

An aerial photograph of the U.S. Capitol building in Washington, D.C., with the Washington Monument visible in the background. A large blue rectangular overlay covers the upper portion of the image, containing the report's title and year.

# NATIONAL WHISTLEBLOWER CENTER END-OF-YEAR REPORT

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2019

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“ *Every country needs its whistleblowers. They are crucial to a healthy society. The employee who, in the public interest, has the independence of judgement and the personal courage to challenge malpractice or illegality is a kind of public hero.* ”

— Fuad Alakbarov  
Azerbaijani-Scottish Human Rights Advocate

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# A WORD FROM THE EXECUTIVE DIRECTOR

2019 has been a big year for the National Whistleblower Center (NWC) in more ways than one. We saw major organizational changes, a groundbreaking new climate change campaign, a series of policy achievements, and unprecedented news coverage of our mission.

In March, I took over as Executive Director from NWC co-founder Stephen Kohn, who is now serving as the Chairman of the Board. As a longtime supporter of NWC with a passion for its mission of advocating for whistleblowers, democracy and the rule of law, I leapt at the opportunity when it was offered to me. I love the challenge of applying my decades of nonprofit management and environmental law and policy experience to this dynamic organization.

It has been a year of firsts. One of those was a personal first for me: having the honor and privilege of celebrating National Whistleblower Day as NWC's executive director. This was the highlight of my year, a day in which I was continuously inspired by meeting and listening to nearly 250 whistleblowers, whistleblower advocates and policy makers, together in one room, celebrating accomplishments and charting our course for the future.

Over the past year, we have ramped up activity and reached important milestones in three critical areas: providing legal expertise to whistleblowers, increasing public understanding of the benefits of whistleblowers, and strengthening whistleblower laws and programs. I would like to highlight two milestones in this introductory note.

## *Climate Corruption Campaign*

2019 was a year when the harmful effects of climate change became more visible than ever, with record flooding and farm bankruptcies in the nation's midsection, to the wildfires devastating communities across large parts of California to the rapid melting of Greenland's ice sheet. After carefully researching how whistleblowers might play a constructive role on this issue and securing \$2 million in contributions from our generous donors, in early December we launched our groundbreaking *Climate Corruption Campaign*.



Whistleblowers have long played a critical role in exposing corruption in industries such as banking and pharmaceuticals. But until now, there has never been a sustained effort by whistleblowers and their advocates to address corruption in the three industries with the greatest responsibility for the carbon emissions driving climate change: oil and gas, coal and industrial logging. Our campaign will educate and recruit company insiders with evidence of fraud and other crimes, especially those involving illegal concealment of environmental risks and harms. With a laser focus on the whistleblowers' interests, including their need for confidentiality, we will help them line up legal representation, deliver their evidence to prosecutors and, when the prosecutions are successful and lead to large-scale monetary sanctions, secure financial rewards. We also will carry out communications and policy work to build support for the whistleblowers' cases and for strong whistleblower laws and programs. Based on the powerful track record of whistleblowers to date, we know we'll be able to help them make a difference in reining in corruption in these key industries.

### *Ukraine Whistleblowers*

In September, the public learned about a whistleblower complaint filed the previous month with the Inspector General for the Intelligence Communities alleging that President Trump had been using his presidential powers to solicit Ukraine's intervention in the 2020 U.S. presidential election. A second whistleblower reportedly stepped forward soon after making similar allegations. Soon thereafter, the President and his allies were attacking the first whistleblower on a nearly daily basis, with the President suggesting that he or she should be treated as a spy and given the death penalty. A campaign to "out" the whistleblower ensued, despite the clear legal requirement that their identity be kept confidential.

Although NWC always steers clear of partisanship, we could not sit idly by when the very idea of protecting whistleblowers was being called into question by the President and his powerful allies in Congress and in traditional and social media. Whistleblowers have long been retaliated against, and only recently has a system of protections and rewards been in put in place in the U.S. (thanks in significant part to NWC's advocacy) to create a relatively safe and encouraging environment for them to step forward with evidence of wrongdoing. Suddenly these legal protections were being called into question.

For the past two month, NWC staff, officers and board members have spoken with countless broadcast, print and online publications on the history of whistleblowing in the United States, the workings of the law, and the importance of protecting whistleblowers regardless of partisan politics. See "NWC in the News" later. Our overarching message – that our nation's proud history of democracy and respect for the rule of law required honoring the protections afforded to the Ukraine whistleblowers – was heard around the world. NWC placed itself in the center of a global conversation about not just the two Ukraine whistleblowers, but about why it is important to protect whistleblowers in all walks of life and how best to accomplish this. As a result, people around the world are better informed than ever about whistleblowers and (we believe) more likely than ever to support stronger whistleblower protections.

