

DECEMBER 2020

NWC

NATIONAL  
WHISTLEBLOWER  
CENTER

# END OF YEAR REPORT



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*Every year, we honor whistleblowers on July 30th. Why is that? It was on July 30, 1778, at the height of the American Revolutionary War, that the Continental Congress passed the first whistleblower law...*

*So today, let's all take a moment to reflect on the high standard that those early Americans set for us back on July 30, 1778. **And let's remember never to let excuses or partisan differences keep us from pursuing our common interest in passing strong, meaningful whistleblower laws.***

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CHARLES GRASSLEY  
U.S. SENATOR (R-IA)

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# A WORD FROM THE EXECUTIVE DIRECTOR

2020 was a year of dramatic change. The Covid-19 pandemic has defined the year, reshaping social interactions, economic conditions, and medicine itself. We also saw significant advancements toward decarbonization of the global economy thanks to the extraordinary efforts of the climate change advocacy community combined with powerful market forces. Meanwhile, the U.S. has seen a reckoning with its deeply embedded institutional racism and violence against Black lives, culminating in months of protests that spanned the globe.

**Against this backdrop, the National Whistleblower Center (NWC) has continued its work in supporting whistleblowers – including those who have spoken out against Covid-19, police violence, and corruption in the industries driving climate change.** This marked my second year with the organization, and I'm proud to say that it has been a year of tremendous progress and demonstrated support for whistleblowers.

Our incredible supporters have generated over two hundred thousand messages to Congress and federal agencies demanding stronger protections for whistleblowers across the board so far this year. Other achievements include launching the Climate Corruption Campaign, the Coronavirus Accountability Campaign and the European Center on Whistleblower Rights. I would like to take a moment to highlight some of these milestones in this note.

## CLIMATE CAMPAIGN

In January, NWC launched its Climate Corruption Campaign, the first sustained effort to educate potential whistleblowers in the fossil fuel and industrial logging industries about their rights under whistleblower laws and help them secure qualified counsel. Through our extensive research, writing, public speaking and other educational outreach, as well as engagement with whistleblowers and partners in nonprofits, academia, the private sector and government, we have gathered a large body of intelligence suggesting pervasive climate-related corruption and highlighting specific industry activities warranting further investigation. Most importantly, we connected with, and provided legal assistance to, five confidential whistleblowers with evidence of corruption in our three targeted industry sectors. We also carried out advocacy to help ensure a strong network of laws and policies that whistleblowers could rely on to achieve justice and protect themselves from retaliation.



## COVID-19 RESPONSE

In March, NWC launched its Coronavirus Accountability Campaign. The trillions in federal spending allocated to fighting the coronavirus, delivered at unprecedented speed, created enormous opportunities for waste, fraud, and abuse. In light of this, we began by sending a letter to Attorney General Barr calling upon the Trump Administration to address the need for transparency and accountability in federal coronavirus spending.

We advocated before Congress for inclusion of transparency & accountability provisions, including whistleblower protections and incentives, in coronavirus spending bills so that taxpayer dollars go to public health and other authorized purposes, and not waste, fraud and abuse. We also have advocated for the Occupational Health and Safety Administration and other agencies with health and safety responsibilities to improve their whistleblower protections for frontline workers.

Throughout this crisis, we have provided whistleblowers with the information and tools they need, including access to qualified legal counsel, so that they are incentivized to report waste, fraud and abuse in connection with the coronavirus crisis without fear of retaliation. Additionally, we have highlighted the stories of the brave whistleblowers like Jhonna Porter who have come forward to expose PPE shortages and more.

## EUROPEAN CENTER FOR WHISTLE-BLOWER RIGHTS

In December, NWC teamed up with Whistleblowing International to launch the European Center for Whistleblower Rights (ECWR), the first nonprofit to focus on advocating for stronger European whistleblower laws and to offer assistance

with cases to European whistleblowers. Recent scandals such as LuxLeaks, where a whistleblower was given a prison sentence after performing the public service of exposing tax evasion, have highlighted the urgent need for greater whistleblower protections in Europe. NWC looks forward to working with Whistleblowing International and our partners to make ECWR a success.

