

SPECIAL REPORT: THE CRITICAL ROLE OF WHISTLEBLOWERS IN ENFORCING WILDLIFE PROTECTION LAWS

*Whistleblower Contributions to Enforcing Wildlife
Protection Laws and the Urgent Need to Enact HR
-----.*

September 14, 2019

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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. Since 1984, these departments were responsible for paying rewards to whistleblowers whose information results in the successful prosecution of a wildlife trafficking case covering plants, fish and animals.

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 departments had taken no steps to reward or protect wildlife whistleblowers. The NWC was compelled to file a lawsuit against the U.S. Department of Interior, Fish and Wildlife Service (FWS) to compel the disclosure of their records.

As a result of the lawsuit the FWS released to the NWC in four its whistleblower case files in separate productions in October 2017, January 2018, and July 2018.¹ These documents cover 66 cases over a 14-year time period (2003 – 2016). All of the FOIA documents pertaining to cases can be accessed online [here](#), under the section “FWS responses to NWC FOIA requests on the Lacey Act Reward Fund.”

NWC reviewed these documents in order to determine the role whistleblowers have played in enforcing wildlife protection laws and to shed light on the current implementation of wildlife whistleblower reward programs. Based on this review it is clear that there is an urgent need for Congress to enact legislation modernizing the wildlife whistleblower laws consistent with reward laws in other programs.

PART I

FWS FOIA Documents Confirm Key Role of Whistleblowers



Those that enforce the laws understand: wildlife needs whistleblowers.

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. In short, wildlife needs whistleblowers.

There is no better window into the critical role of whistleblowers than through the words of the agents who worked directly with them. When NWC filed these FOIA requests, hundreds of pages of previously unseen case files from FWS provided that window. The insights from the case reports are astounding. Not only do law enforcement officials often praise whistleblowers for their help, they further assert that whistleblowers saved time and money in every investigation.

694 pages
77 whistleblowers
66 cases

**Whistleblowers are a critical source
for detecting wildlife crime.**

In the words of FWS law enforcement agents:

“The area where [the crime occurred] was very remote and contained more than one thousand (1000) acres of land... Using the specific information [the whistleblower] provided, [agents] were able to investigate and recover one (1) wolf carcass which had recently been killed.”

– FWS Case "Horse Bait Wolf," p.0413

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

– FWS Case "Sheldrake Game Ranch Leopards," p. 0542

“Without [the whistleblower’s] 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.”

– FWS Case "Lochridge Ranch," p. 0104

*Note: the source documents for all quotes in this section can be found at:
<https://www.kkc.com/handbook/wildlife-trafficking>, organized by year.*

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



In both FWS' and 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.²

– Chair of the SEC, Mary Jo White



In the words of FWS law enforcement agents:

The whistleblower “provided detailed maps showing where evidence would be located; provided information on guard dogs to ensure the safety of the investigation agents; and continued to provide agents with information throughout the investigation.”

– FWS Prosecution [Redacted], p. 0475

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.”

– FWS Case “Operation Angelfish,” p. 0203

The whistleblower “provided the investigators with important information about [redacted], his character and personal characteristics, and he recorded telephone calls with [redacted]... to further this investigation and aid in the prosecution.”

– FWS Case [Redacted], p. 0427

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

In the words of FWS law enforcement agents:

Whistleblowers “account for a large part of the success of an effective wildlife law enforcement program and we should take the opportunities we can as an agency to reward these people.”

– FWS Case “Prairie Harvest [Redacted],” p. 0050

The whistleblower “willingly 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 Prosecution [Redacted], p. 0131

The whistleblower’s “assistance was of such significance that it is highly unlikely this case would have been successful without [it].”

– FWS Prosecution [Redacted], p. 0423

“The evidence, information, and personal contact with [the defendant] provided by [the whistleblower] in only seven months – might well have taken the service years, if ever, to obtain at the same level of quality.”

– FWS Case “Iowa Army Ammo Plant,” p. 0021

Whistleblowers save the government countless 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 as 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.³



The False Claims Act and its [whistleblower] provisions remain the government's most effective civil tool in protecting vital government programs from fraud . . . The dollars involved are staggering.⁴

— Former Associate Attorney General Bill Baer



In the words of FWS law enforcement agents:

“[W]ithout the assistance of [the whistleblower], it could have easily taken an additional two years to infiltrate the illegal industry, if we were able to do it at all. A conservative estimate of the cost that would have been incurred without the assistance of [the whistleblower] would be in excess of \$90,000.”