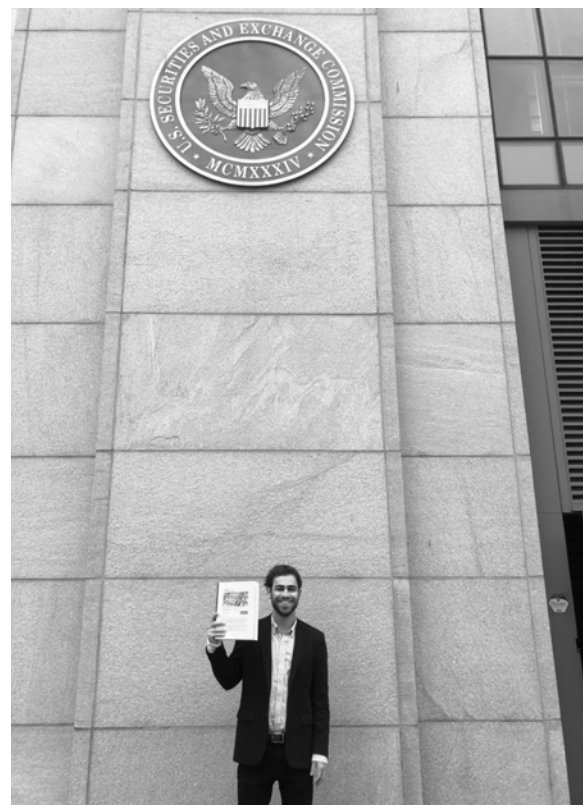
We could not have done all of this without supporters like yourself – so on behalf of the National Whistleblower Center, thank you for contributing to such an incredible year. We're excited to see what 2020 will bring.



**JOHN KOSTYACK**  
EXECUTIVE DIRECTOR



# TOP 10 MOMENTS OF 2019



1

## CELEBRATING NATIONAL WHISTLEBLOWER DAY

For the sixth year in a row, the U.S. Senate unanimously passed a declaration declaring July 30<sup>th</sup> as “National Whistleblower Appreciation Day” to commemorate the passage of America’s first whistleblower law. To celebrate the occasion, NWC hosted its annual event recognizing the agency heads, members of Congress, and whistleblowers who make it all possible. It was the most successful National Whistleblower Day yet with a record number of lawmakers featured, including our first international lawmaker.

2

## LAUNCHING THE CLIMATE CORRUPTION CAMPAIGN

On December 9<sup>th</sup>, International Anti-Corruption Day, NWC launched our Climate Corruption Campaign. This campaign will be the first sustained effort to educate potential whistleblowers in the fossil fuel and industrial logging industries about their rights under whistleblower laws. NWC will give particular focus to assisting company insiders with evidence of fraudulent efforts to minimize industry pollution, including efforts to downplay the financial risks of the massive fossil fuel infrastructure buildout currently underway.

3

## TAKING ON THE SEC TO PROTECT WHISTLEBLOWERS

In June 2018, the Securities and Exchange Commission (SEC) announced proposed changes to its extremely successful whistleblower program. Since then, we have been leading a monumental campaign to convince them not to put these potentially disastrous rules into action as they would effectively gut one of the best programs out there. And thanks to an outpouring of opposition from our supporters, we scored a crucial victory. The SEC delayed its planned vote, and Chairman Clayton has since publicly affirmed his commitment to the program. While we wait for more details, we continue to encourage our supporters to take action in support of whistleblowers [here](#).

4

## EXPOSING FACEBOOK’S TERROR AND HATE CONTENT

We’ve been working to hold Facebook accountable for deceptive statements about illegal wildlife trafficking on its platform since 2016, but this year we added a new dimension to this campaign. On behalf of an anonymous whistleblower, we filed a petition before the SEC in January, challenging Facebook’s misleading statements about the proliferation of terror and hate content on its website – and its failure to disclose that the website is auto-generating its own terror and hate content. The *Associated Press* published explosive articles about our petition in [May](#) and [September](#), and Rep. Max Rose (D-NY) specifically called out the petition in a June Congressional hearing focused on social media industry accountability.

5

## PASSAGE OF THE TAXPAYER FIRST ACT

The Taxpayer First Act was signed into law on July 1<sup>st</sup>, marking a major success for tax fraud whistleblower protections. The Act creates vital retaliation protections for tax fraud whistleblowers who file claims under the IRS whistleblower program. It also enhances the existing IRS whistleblower program by improving communication with tax whistleblowers about the status of their submission.





## INTRODUCTION OF THE WILDLIFE CONSERVATION AND ANTI-TRAFFICKING ACT

On January 30<sup>th</sup>, with NWC's support, Congressmen John Garamendi (D-CA) and Don Young (R-AK) reintroduced the Wildlife Conservation & Anti-Trafficking Act in the House. This groundbreaking bipartisan legislation is the most powerful wildlife anti-trafficking bill of our generation. It creates strong incentives for whistleblowers, enhances laws that can be used to prosecute traffickers, and mandates fines and penalties from successful prosecutions be used for conservation efforts worldwide.



## INTRODUCTION OF THE WHISTLEBLOWER PROGRAMS IMPROVEMENT ACT

In 2018, the Supreme Court passed down the disastrous *Digital Realty* decision which left whistleblowers who reported internally without critical protections under the Dodd-Frank Act. The ruling was clearly contrary to the intentions of Congress when they originally wrote the Act following the 2008 financial crisis. In September of this year, Sen. Chuck Grassley (R-IA), a longtime whistleblower champion, introduced the Whistleblower Programs Improvement Act which clarifies the scope of protections for securities and commodities whistleblowers, effectively overturning *Digital Realty*.



## ASSERTING THE IMPORTANCE OF PROTECTING THE UKRAINE WHISTLEBLOWERS

Following national controversy around a complaint from two anonymous intelligence community whistleblowers, NWC's Executive Director John Kostyack, Board Chair Stephen Kohn, General Counsel David Colapinto, and members of our board all weighed in on the debate. Their focus was on ensuring that the whistleblowers in question were protected and that our cherished whistleblower laws were respected. The conversation represented a critical moment in the history of NWC, one where the entire tradition of whistleblowing was at risk. We continue to urge Congress & this Administration to uphold the law and protect the confidentiality of the whistleblowers' identities.