## HOPES FOR 2021

Looking forward to 2021, we see significant opportunities for our organization and for whistleblowers both in the U.S. and around the globe. Opportunities to break new ground on whistleblower-assisted prosecutions as well as policy are likely to emerge at a steady and rapid pace, given the interest in climate change action shown by the Biden-Harris transition team and given the December 2021 deadline for whistleblowing legislation set by the European Parliament.

  
**JOHN KOSTYACK**  
EXECUTIVE DIRECTOR



## 1 CLIMATE CORRUPTION CAMPAIGN LAUNCHED

As January began, we officially launched our Climate Corruption Campaign, the first sustained effort to educate potential whistleblowers in the fossil fuel and industrial logging industries about their rights under whistleblower laws, including to keep their identities confidential and to secure financial rewards when they assist with successful prosecutions. Over the course of the year, we assisted five confidential whistleblowers in securing qualified counsel for their cases.

## 2 NATIONAL WHISTLEBLOWER DAY CELEBRATED

We organized our first virtual National Whistleblower Day conference in July, attracting a live audience of hundreds and stimulating an important conversation about the politics and policies surrounding whistleblowing among key thought leaders. Panel topics included Covid-19, climate change, and tools for whistleblowers. Additionally, one of our keynote speakers, Senator Chuck Grassley, used the conference to announce his plans for enacting important amendments to strengthen the False Claims Act.

## 3 SEC WHISTLEBLOWER PROGRAM DECISION ANNOUNCED

In September, after two years of advocacy, NWC defeated a proposed SEC rule that would have capped the size of whistleblower awards and erected unreasonable procedural barriers to filing whistleblower cases. It is truly remarkable that an SEC otherwise badly divided along partisan lines came together and unanimously reversed itself on a whistleblower policy proposal.

## 4 'EXPOSING A TICKING TIME BOMB REPORT' RELEASED

In July, we released an in-depth report documenting the signs of climate-risk fraud in the fossil fuel industry, how this fraud threatens the world's financial system and ways that whistleblowers can help. The report was covered by several influential media outlets, and Senator Elizabeth Warren referenced the report multiple times in her to the SEC calling for stronger disclosure rules.

## 5 WHISTLEBLOWER COURT DECISION ANNOUNCED

In March, United States Court of Appeals for the District of Columbia Circuit reversed an order that had required a qui tam whistleblower to pay over \$58,000 in e-discovery court costs to the multinational defense contractor KBR. The precedent-setting unanimous decision in the case of *U.S. ex rel. Harry Barko v. KBR et al.* barred defendants in civil litigation from billing whistleblowers tens of thousands of dollars for discovery costs – keeping federal courts open to the rich and the poor alike.

## 6 COURT ACCESS TESTIMONY PROVIDED

In January, NWC's General Counsel, David Colapinto, testified before the House Oversight Subcommittee on Government Operations regarding the critical need for strengthened protections of federal whistleblowers. In his testimony, he highlighted the need for federal employees to be able to recover damages when they suffer from Privacy Act violations. He also emphasized the need for access for federal whistleblowers to the courts and a jury of their peers after administrative remedies have been exhausted.

## 7 CLIMATE RISK DISCLOSURE LAB LAUNCHED

We launched the Climate Risk Disclosure Lab with the *Nicholas Institute for Environmental Policy Solutions* at Duke University and the *Global Financial Markets Center* at Duke Law School in July. Through our work with the Lab, we are helping shape the rules governing how companies disclose climate risks and ensuring a prominent role for whistleblowers in enforcing these rules.

## 8 FACEBOOK SUPPLEMENT FILED

In June, a confidential whistleblower assisted by NWC filed a supplement to their 2019 petition to the SEC calling for sanctions against Facebook for its deception of shareholders and the public. The research shows that despite Facebook's assurances since the filing of the 2019 whistleblower petition, its assistance to white supremacist groups continues unabated.