– FWS Case “Operation Board,” p. 0345

The whistleblower “provided crucial information resulting in saving the U.S. Fish and Wildlife Service thousands of dollars and investigator hours.”

– FWS Case “Asian Elephant Tusk and QT Aquarium,” p. 0630

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

– FWS Case “Iowa Army Ammo Plant,” p. 0021

Whistleblowers are incentivized by monetary rewards.

Monetary rewards incentivize whistleblowers to come forward with information. This not only compensates the individual for their assistance, but rewards the individual for the quality of the information given to law enforcement, and recognizes the risks faced by those choosing to bravely blow the whistle.



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.⁵

— U.S. Attorney Brian Albritton
U.S. v. STX Pan Ocean Co., Ltd.



In the words of FWS law enforcement agents:

“In order to complete the mission and purpose of the USFWS, Office of Law Enforcement, it is extremely important and critical to provide a monetary award to the individuals who come forward and provide information to investigators.”

– FWS Prosecution [Redacted], p. 0132

“Rewards expand the informant reporting network critical to law enforcement success.”

– FWS Prosecution [Redacted], p. 0199

The whistleblower “said he heard the radio announcement and the reward being offered... [and] decided to call the Idaho Department of Fish and Game [IDFG]... [he] decided the monetary reward was worth the risk.”

– FWS Prosecution [Redacted], p. 0064

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.⁶

– 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.’”

– FWS Case “Operation Board,” p. 0346

“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.”

– FWS Case “Operation Angelfish,” p. 0203

“The risk included, but was not limited to, being banished by his peers... and also being known as a rat (informant) in the community.”

– FWS Prosecution [Redacted], p 0065

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

– FWS Case “Oak Creek Elk Ranch,” p. 0188

Wildlife whistleblowers and law enforcement work hand-in-hand with nonprofit organizations.

Non-profit and other civil society organizations can serve as an important conduit as well as a source of assistance and expertise for both law enforcement and those with information on illegal wildlife trafficking. The collaboration between all stakeholders in the fight against this destructive practice is crucial to stopping the extinction crisis.



“Corruption is an insidious plague that has a wide range of corrosive side effects on societies. It undermines democracy and rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism, and other threats to human security to flourish..⁷

— UN Secretary General Kofi Annan, in the official introduction to the United Nations Convention Against Corruption (2003)



In the words of FWS law enforcement agents:

“Confirmation of the missing whooping crane was only received after FWS Special Agent [redacted], acting upon the information received from [the whistleblower], contacted a volunteer from the International Crane Foundation (ICF).”

– FWS Case "Knox County Whooping Crane," p. 0575

“A portion of the fine (\$10,000) shall be paid to the Bear Education and Restoration Group.”

– FWS Prosecution [Redacted], p. 0270

“The above requested amounts are going to be matched with the same amount from the non-government organization the ‘Defenders of Wildlife.’”

– FWS Prosecution [Redacted], p. 0061

PART II

Analysis of GAO Audit with FWS Reward Cases Reveals Clear Next Steps Forward





The wildlife whistleblower reward program demonstrates enormous potential to enhance the effectiveness of law enforcement.

The audit of the whistleblower reward programs in the wildlife arena demonstrate that the programs current laws are insufficient to protect wildlife as intended by Congress. Three federal departments with existing or proven concern that the existing policies were woefully insufficient. In response to the FOIA requests, the FWS conceded that they had no "proactive" whistleblower program.⁸ Instead, whistleblower rewards were given on a random, agent-initiated, "thank you" style basis without utilizing the best demonstrated by other U.S. agencies.⁹ The documents demonstrate the

importance of 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 U.S. many thousands of dollars in prosecutorial and investigatory resources.¹⁰ There was no program to incentivize whistleblowers or utilize the payments as leverage to ramp-up the program to increase the number of informants who voluntarily come forward with information over time.