## CONTINUING THE MILLION MESSAGE CAMPAIGN

In 2018, our network of grassroots supporters sent 174,695 messages to policy makers. In 2019, our supporters have sent 282,046 messages so far. That's a 61% increase – and the number just keeps going up. That's not even counting the nearly 120,000 people who signed on to our petition to the SEC to keep its whistleblower program strong. We're nearly halfway to our goal to send a million messages to policy makers in support of whistleblowers. Thanks to the efforts of our action alert network, whistleblowers everywhere know they have a powerful voice in the halls of power.



## PROVIDING LEGAL ASSISTANCE

This year saw dramatic growth in the number of whistleblowers turning to us for legal assistance, both in viewing educational materials on our website and in completing the "Report Fraud" intake form to obtain our assistance in securing qualified legal counsel. We are in the midst of recruiting new Cooperating Attorneys and otherwise restructuring the program to speed up the intake process and to help secure legal representation. We already are helping more whistleblowers than ever before in NWC's history, but we know that we need to improve the quality of that assistance and are committed to making measurable gains in the coming year.

# CURRENT CAMPAIGNS

In 2019, NWC evaluated our many policy priorities and narrowed them down to nine key campaigns. Here's a brief summary of each – if you're interested in learning more about any of them, please visit our website at [www.whistleblowers.org](http://www.whistleblowers.org).

NWC

2019 SENATE

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U.S. GOVERNMENT  
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## STOP CORRUPTION IN THE FOSSIL FUEL INDUSTRY

The disruption of the earth's climate is one of the greatest challenges facing our society. NWC is launching our Climate Corruption Campaign with the goal of enlisting whistleblowers to win precedent-setting prosecutions against corrupt actors in the three industry sectors responsible for the vast majority of the world's carbon pollution: oil & gas, coal and forest products. The key focus of the campaign will be legally actionable fraud – whether related to the multi-decade disinformation campaign financed by the fossil fuel industry, to illegal pollution along the supply chain, or to stranded assets currently on the books that fail to fully account for fossil fuel infrastructure buildout. Now is the time to harness the powerful whistleblower laws to rein in corruption. Only company insiders would know the extent to which these climate change-related risks have been illegally concealed from shareholders, the IRS and the public.

## PROTECT FORESTS FROM INDUSTRIAL LOGGING

This is part of our wider Climate Corruption Campaign. Industrial logging is one of the main industries responsible for the world's carbon pollution, and while sustainable forestry is on the rise, industrial logging of forests is still the primary source of timber and timber-based products. In the tropical forests with high carbon stocks, much of this logging is unsustainable and illegal. Over 70% of timber exports in countries with tropical forests that are key to regulating the earth's climate - like Peru, Bolivia and Democratic Republic of Congo – are estimated to be illegal. Now is the time to harness the powerful whistleblower laws to rein in corruption in the sector and protect forests and the climate from industrial logging.

## EMPOWER WHISTLEBLOWERS TO STOP SECURITIES FRAUD

Since mid-2018, the Securities and Exchange Commission (SEC) whistleblower program has been under assault. In May 2018, the Supreme Court passed down a disastrous decision in *Digital Realty* that would deny protections and incentives to a vast number of securities whistleblowers. That June, the SEC proposed rules that would effectively gut its extremely successful program by excluding the majority of whistleblowers through unreasonable procedures and disincentivizing reports by placing caps on rewards. Since then, NWC has been working non-stop since to discourage the SEC from implementing these proposed changes and to urge Congress to pass legislation that would correct *Digital Realty*. We're making key progress on both fronts, with key legislation introduced in the House and Senate to correct *Digital Realty* and a postponed SEC vote while they further consider the impact of proposed changes.

This campaign also includes advocacy around the Public Company Accounting Oversight Board (PCAOB), a five-person board appointed by the SEC. The PCAOB oversees the audits of public companies and SEC-registered broker and dealers. NWC strongly supports legislation to establish a whistleblower reward program at the PCAOB.

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## PROTECT ENDANGERED WILDLIFE FROM ILLEGAL WILDLIFE TRAFFICKING

In order to protect wildlife from illegal trafficking, NWC launched its Global Wildlife Whistleblower Program (GWWP) in 2016. The GWWP is a secure worldwide web-based platform designed to educate and incentivize potential whistleblowers in order to dramatically increase the number of high-quality confidential reports essential to detect wildlife crimes and enforce the laws prohibiting illegal trafficking worldwide. Since launching this campaign, NWC has achieved a series of accomplishments including filing a series of groundbreaking cases challenging online retail and social media companies that facilitate wildlife trafficking, prompting a GAO audit of FWS and NOAA, introducing key legislation to increase current enforcement capacity, and educating potential whistleblowers around the world.

NWC also helped build public support for the Rescuing Animals with Rewards (RAWR) Act, which would add wildlife trafficking to the list of crimes that the State Department is empowered to confront with the use of whistleblower rewards. This bill, which would expand the whistleblower reward system to wildlife cases prosecuted by non-U.S. cases for the first time, appears headed for passage by Congress in the next few weeks.

## HOLD SOCIAL MEDIA COMPANIES ACCOUNTABLE

NWC is working to hold social media companies accountable for unchecked criminal activity on their website. The initial phase of the campaign was aimed at curtailing illegal wildlife trafficking on Facebook and other social media websites, with four whistleblower petitions filed with the Securities and Exchange Commission (SEC). The second phase of the campaign, launched this year, centers around curbing auto-generated terror and hate content on Facebook. NWC assisted a whistleblower with filing a petition to the SEC in January and submitted a supplemental filing in September.