## 9 AMICUS FOR RETALIATION CASE FILED

In July, NWC filed an *amicus curia* brief in support of a petitioner advocating for whistleblower retaliation protections before the U.S. Supreme Court. The case, *Nathan Van Buren v. United States*, concerns the interpretation of the phrase "to exceed authorized access" under the Computer Fraud and Abuse Act. In its brief, NWC urges the Court to not rule so broadly as to undermine whistleblowers who assist law enforcement officials, following the approach of other circuits that upheld those protections.

## 10 MARIST POLL RELEASED

In September, NWC assisted with the release of a new national poll conducted by Marist showing that likely voters – regardless of party affiliations and other demographic differences – agree that Congress should prioritize passing stronger whistleblower laws that protect employees who report corporate fraud. In total, 81% of likely voters believe that passing corporate whistleblower protections should be prioritized.

The background of the entire page is a light blue-grey color. It is populated with several stylized, white line-art representations of COVID-19 virus particles. These particles are spherical with numerous spike-like protrusions extending from their surfaces. They are scattered across the page, with some appearing larger and more detailed than others, creating a sense of depth and presence.

# OUR RESPONSE TO COVID-19



As 2020 began, Chinese ophthalmologist Dr. Li Wenliang alerted his colleagues in Wuhan of a highly contagious upper respiratory infection. In doing so, he started a chain of events that informed the world of the threat of the virus now known as Covid-19, despite great personal risk due the lack of whistleblower protections in China.

A few months later in March, as Covid-19 spread across the U.S. unchecked and massive amounts of federal funding was rapidly authorized to combat its spread, **NWC launched our Coronavirus Accountability Campaign.** Our long experience with national emergencies has taught us that some will attempt to profit from others' misfortune and divert large sums away from the coronavirus response. At a time of national crisis, with millions of lives and livelihoods at stake, we began the work to ensure coronavirus funding is sent to its intended recipients and spent in accordance with the law.

From the start, we committed to providing legal assistance to whistleblowers in coming forward with evidence of breakdowns in the coronavirus response by both the government as well as the private sector recipients of federal funding through our Legal Assistance Program. We immediately began educating those with evidence of waste, fraud and abuse in connection with coronavirus spending on how to blow the whistle & hold the wrongdoers accountable.

We also committed to ensuring transparency and accountability through policy. In mid-March, we sent a letter to Attorney General Barr calling for establishment of a Task Force to Combat Coronavirus-Related Fraud, led by the U.S. Department of Justice. This Task Force would take responsibility for, among other things, swift and effective prosecution of qui tam whistleblower cases under the False Claims Act, which has a long

and successful track record of holding fraudsters accountable, especially those engaged in health care fraud.

Less than a week after our letter was sent, Attorney General William P. Barr released a statement urging the public to report suspected coronavirus-related fraud and directing all U.S. attorneys to prioritize the investigation and prosecution of such fraud. The DOJ also announced it filed an enforcement action against a website offering a false coronavirus vaccine.

Following this announcement, we sent another March letter to the Attorney General calling upon the Trump Administration to address the need for transparency and accountability in federal coronavirus spending. **Our suggestions included:**

- Abolish the Federal Bureau of Investigation's arbitrary new limits on Freedom of Information Act (FOIA) requests and develop an Administration-wide policy focused on expediting FOIA responses regarding inquiries into coronavirus spending;
- Prioritize False Claims Act enforcement in cases involving coronavirus-related procurement fraud, with special attention to qui tam actions filed by whistleblowers; and
- Enlist the Association of Inspectors General and whistleblower protection offices in the federal government to launch an Administration-wide education and outreach effort to encourage and support confidential whistleblower reporting of waste, fraud, and abuse involving coronavirus-related spending.

