laws are intended to act as an incentive for people to come forward with information.

The statutory language of the Lacey and Endangered Species Acts demonstrates that these payments are mandated for information which leads to the successful prosecution of those breaking the law. The key role played by the reward laws is to trigger high-quality reports and full cooperation with government investigators.

Finally, under the Fish and Wildlife Improvement Act "after the fact 'thank you'" payments are not permitted.[52] That Act was designed to obtain pre-enforcement information from sources.

The FWS stated that "many times" it would "offer to pay a reward in investigations where we need assistance in identifying information which would lead to an investigation outcome."[53] This statement is not supported on the record. The case files produced by the FWS as part of the FOIA almost exclusively documents "after-the-fact 'thank you'" payments. These payments tend to be very small, and were not tied to incentivizing the detection or reporting of violations.

The FWS could have offered these rewards during the middle of the investigation, as an incentive to have the initial informants continue to cooperate with the FWS during the investigation of the case. But this option appears to have been used only twice in the 14-year history disclosed by the FOIA information.

3H

FWS acknowledged that a proactive rewards program will increase the number of tips.

FWS Statement | Page FWS-Second-073

The FWS raised a concern that "a more robust reward program (use of proactive advertising)" would create "resource challenges with the mass vetting of information."[54]

Analysis

This is precisely why a robust reward program works. It incentivizes reporting, and permits federal authorities to focus on the strongest cases, in areas of critical need.

This "concern" also highlights the need for specific administrative rules to better manage an increase in information. For example, the False Claims Act requires that whistleblowers who want to qualify for a reward file a detailed "disclosure" statement when a claim is filed. Likewise, the rules published by the SEC also strongly encourage whistleblowers to file detailed factual statements, and provide evidence, when they seek a reward.

Although citizens could still file "tips," to qualify for a financial reward, the FWS should follow the successful practice of requiring or encouraging whistleblowers who desire a reward to file detailed disclosure statements, which include documentation of their evidence.

Increasing the number of reports will enable the FWS to re-focus its investigatory resources on critically endangered species, and/or larger criminal enterprises for which an insider can play a critical role in documenting its crimes.

The way to manage a large uptick in reports is not to discourage reporting, but to have a system to prioritize cases. Cases should be prioritized on whether or not the crime involved Endangered Species Act or CITES Appendix-I species.

Conclusion

Greatly expanding the number of reports is not the problem.
It is the solution to the extinction crisis.

The FWS documents demonstrate the incredible potential a proactive whistleblower program could have on the detection of wildlife trafficking and the successful prosecution of these cases. The legislation signed into law by President Ronald Regan in 1981 and 1982 establishing whistleblower rewards laws can and should play a key role in enforcing the Lacey and Endangered Species Acts, and related laws, as intended by Congress.[55]

There is an urgent need to implement an effective wildlife whistleblower program to halt the ongoing and irreversible extinction crisis. This is consistent with the intent behind the original wildlife reward laws, the 2016 Eliminate, Neutralize, and Disrupt (END) Wildlife Trafficking Act, and President Donald Trump's Executive Order No. 13773 on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking (February 2017).[56]

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ABOUT US

Founded in 1988, The National Whistleblower Center (NWC) is a tax-exempt, non-profit, non-partisan whistleblower advocacy organization.

In 2016 NWC was a Grand Prize Winner in the Global Wildlife Crime Tech Challenge competition, sponsored by USAID in partnership with National Geographic, the Smithsonian Institution, and TRAFFIC. NWC was also selected as the "People's Choice Award" winner, receiving the most public support out of the over 300 contestants from 52 countries.

NOTES

Please note that statistical revisions were made to this report in April 2018 after a full quality-check of the FWS FOIA documents was conducted by NWC staff. None of the changes were material. This is an updated version of the report.

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