## CONSERVE OCEAN FISHERIES THREATENED BY ILLEGAL FISHING

The U.S. is one of the largest importers of seafood in the world, regularly purchasing over \$18 billion dollars of product each year. However, much of this seafood is sourced through illegal, unreported, and unregulated (IUU) fishing. According to the UN, IUU fishing costs the global economy up to \$23 billion USD each year and that number is only increasing as companies ramp up operations to meet growing consumer demand. IUU fishing is not only illegal - it threatens ecosystems and puts food security and regional stability at risk. That's why NWC is working with whistleblowers to expose fraud in company supply chains that claim to be sustainable and to expose illegal shipments of threatened fish species through U.S. ports.

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## PROTECT FEDERAL WHISTLEBLOWERS

NWC continuously works to defend the brave whistleblowers who expose fraud, corruption, and waste within the government. We currently have four focuses within this campaign:

1. NWC continues to urge the Department of Justice to immediately implement the priority recommendations of the Government Accountability Office in order to better protect FBI whistleblowers.
2. NWC strongly supports court access for federal employees, particularly in light of the lack of a quorum for the Merit System Protection Board since January of 2017 and the current lack of any sitting members.
3. NWC advocates for protecting the identity of intelligence community whistleblowers, regardless of partisan politics, in accordance with the law.
4. NWC supports various reforms for Congressional staff, including an effective avenue to report sexual harassment and implementing procedures for interactions with whistleblowers.

## COMBAT TAX FRAUD

While the IRS Whistleblower Program has been extraordinarily successful over the past decade, additional reforms are still needed. The passage of the Taxpayer First Act in July marked a major success as it created vital anti-retaliation protections for tax fraud whistleblowers and enhanced the existing program by improving communication with tax whistleblowers about the status of their submission. However, there are still essential reforms that remain, including clarifying the judicial standard of review and incentivizing timely award disbursement for whistleblowers.

## ENACT A NATIONAL WHISTLEBLOWER DAY

On July 30th, 1778, our Founders unanimously passed America's first whistleblower protection law. This visionary action, taken during the height of the American Revolution, stands today as a testament to the importance of whistleblowing in our history. To honor this history, the U.S. Senate has passed a resolution each year since 2013 declaring July 30th "National Whistleblower Appreciation Day" and urging the agencies to recognize the vital contributions of whistleblowers to democracy. NWC continues to advocate for a law that would establish July 30<sup>th</sup> as National Whistleblower Day in perpetuity in order to honor whistleblowers and help change the culture of retaliation that is all too common.

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# THE STATE OF ADVOCACY

Wondering what exactly we've achieved in our campaigns this year? Check out a month-by-month breakdown of some major policy successes in 2019.





# 2019

## JANUARY

- Rescuing Animals with Rewards (RAWR) Act introduced in the House by Reps. Buchanan (R-FL) and Titus (D-NV)
- Attorney General Barr withdrew his previous opposition to the False Claims Act whistleblower law
- **Wildlife Conservation and Anti-Trafficking Act reintroduced in the House of Representatives by Reps. Garamendi (D-CA) and Young (R-AK)**
- NWC filed a petition before the Securities and Exchange Commission (SEC) regarding autogenerated terror and hate content on Facebook

## FEBRUARY

- IRS reported a ten-fold increase in tax whistleblower awards in FY 2018
- NWC submitted a letter to the European Parliament in support of a pending whistleblower directive

## MARCH

- Taxpayer First Act introduced in the Senate by Sens. Grassley (R-IA) and Wyden (D-OR)
- Members of the House Whistleblower Protection Caucus introduced a resolution to honor July 30<sup>th</sup> as National Whistleblower Appreciation Day

## APRIL

- **A landmark directive was agreed upon in the European Parliament to protect European whistle-blowers against retaliation**, following Board Chair Stephen Kohn's testimony in November of 2018 and letter of support in February

## MAY

- NWC submitted letter to the Department of Justice (DOJ) urging them to enact Government Accountability Office (GAO) recommendations for FBI whistleblowers
- NWC submitted letter to the Department of Energy urging them to give contractors information about whistleblower protections
- RAWR Act introduced in the Senate by Sens. Merkley (D-OR) and Collins (R-ME)
- Whistleblower Protection Reform Act introduced in the House by Reps. Green (D-TX), Huizenga (R-MI), and Maloney (D-NY)
- GAO released a report advising Congressional employees on the best way to handle government employee whistleblowers
- The Senate Whistleblower Protection Caucus introduced a resolution to honor July 30<sup>th</sup> as National Whistleblower Appreciation Day

## JUNE

- Taxpayer First Act introduced in House, sponsored by Rep. Lewis (D-GA) and 27 bipartisan cosponsors
- Taxpayer First Act passed in the House and Senate
- NWC submitted a letter to Congress in support of the RAWR Act

## JULY

- **Taxpayer First Act signed into law**
- Public Company Accounting Oversight Board (PCAOB) Whistleblower Protection Act introduced in the House by Rep. Garcia (D-TX)
- RAWR Act passed the House
- Whistleblower Protection Reform Act of 2019 passed the House
- **The Senate unanimously passed resolution to recognize July 30<sup>th</sup> as National Whistleblower Appreciation Day**
- Three new members joined the Senate Whistleblower Protection Caucus: Sens. Blackburn (R-TN), Duckworth (D-IL), and Sinema (D-AZ)
- Council of Inspectors General on Integrity and Efficiency (CIGIE) issued a new report on importance of whistleblowers