Already, stories had begun to emerge in the U.S. and around the world of brave whistleblowers stepping forward. In April, Navy Captain Brett Crozier blew the whistle on a Covid-19 outbreak on the aircraft carrier USS Theodore Roosevelt, forcing the

Navy to implement new Covid-19 mitigation policies. Similar stories from people like the Transportation Security Administration (TSA)'s Kansas Director, Jay Brainard, followed.

And around the world, doctors, nurses and other medical professionals followed in Dr. Li's footsteps and came forward to expose critical shortages in PPE and other dangerous conditions. In the U.S. alone, the Office of Inspector General at the U.S. Department of Labor found that the number of Occupational Health and Safety Act whistleblower claims increased by 30% between February to May 2020.

According to a May study from NEMEXIS (which NWC helped the sponsors to promote), fraud and corruption in healthcare services around the world significantly reduced delivery of COVID-19-related healthcare during the month of April and contributed to COVID-19 mortality in every third country surveyed. Suppression of whistleblowers who gave early warnings of the virus was mentioned in almost a quarter of the countries surveyed. According to the report, whistleblower suppression was the single most important fraud-related factor in the spread of COVID-19.

These stories and research inspired us to hold a virtual panel on the subject as part of our annual National Whistleblower Day celebration. The panel focused on how whistleblowers are helping ensure transparency and accountability in connection with the COVID-19 crisis and suggest actions that can be taken to give whistleblowers the protections and support they need. It featured Jhonna Porter, a registered nurse and coronavirus health care whistleblower, as well as Inspector General Michael Horowitz and Special Counsel Henry Kerner.



**JHONNA PORTER**  
**COVID WHISTLEBLOWER**

Throughout the pandemic, we've supported various initiatives in Congress including the Covid-19 Whistleblower Protection Act and the Covid-19 Fraud Prevention Act. Additionally, in a guidance memo to Congress, we outlined reforms needed to the Occupational Safety and Health Act (OSHA) whistleblower protection legislation to protect those bringing forward evidence of workplace safety violations. OSHA whistleblower laws fail to include many of the crucial protections that safeguard other whistleblowers.

And as we enter the second year of the global pandemic, we continue to look for opportunities to strengthen Covid-19 whistleblower protections. Following the U.S. presidential election results, **our Executive Director identified multiple significant new opportunities for combating Covid-19 under the new administration along several key lines:**

- 1. Protecting frontline workers;**
- 2. Safeguarding public health and patient safety; and**
- 3. Preventing fraudulent diversion of economic recovery funds.**



# CLIMATE CAMPAIGN

## A YEAR IN REVIEW

NWC launched its climate campaign in January 2020 centered around one central concept: **that a vast percentage of the fossil fuel industry is not willing or able to make a shift toward decarbonization at the pace and scale needed to meet Paris targets or otherwise meaningfully contribute to climate stabilization.** The industry's business model and past practices suggested that the continued profitability of these companies, and ability to attract investment and policy support, would be achieved in significant part through fraud, bribery and other corruption.

We believed that the industrial logging industry, another key driver of climate change, had a similar problem. With investors and consumers demanding that timber be sustainably harvested, the logging companies and their supply chains need to conceal their environmental and climate destruction to maintain profitability.

**We are pleased to share that the campaign's first year has validated our assumptions.** It was an eventful first year for the campaign. Through our extensive research, writing, public speaking and other educational outreach, as well as engagement with whistleblowers and partners in nonprofits, academia, the private sector and government, we have gathered a large body of intelligence suggesting pervasive climate-related corruption and highlighting specific industry activities warranting further investigation. Most importantly, we have connected with, and provided legal assistance to, five confidential whistleblowers with evidence of corruption in our three targeted industry sectors.

We also worked with a range of U.S. lawmakers on both sides of the aisle to introduce & build support for whistleblower reward legislation that would help address climate-related corruption - like S. 2529 to close loopholes in the Dodd-Frank Act.

We're optimistic that several of these bills will be reintroduced and reach the finish line in 2021. We have also established a number of new partnerships focused on whistleblower assistance and policy advocacy, including ones with Climate Nexus, Duke University, and SkyTruth.

