Enlisting Everyday Citizens to Help Fight Environmental Crime
Overview of Today’s Presentation

- Stronger law enforcement is needed to rescue threatened species & ecosystems
- Everyday citizens can help!
- Whistleblower reward laws are the key
- NGOs can help!
Environmental crime devastates wildlife, ecosystems and the communities that depend on them.
Environmental crime is often part of a larger criminal enterprise.
Sustainable use cannot survive in communities overrun by environmental crime

Extractive Forest Reserve in Machadinho d’Oeste, Brazil
Are we doing enough to support and protect environmental heroes?

Chico Mendes
For Many Types of Conservation Work, Fighting Corruption is Essential to Success

Corruption is central to these environmental problems:

- Wildlife Trafficking
- Illegal Fishing
- Illegal Discharges from Ocean Vessels
- Illegal Logging and Timber Trade
Needed: Tougher Law Enforcement

- Large-scale environmental crimes are highly profitable and typically carried out by deeply-entrenched, well-connected criminal syndicates.
- International law often lacks meaningful enforcement provisions.
- Enforcement of tough domestic laws is key to disrupting criminal syndicates.
Everyday Citizens Can Help!

But...the well-known “citizen suit” framework of U.S. environmental law has limited value

- Limited applicability to conduct outside the U.S.
- “Injury in fact” standing often difficult to achieve
- Few incentives for witnesses to cooperate
- Not applicable to criminal prosecutions
United States Whistleblower Laws

*U.S. laws are well-suited for enlisting citizens to help fight global environmental crime*

- Whistleblowers have played a key role in helping enforce environmental laws such as the Lacey Act and the Act to Prevent Pollution from Ships.

- Laws regulating securities fraud, tax evasion, customs and government procurement fraud and bribery can be used to help advance environmental goals.
Whistleblowers Key to $60M Penalties Imposed on Carnival Cruise Lines for Pollution & Cover Up
Whistleblowers Key to Jail
Terms for Criminals
Smuggling Jaguars into U.S. from Mexico
### False Claims Act

**The most important whistleblower law**

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<th>Feature</th>
<th>Description</th>
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<td>Applies to conduct outside the U.S.</td>
<td>so long as there is federal spending, procurement or contracting</td>
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<td>Suitable for building criminal cases as well as civil</td>
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<td>No environmental injury (standing) required</td>
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<td>Treble damages provision sends powerful message to wrongdoers</td>
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<td>Whistleblowers (“relators”)</td>
<td>receive 15 to 30 percent of amount recovered by government, plus attorney fees and costs</td>
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<td>Anyone can serve as a whistleblower, including NGOs</td>
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<td>Government litigates 20% of cases itself</td>
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False Claims Act

A history of success in empowering whistleblowers to fight corruption

U.S. Government Recovers $42.5B due to Whistleblower Disclosures under the FCA
FY 1987 - FY 2018

Key Incentive: $6.4B awarded to whistleblowers
How Can the FCA Be Used to Protect the Global Environment?

- False customs declarations regarding illegal shipments of fish, wildlife and plants (including timber)
- Government contractor falsely claims that it has complied with the law or the terms of the contract
- False statements on lease or permit applications
Record $20B settlement with BP in 2016 included False Claims Act penalties for falsifying offshore lease applications.
NGOs Can Help Everyday Citizens Make a Difference as Whistleblowers

Many NGOs have extensive field networks that include witnesses to environmental crimes who trust them.

Many have communications capacity to ensure that key enforcement officials earn favorable publicity.

Many can connect whistleblowers with qualified attorneys.

Example: 
National Whistleblower Center’s Legal Assistance Program
Educating Whistleblowers

- Risks and rewards of stepping forward
- Best practices on evidence collection
- Importance of "original information" and timely filing
Protecting Whistleblowers

The security of the whistleblower must be the paramount consideration in exposing environmental crimes.

Qualified attorneys can ensure that disclosures of wrongdoing are privileged and not used as the basis for retaliation.

NGOs and attorneys working with whistleblowers must use the latest encryption technologies.

Whistleblowers seeking publicity should be connected to reporters who will protect the confidentiality of their sources if requested.
Thank you for supporting whistleblowers!

https://www.whistleblowers.org/take-action/
Thank you for supporting whistleblowers!

Web: www.whistleblowers.org/take-action/

Facebook: @NationalWhistleblowerCenter

Twitter: @Stopfraud