## AUGUST

- Working with NWC, Enron whistleblower Sherron Watkins submitted a letter to the SEC in opposition to proposed rulemaking changes to its whistleblower program

- NWC released a new report about the critical importance of whistleblowers in combatting wildlife trade and the need for the Wildlife Conservation and Anti-Trafficking Act
- NWC submitted a supplemental filing to the SEC about autogenerated terror and hate content on Facebook
- Whistleblower Programs Improvement Act introduced in the Senate by Sens. Grassley (R-IA), Baldwin (D-WI), Ernst (R-IA), Durbin (D-IL), and Collins (R-ME)
- **The Senate and House both unanimously passed resolutions calling upon the Administration to release the intelligence community whistleblower complaint to the intelligence committees of Congress**
- Public Company Accounting Oversight Board (PCAOB) Whistleblower Protection Act passed the House

## SEPTEMBER

- RAWR Act passed the Senate
- Whistleblower Programs Improvement Act introduced in the House
- NWC submitted two comments to the SEC regarding proposed rule changes to its whistleblower program
- NWC supporters submitted a record number of comments to the SEC in opposition to its proposed changes
- **The SEC postponed its scheduled vote on rule changes to the whistleblower program following the outpouring of opposition**
- Staff for each SEC commissioner met with representatives from NWC to discuss proposed changes

## OCTOBER

## NOVEMBER

- Bipartisan amendment to the Empowering Olympic and Amateur Athletes Act that would strengthen whistleblower protections for athletes introduced in the Senate by Sen. Peters (D-MI)

## DECEMBER

- NWC launched its Climate Corruption Campaign on the UN-recognized International Anti-Corruption Day
- The RAWR Act was set to be passed in Congress

# CELEBRATING



## NATIONAL WHISTLEBLOWER DAY

Another successful National Whistleblower Day has come and gone! On July 30th, roughly 250 members of the whistleblower community, including key champions from Congress and the federal agencies, came together for the National Whistleblower Center event to celebrate the critical contributions of whistleblowers to democracy and the rule of law.

We heard from a range of distinguished speakers, including eight Members of Congress, a member of the United Kingdom House of Lords, DOJ Inspector General Michael Horowitz, and of course whistleblowers - including Jane Turner, Brad Birkenfeld, and Sherron Watkins. We also had the chance to individually recognize the more than 60 whistleblowers present in the audience.

Several speakers took the opportunity to remember Ernie Fitzgerald, once called "America's most famous whistleblower", who died this past February at the age of 92. In 1968, he revealed a \$2.3 billion cost overrun in the Air Forces' Lockheed C-5 aircraft program to Congress in defiance of his supervisors. His story partly inspired the historic 1986 updates to the False Claim Act.

Justice Department IG Michael Horowitz, speaking on behalf of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), used the day to restate the Council's support for whistleblowers by launching a new report on the importance of whistleblowers as well as new online tools and a resource page aimed at encouraging whistleblowers to come forward.

You can find all the videos of the event [online here](#).



# WHISTLEBLOWERS

## BUNNY GREENHOUSE FEATURED ON WHISTLEBLOWER



This June, Bunnatine “Bunny” Greenhouse spoke about her experience reporting waste, fraud, and abuse by Halliburton during the Iraq War to WHISTLEBLOWER on CBS News.

While at the Army Corps of Engineers, Greenhouse stood alone in opposing the approval of a highly improper multi-billion-dollar no-bid contract to Halliburton. Later, during her 2005 Congressional testimony, she described the contract as “the most blatant and improper contract abuse I have witnessed during the course of my professional career.”

In retaliation for her courage, she was removed from her position, and went through a prolonged and highly contentious legal battle. Ultimately, her attorneys forced the Army Corps to fully settle the case.

Her critical disclosures resulted in major reforms prohibiting no-bid contracts. [Watch the episode here.](#)

## HOWARD WILKINSON FEATURED ON 60 MINUTES



In May, Howard Wilkinson gave his first major interview since his identity became public to 60 Minutes, along with Stephen Kohn, his attorney and NWC’s Board Chair.

Wilkinson is a banker who uncovered a \$230 billion money-laundering scheme, perhaps the largest in banking history. These billions of dollars reportedly flowed from Russia and other former Soviet states through the Estonian branch of Danske Bank to major banks such as Deutsche Bank, Bank of America and JP Morgan, prompting investigations from a host of law enforcement agencies in Europe and the United States.

Since the story broke, the Danish Parliament has tightened its money laundering laws, making penalties for money laundering eight times larger. Bloomberg reported in September 2018 that Danske Bank is facing a fine as large as \$630 million in Denmark – the largest in Danish history. That does not include expected fines to be imposed by the U.S. and other countries. [Watch the episode here.](#)

# EDUCATION IN ACTION



## 2019 DISCUSSION SERIES WITH INECE AND ELI

This spring, NWC partnered with the International Network for Environmental Compliance and Enforcement (INECE) and the Environmental Law Institute (ELI) for a discussion series examining how whistleblower laws, emerging technologies, and citizen engagement are transforming the landscape of environmental enforcement today.