We performed extensive work this year to expand the volume and materials on the NWC website to make it the go-to destination for potential climate whistleblowers.

We rolled out dozens of pages and blogs centered around opportunities for whistleblowers in the oil and gas, coal, and industrial logging industries. These resources can be found in our new [Climate Center](#).

One of these resources is [\*Exposing a Ticking Time Bomb\*](#), an in-depth NWC report documenting the signs of climate-risk fraud in the fossil fuel industry, how this fraud threatens the world's financial system and ways that whistleblowers can help.





Senator Elizabeth Warren referenced the report multiple times in her August letter to the SEC calling for stronger disclosure rules. Since July, we have been using the report to educate potential whistleblowers as well as initiate partnership conversations with organizations concerned about climate risk.

At our annual National Whistleblower Day celebration, we featured a virtual panel on the role of whistleblowers in ensuring timely and accurate disclosures of climate risks building upon several conclusions from our report, released a few days ahead of the event. Speakers included CFTC Commissioner Dan Berkovitz, Ceres Senior Program Director Veena Ramani, and IEEFA Financial Analyst Kathy Hipple.

This year, we also launched the Climate Risk Disclosure Lab with the *Nicholas Institute for Environmental Policy Solutions* at Duke University and the *Global Financial Markets Center* at Duke Law School.

In October, the Lab released its first report, *Climate Risk Disclosures and Practices*. Through this report and other work that we are undertaking through the Lab, we are helping to shape the rules governing how companies disclose climate risks and ensuring an important role for whistleblowers in enforcing these rules. The Lab has attracted prominent committee members like Sarah Bloom Raskin, a former Deputy Secretary of the Treasury.

As we enter 2021, we anticipate an increasing demand for information and assistance from our partners in climate advocacy, regulatory agencies, and (most importantly) the corporate world where most potential climate corruption whistleblowers reside. **NWC is poised and ready to seize this moment.**

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**Whistleblowers have long played a central role in exposing frauds and ensuring successful government investigations and prosecutions.** In the tobacco, banking and health care sectors, for example, they are credited with producing major legal precedents and industry reforms. Their contributions to global efforts to combat private sector corruption have dramatically increased since U.S. whistleblower laws were first modernized with the 1986 amendments to the False Claims Act.

More than US\$2 billion in monetary sanctions have been imposed, and more than US\$500 million in whistleblower awards paid under the Dodd-Frank Act alone. Prosecutors and regulators of all political affiliations strongly support these laws because they know that without whistleblowers, a large percentage of law enforcement actions would be unsuccessful.

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**EXPOSING A TICKING  
TIME BOMB: NWC REPORT**



# GOING GLOBAL

BETTER SUPPORTING WHISTLE-  
BLOWERS AROUND THE WORLD

For the last several years, NWC has been reckoning with the fact that despite the word “National” in our name, all of the societal problems we address are global. With that in mind, **2020 marked a major expansion of our mission and programs.** While we have long educated whistleblowers around the world on U.S. laws and protections, given their strong transnational applications, this year we went further: we launched a new Europe-focused campaign, established multiple international partnerships, and spoke at a range of international events.

## CAMPAIGN TO STRENGTHEN EUROPEAN WHISTLEBLOWER LAWS

In April 2019, the European Parliament passed a landmark Whistleblowing Directive instructing European Union (EU) countries to enact greater protections by shielding whistleblowers from retaliation and creating “safe channels” to report violations of the law. This Directive is the first effort to create a common minimum whistleblower standard across the EU. Now, all EU states are required to transpose the Whistleblowing Directive into their national law by December 17, 2021.

The National Whistleblower Center has been closely involved in advocating for the existence and implementation of the Whistleblowing Directive. The initial drafts proposed in 2018 would have led to completely ineffective protections, requiring whistleblowers to report internally and thus forcing the sharing of incriminating information with those perpetrating crimes.