Board Chair Stephen Kohn spoke on the role of private citizens in enforcing maritime laws concerning ocean pollution as well as the transnational application of U.S. whistleblower provisions to enforce environmental law in the first two installments. In the third installment, Executive Director John Kostyack discussed how private citizens can collect and report evidence on environmental wrongdoing.

## RETHINKING ANIMALS SUMMIT

Board Chair Stephen Kohn spoke at the Rethinking Animals Summit in September. The annual summit, held in New York City, focuses on the care and conservation of wildlife populations through education and worldwide support. His presentation focused on the importance of utilizing whistleblowers to combat wildlife crimes, and how reward provisions can be applied to incentivize the reporting of wildlife crimes.

In conjunction with this presentation, the National Whistleblower Center [released a special report](#) on the critical role of whistleblowers in combatting wildlife crime. Drawing on FOIA requests from NWC to four U.S. agencies as well as an independent GAO investigation, the report demonstrates that whistleblowers are currently an underutilized tool against illegal wildlife trafficking.

## PROFS & PINTS

In early December, Stephen Kohn was the featured speaker at The Bier Baron Tavern. Kohn presented as part of a guest lecture series called "[Profs and Pints](#)," where college professors deliver "lessons" in a bar. Kohn's lecture, "Understanding Whistleblower Law," touched on the evolution of whistleblower laws and the importance of advanced protection laws.

## INTELLIGENCE COMMUNITY WHISTLEBLOWERS – KEY VIEWPOINTS

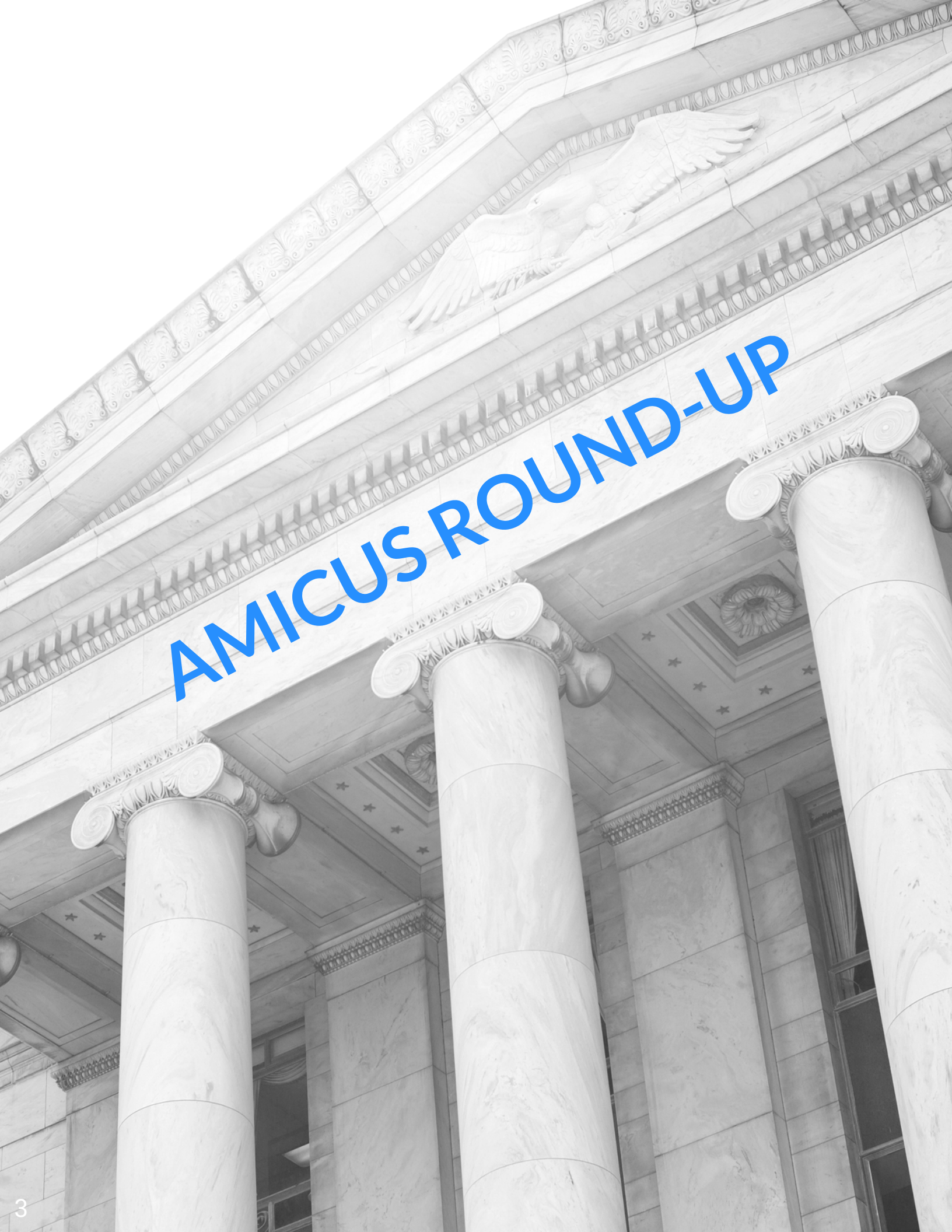
Executive Director John Kostyack participated in a December panel hosted by the International Association for Intelligence Education and the Georgetown University Master's in Applied Intelligence program. The panel tackled the topic of the two Ukraine whistleblowers and what protections look like for the intelligence community.

## INTERNATIONAL EFFORTS

NWC continued its tradition of working with anti-corruption activists & dedicated government official worldwide through meetings and presentations, including:

- A February keynote presentation to the Hellenic Anti-Corruption Organization
- A meeting with the Inspector Attorney General of Colombia in June
- A roundtable with Italian journalists in June
- An August presentation to a group of international wildlife advocates from countries including Bangladesh, India, Tunisia, Laos, Finland, Ethiopia, & more
- A presentation as part of the 2019 Offshore Alert Conference Europe in November





# AMICUS ROUND-UP



*The National Whistleblower Center filed several amici curiae (friend of the court) briefs in 2019 in support of whistleblowers. We also saw a positive resolution for a case in which we submitted a brief in 2018.*

## COCHISE CONSULTANCY, INC. V. UNITED STATES, EX REL. HUNT

On February 8th, the National Whistleblower Center (NWC) filed an amicus curiae brief at the U.S. Supreme Court in support of whistleblower Billy Joe Hunt.

In 2013, he filed a *qui tam* case alleging fraud by his former employer, a war contractor performing munitions clean-up work in Iraq in 2006. The government declined to intervene in Hunt's case, and it was dismissed by a district court. The Eleventh Circuit then allowed the case to go forward, ruling that the FCA's three-year limitations period was triggered by the government's knowledge of the alleged fraud – not the whistleblower's knowledge.

The question the court had to answer is how whistleblowers under the False Claims Act (FCA), known as "relators," must rely on the statute of limitations in the FCA when the government declines to intervene in the case.

The NWC urged the Supreme Court to side with the whistleblower, arguing that the "merits of a claim often bear no relation to the duration of a case," citing the example of Aaron Westrick.

Only a few short months later, on May 13, 2019, the Justices unanimously ruled in support of the whistleblower.

## ELLER V. IDAHO STATE POLICE

NWC filed this brief concerning the right of Idaho state employees to receive damages for emotional distress in October of 2018, but the case was not resolved until August of this year.

Brandon Eller is an Idaho State Police ("ISP") detective who blew the whistle on the cover-up of another deputy's dangerous actions. A crash reconstructionist, Eller testified that a fellow officer was negligent when he was involved in a fatal crash during a 911 call.

When it became known that Eller had blown the whistle on a fellow deputy, he was subjected to severe retaliation including attacks on his character and retaliation on the job.

In its brief, the NWC argued that the Idaho Protection of Public Employees Act "must be interpreted broadly to fully compensate plaintiffs and thereby enhance responsible whistleblowing activity directed toward ensuring integrity in the operation of the public-sector workplace."

In a victory for whistleblowers, the Idaho State Supreme Court rejected a lower court's decision to limit the amount of money awarded to Brandon Eller for his bravery in blowing the whistle on the Idaho State Police.

## JERUD BUTLER V. BOARD OF COUNTY COMMISSIONERS FOR SAN MIGUEL COUNTY

On October 2nd, the National Whistleblower Center filed an amicus curia brief before the Supreme Court in Jerud Butler v. Board of County Commissioners for San Miguel County.

In 2016, Jerud Butler worked for the San Miguel County Road and Bridge Department. He chose to testify as a private citizen in a child custody case between his sister-in-law and her ex-husband, who also worked for the County's Road and Bridge Department.

After he testified, his employer investigated his statements in court. Following this investigation, Butler was reprimanded and demoted. He filed a lawsuit, alleging a violation of his right to free speech under the First and Fourteenth Amendment by demoting him for testifying truthfully. However, a federal district court dismissed his lawsuit stating that Butler's testimony did not address a "matter of public concern".

The issue in *Butler* concerns one of the most fundamental rights protected under law: the right to provide truthful testimony in courts of law. Our amicus argues that the purpose of the Civil Rights Act of 1871 was to ensure people had access to courts without fear and that there is a need to protect the right of government employees to testify even when the outcome may be adverse to the interests of a supervisor or manager.



# NWC IN THE NEWS

NWC received a record amount of high-profile coverage this year. Publications from the *Associated Press* to the *Reuters* to *C-SPAN* all covered our work. Below are some excerpts from a few of the biggest stories of the year.

## JANUARY 3

Whistleblower lawyers to Grassley: Make Barr commit to False Claims cases, *Reuters*

“ Stephen Kohn of Kohn, Kohn, & Colapinto, who said in an alert for the National Whistleblower Center that Barr has shown “extreme animus and hostility” to whistleblowers, told me the nominee should not be confirmed unless he repudiates his old views.

## FEBRUARY 25

Waters backs ‘undermined’ protection staff facing Trump’s ‘anti-consumer action’, *Washington Post*

“ Whistleblowers are protected by federal law, but Stephen M. Kohn, executive director of the National Whistleblower Center, said “given the problems with federal whistleblower protection, we recommend that any whistleblower approaching Congress ensure that they can maintain anonymity.”

## MAY 9

Facebook auto-generates videos celebrating extremist images, *Associated Press*

“ John Kostyack, a lawyer with the National Whistleblower Center in Washington who represents the anonymous plaintiff behind the complaint, said the goal is to make Facebook take a more robust approach to counteracting extremist propaganda.

“Right now we’re hearing stories of what happened in New Zealand and Sri Lanka — just heartbreaking massacres where the groups that came forward were clearly openly recruiting and networking on Facebook...that’s not going to stop unless we develop a public policy to deal with it, unless we create some kind of sense of corporate social responsibility.”