Fortunately, the final directive contains no tax loophole & ensures that whistleblowers are permitted to report wrongdoing to outside authorities. However, there is still ambiguity in the requirements that could leave whistleblowers unprotected.

To ensure each EU country’s whistleblower law is robust and effective, in September 2020, NWC partnered with other advocacy groups as well as law firms to write to each member country providing guidance and recommendations. We continue to advocate to ensure that the EU countries adopt the strongest possible whistleblower protections into law. You can learn more on our campaign page.

Of course, European whistleblowers need a safe place to report wrongdoing while efforts are underway to update and strengthen Europe’s laws. Thus, we are educating company insiders and others in the EU about how they can confidentially disclose information about illegal activities to authorities and qualify for financial awards under U.S. laws.

## INTERNATIONAL PARTNERSHIPS

### ITAC

In January, we established an anti-corruption research partnership with the Iniciativa de Transparencia y Anticorrupción (Transparency and Anti-Corruption Initiative, or ITAC) of the Monterrey Institute of Technology and Higher Education (Monterrey Tec). Based in Monterrey and with 31 campuses across Mexico, Monterrey Tec is Mexico’s largest private university. Although the in-person training events that we planned with ITAC needed to be cancelled due to Covid-19, we teamed up with ITAC to organize a virtual panel at the First International Forum on Justice Innovation in November.

Such a respected institution will play a critical role in identifying and disseminating strategies for strengthening whistleblower protections and incentives in order to fight corruption in Mexico, the United States and beyond.

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We are particularly interested in applying lessons learned from U.S. whistleblower laws to help secure protections for whistleblowers in Mexico. With this partnership and university advisors like Professor Ángeles, NWC will be well-positioned to respond effectively to the increasingly transnational nature of crime and corruption.

### WHISTLEBLOWING INTERNATIONAL

To educate and provide guidance on needed whistleblower provisions within the EU, NWC partnered with Munich-based Whistleblowing International (WI), an independent non-profit organization that supports and defends whistleblowers, investigates corruption cases, advocates for stronger whistleblower rights, and works to hold criminals to account.

The two organizations share several key goals, including:

1. Promoting U.S. whistleblower protections and reward laws within the European Union and explain how they can be duplicated;
2. Establishing a whistleblower reward system within the European Union modelled on U.S. reward laws; and
3. Educating European whistleblowers interested in reporting violations.

### EUROPEAN CENTER FOR WHISTLEBLOWER RIGHTS

In recognition of International Anti-Corruption Day on December 9<sup>th</sup>, NWC and Whistleblowing International joined forces to launch the first organization with a mission of securing stronger whistleblower laws in Europe and assisting European whistleblowers: the European Center for Whistleblower Rights.

The Center is dedicated to protecting whistleblowers from retaliation and ensuring that financial crimes, hidden releases of toxic pollution and other wrongdoing exposed by whistleblowers are fully investigated and remedied. A key focus will be threats to public health and the economy caused by corruption in the industries driving climate change.

### INTERNATIONAL EVENTS

With Covid-19, events looked radically different in 2020. However, NWC still had the chance to speak to potential whistleblowers, supporters, and policymakers around the world. Below are some key highlights from the year.

**MARCH:** NWC Executive Director, John Kostyack, presented at the AELERT-INECE Conference in Adelaide, Australia on how whistleblowers can assist law enforcement in targeting and combatting environmental crimes.

**SEPTEMBER:** NWC Executive Director, John Kostyack, and Board Chair, Stephen Kohn, led a successful webinar with WWF's Targeting Natural Resource Corruption program where they provided whistleblowing principles and strategies to conservationists and anti-corruption practitioners from 45 countries. A key focus of this presentation was empowering whistleblowers to help tackle the illegal timber trade as well as illegal fishing and wildlife trafficking.

**NOVEMBER:** NWC Executive Director, John Kostyack, gave a presentation entitled "Enlisting Whistleblowers in the Fight Against Corruption" at the First International Forum on Justice Innovation, a three-day conference hosted by *México Evalúa* and other organizations, featuring 60 anti-corruption experts from around the world.