## JULY 30

This general bullied and humiliated subordinates. But whistleblowers spoke up., [Washington Post](#)

“Retribution is common, said Stephen Kohn, a federal whistleblower lawyer, because “managers and supervisors don’t want their mistakes reported.” Kohn is a founder and chairman of the National Whistleblower Center, an organizer of the day’s events.

## SEPTEMBER 18

Facebook still auto-generating Islamic State, Al-Qaida images, [Associated Press](#)

“Facebook would like us to believe that its magical algorithms are somehow scrubbing its website of extremist content,” Kostyack said. “Yet those very same algorithms are auto-generating pages with titles like ‘I Love Islamic State,’ which are ideal for terrorists to use for networking and recruiting.”

## SEPTEMBER 20

Trump’s rhetoric will have a chilling effect on whistleblowing, legal experts say, [Washington Post](#)

“Legal protections for government employees seeking to report wrongdoing date back more than 240 years to the Continental Congress, and they’ve been rewritten many times since. But these revisions still do not go far enough to protect employees’ rights, said David Colapinto, the general counsel at the nonprofit National Whistleblower Center.

## SEPTEMBER 24

David Colapinto on Whistleblower Laws and the Intelligence Community, [C-SPAN](#)

“Colapinto talked about whistleblower laws that apply to the intelligence community on C-SPAN’s National Journal morning show with John McArdle.

## OCTOBER 12

Agency eyes big revamp of Wall Street whistleblower program, [Associated Press](#)

“It would destroy the program,” said Stephen Kohn, chairman of the National Whistleblower Center and a partner in the law firm Kohn, Kohn & Colapinto.

The proposed changes, Kohn said, are “counter to every whistleblower law, rule and policy.”

## OCTOBER 22

Wall Street’s watchdog wants to weaken its own whistleblower program, critics say, [Quartz](#)

“Why create this barrier—potentially kicking out many people in the system and disqualifying them?” asked John Kostyack, executive director of the nonprofit National Whistleblower Center, referring to the requirement to issue claims in writing. “This is completely contrary to the whistleblower section of the Dodd Frank Act, which was to encourage people to come forward.”

## NOVEMBER 6

Can Trump Legally Out The Whistleblower? Experts Say It Would Not Violate Any Laws, [NPR](#)

“Stephen Kohn, a lawyer who has represented whistleblowers for more than 30 years and is the author of *The New Whistleblower’s Handbook*, points to a 2014 law that spells out intelligence community whistleblower protections.

Under the statute, an agency cannot launch a reprisal against an intelligence community whistleblower. The prohibition is to be enforced by the president, Kohn says. And so, he argues, Trump revealing the whistleblower, or allowing the individual’s name to come out, should be viewed as a type of reprisal.

## NOVEMBER 22

Trump wants the whistleblower revealed. Others push for more protection., [Washington Post](#)

“ There are laws protecting whistleblowers against retaliation, but “the ability to enforce these laws is very weak,” said Stephen M. Kohn, a lawyer who has represented them for 35 years and a co-founder of the National Whistleblower Center.

“ The Ukraine whistleblower reportedly is an employee of the CIA, which is part of the intelligence community. Intelligence staffers have different whistleblower protections than other federal workers. Most feds can seek retaliation protection from the Merit Board and the Office of Special Counsel. Intelligence whistleblowers don’t have those options, Kohn explained, adding that they “are dependent on the president to protect their rights.”

## DECEMBER 9

Wanted: Fossil fuel whistleblowers, [E&E News](#)

“ The National Whistleblower Center’s Climate Corruption Campaign, announced this morning, aims to educate potential whistleblowers about laws protecting them. The effort also hopes to help them lawyer up to prosecute companies for fraud, public misinformation campaigns about climate science and other wrongdoing.

“Individuals working in the fossil fuel and logging industries with evidence of fraud and other law-breaking in their companies should know that there are safe ways to report crime without losing their jobs,” NWC Executive Director John Kostyack said in a statement.

## DECEMBER 12

By Speaking Out, the Whistleblower Joins the Long Line of Dissenters That Have Defined America, [TIME](#)

“ The resolution was a critical moment in American history. “It establishes that, at least in this country, the idea of confronting law breakers is something that everyone is encouraged to do, no matter what your station,” says John Kostyack, executive director of the National Whistleblower Center. “And at the time, that’s a fairly radical notion.”

“ “This is a real test for our entire system of whistleblower protection,” argues Kostyack, from the National Whistleblower Center. “The president and his allies are not just attacking these individual whistleblowers, but also implicitly challenging the notion of an ability to file a confidential disclosure.”

## DECEMBER 17

Can the whistleblower’s reputation survive President Trump’s impeachment defense?, [The Hill](#)

“ As attorneys who have represented whistleblowers from all political perspectives, we hope that President Trump, members of Congress and partisans from all sides take a step back and study the important legal precedents designed to protect confidential informants like the Ukraine-Trump whistleblower. The starting point has to be the federal obstruction of justice statute. As explained below, this should also be the ending point of any such analysis.



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*Many thanks to our interns this year: Jonah Menegaz, Victoria Grieshammer, Alexandra Nichols, Kelly Mwaamba, Shoshana Levy, and Desiree Valiante*

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# NWC | NATIONAL WHISTLEBLOWER CENTER

The National Whistleblower Center (NWC), a tax-exempt, non-partisan organization, is the leading nonprofit working with whistleblowers around the world to fight corruption and protect people and the environment. For over 30 years, NWC has won policies to protect whistleblowers from retaliation and reward them for helping deliver criminal and civil penalties against wrongdoers.

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