# STATE OF U.S. ADVOCACY



The National Whistleblower Center wages advocacy campaigns focused on protecting people and the environment from corruption – with whistleblowers serving in a critical leadership role. This year, those campaigns spanned agencies and topics. **Below, we highlight some of our key campaigns from 2020.**

## SECURITIES & EXCHANGE COMMISSION

### 1. WHISTLEBLOWER PROGRAM VOTE

In September, NWC was victorious in our two-year campaign to defeat two harmful changes to the SEC's whistleblower program, one limiting the size of awards and the other erecting arbitrary barriers to qualifying as a protected whistleblower. After a series of meetings with SEC commissioners, roughly two dozen detailed comment letters and 110,000 letters from our supporters, we persuaded the SEC to eliminate both of these elements of the proposal and won a new provision assuring whistleblowers with relatively small cases that they will receive the maximum allowable financial reward.

Unfortunately, a damaging provision was left in the final rule that reduces the ability of SEC whistleblowers to be credited for successes with so-called related actions by agencies other than the SEC. We are cautiously optimistic that, working with Congressional allies, we will soon get this reversed in Dodd-Frank Act strengthening amendments.

### 2. RESOURCE PAYMENT RULE

This year, NWC has been closely watching a proposed rule intended to increase transparency in the fossil fuel industry that has serious implications for climate risk disclosure. The 2010 Dodd-Frank Act included a provision - Section 1504 specifically - requiring companies to disclose payments given to foreign governments in exchange for developing their oil, gas or minerals.

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**Significantly, every Commissioner, regardless of political party, strongly praised the SEC's Dodd-Frank Act's whistleblower law**, recognizing the importance of paying awards to whistleblowers and the invaluable contributions whistleblowers make to protecting investors.

The unanimity of support for the basic principles underlying the whistleblower reward law sends a powerful message to Wall Street. Despite their best efforts to undermine whistleblower protections, the worst features contained in the proposed amendments were not implemented.

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**STEPHEN KOHN**  
NWC BOARD CHAIR

Known as the Cardin-Lugar amendment, Section 1504 directed the SEC to issue a rule requiring companies to detail their payments in annual reports posted on the SEC website along with other public filings.

However, the fossil fuel industry has waged a multi-year campaign to derail meaningful SEC action and this month it finally prevailed. On December 16, on a 3-2 vote, the SEC issued a final rule allowing companies to conceal their resource extraction payments, authorizing them to aggregate them in their disclosures rather requiring project-by-project breakdowns.

This rule contravenes Congress's intent and represents a major setback in efforts to address corruption in the fossil fuel industry. The National Whistleblower Center is committed to working with anti-corruption allies to reverse it in 2021.

## DEPARTMENT OF LABOR

In late June, the Department of Labor (DOL) issued a proposed regulation for public comment aimed at discouraging sustainable investing in retirement plans governed by the Employee Retirement Income Security Act of 1974 ("ERISA"). DOL wants to limit the ability of plan managers to consider environmental, social, and governance ("ESG") risk factors in making investments and their ability to offer ESG funds.

DOL's charge under ERISA is to provide a secure retirement for American workers and retirees, but the proposed rule does the opposite. If adopted, the DOL's proposal has the potential to expose individual retirement accounts and pension funds to hidden financial risks from climate-related impacts.


Moreover, it could provide a green light to companies with weak ESG records to conceal these risks and justify their concealment by claiming they are not material to shareholder value. Whistleblowers will be needed to expose these financial risks and to highlight why they must be considered by plan managers to protect retirement assets.

## CONGRESS

The 116<sup>th</sup> Congress saw numerous developments related to whistleblowers. These included the introduction of NWC-supported bills such as the Covid-19 Whistleblower Protection Act, Securing Inspector General Independence Act, Climate Risk Disclosure Act, and the Whistleblower Program Improvements Act. Additionally, during National Whistleblower Day, Senator Grassley announced he would be introducing new legislation to strengthen the False Claims Act. One of the main reforms would be limiting the Justice Department's authority to seek dismissals of whistleblower *qui tam* FCA cases, particularly after the controversial 2018 Granston memo.

NWC also continues to advocate for a range of reforms before Congress that include passing H.R. 864 to combat global wildlife trafficking and illegally harvested timber and fisheries, strengthening the IRS Whistleblower Program, guaranteeing court access for federal whistleblowers, and expanding protections for whistleblowers under the Occupational Health and Safety Act.





NATIONAL WHISTLEBLOWERS  
2019

# CELEBRATING WHISTLEBLOWERS

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## NWD 2020

This year marked the 242<sup>nd</sup> anniversary of America's first whistleblower law, passed unanimously on July 30th, 1778 during the height of the American Revolution. The law was passed after ten whistleblowers reported wrongdoing and abuses committed by a superior officer in the Continental Navy.

To honor this history, our annual National Whistleblower Day conference went virtual this July, stimulating an important conversation about the politics and policies surrounding whistleblowing among key thought leaders. This year's event focused on the role of whistleblowers in addressing crises like Covid-19, climate change, and racial injustice.

One of our keynote speakers, Senator Chuck Grassley, used the conference to announce his plans for enacting important amendments to strengthen the False Claims Act. We are working with his office and other Congressional allies to enact these amendments, as well as critical updates to the whistleblower provisions of the Dodd-Frank Act.

## TIME 100'S WHISTLEBLOWERS

NWC congratulates whistleblowers Sherron Watkins, Coleen Rowley and Cynthia Cooper for their inclusion in TIME's 100 Women of the Year for March's Celebration of Women, honoring 100 influential women of the last 100 years.

Coleen Rowley, a former FBI Special Agent, was recognized for calling attention to gaps in the FBI's preparedness for terrorist attacks prior to the 9/11 attacks. Cynthia Cooper unearthed a \$3.8 billion fraud at the WorldCom telecommunications company, at the time the largest accounting fraud in history. Sherron Watkins is recognized for exposing corporate misconduct at Enron.



## HOWARD WILKINSON'S ALLARD PRIZE

In October, Danske Bank whistleblower Howard Wilkinson was named the co-winner of the Allard Prize for International Integrity. The Allard Prize launched in 2012 to honor the contributions of individuals, movements, and organizations in the fight against corruption and the protection of human rights. It is awarded biennially and is one of the world's largest anti-corruption prizes at \$100,000.

Wilkinson is a former employee of Danske Bank who was working in the Baltic Trading Unit when he uncovered one of the largest money laundering schemes in history, with an estimated \$234 billion dollars reportedly flowing from Russia and other former Soviet states, through Estonia and to major banks such as Deutsche Bank, Bank of America, and JP Morgan. The resulting scandal led to investigations from numerous European law enforcement agencies as well as numerous U.S. agencies.

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# NATIONAL WHISTLEBLOWER CENTER

## OFFICERS & DIRECTORS

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Dr. Gina Green and Dr. Frederic Whitehurst, Board Co-Chairs  
Michael D. Kohn, President of the Board of Directors  
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Mary Jane Wilmoth, Treasurer, Secretary, and Director  
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Scott Hajost, Senior Wildlife Policy Advisor  
Joan Moody, Senior Communications Advisor  
Dr. Jacob Young, Senior Advisor on Cybersecurity

*Many thanks to our past litigation fellow, Daniel Shim,  
and our intern, Jordan Pilant.*

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## WHO WE ARE

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.

Please support our work by making a tax-deductible donation today.

[CLICK HERE TO DONATE](#)

## FIND US ONLINE

[www.whistleblowers.org](http://www.whistleblowers.org)

Twitter: [@StopFraud](#) | Facebook: [@NationalWhistleblowerCenter](#)

YouTube: <http://www.bit.ly/NWCChannel>