Yet at the same time, the record demonstrates the possibilities of a well-functioning

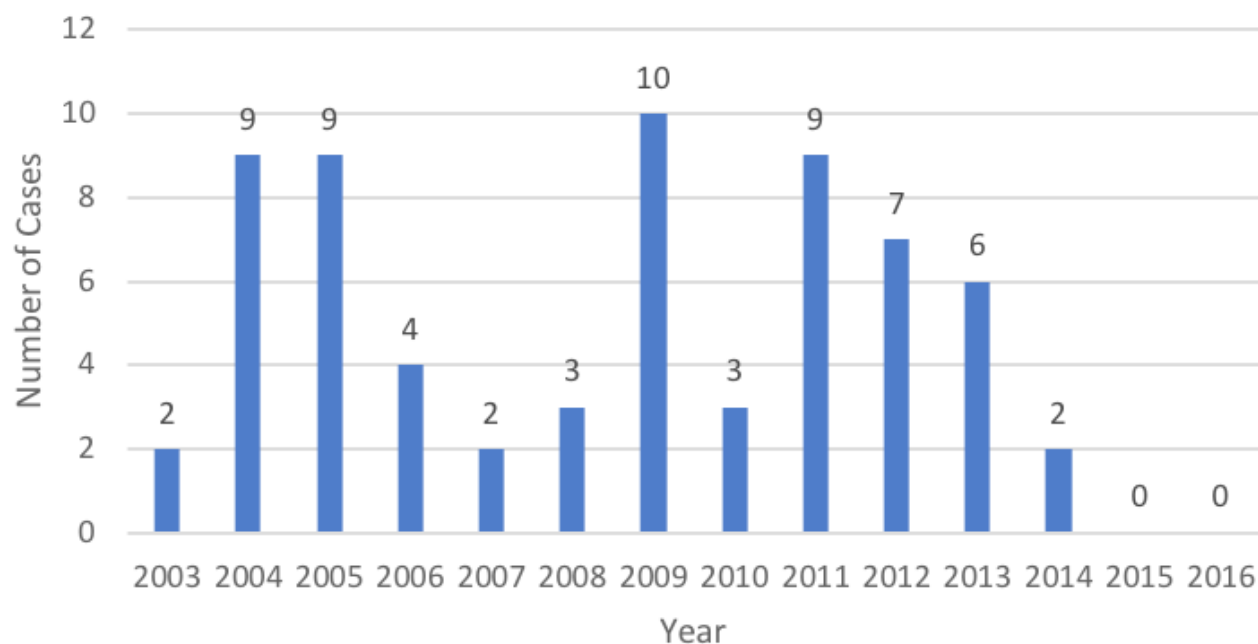
wildlife whistleblower program. **Whistleblower rewards have the potential to incentivize those with information to come forward, and in doing so, assist law enforcement with the difficult role of enforcing the laws against illegal wildlife trafficking and destruction.** In just the limited number of cases provided by the FWS, successful prosecutions made possible by whistleblowers resulted in:

- \$2,946,655 Total Fines
- \$1,484,638 Total Restitution
- 207 Individuals Held Accountable

The FOIA documents are a window to how effective a well managed whistleblower program could be.

fig. 1

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



An effective reward policy must have codified and specific factors for whistleblower rewards.

Records show that in the handful of cases for which rewards have been paid by the FWS there is little consistency with reward amounts. This problem was reviewed by the Government Accountability Office, which recommended specific changes to the rewards policy.

GAO-18-279: Combatting Wildlife Traffick-ing: Opportunities Exist to Improve the Use of Financial Rewards, Recommendation 3, re-flects this need for “specify[ing] factors... to consider.”

FWS has concurred with this recommendation, noting that “it would be good to devel-op guidance on proposed reward amounts” and it is “updating its reward policy to clearly specify the factors that staff may use when developing proposed reward amounts.”

Building a rewards policy with factors which are specific, uniform, and codified will pro-vide clarity to both whistleblowers and the government entities working directly on these cases as to the role played by those who blow the whistle in successful law enforcement ef-forts.

Examples of inconsistent rewards as a result of a lack of codified and specific factors to determine awards.

In a case that paid a \$40,000 reward, the whistleblower informed law enforcement of the killing of Golden and Bald eagles for their feathers in Native American Pow Wows. The whistleblower helped apprehend 29 individuals in 8 states. It was estimated that four of the defendants had killed 80-100 eagles per year for four years. The subsequent searches allowed law enforcement to recover 300 eagles and 300 migratory birds from dealers. The agents and the whistleblower worked together for two and a half years.

- Page 0316

A similar case occurred in 2012 when an informant provided information about the illegal taking and commercializing of eagle and migratory birds by Native Americans in Montana. While the informant did not work as extensively with law enforcement, the resulting savings to the US government were very similar and the four defendants paid over \$100,000 in fines. The whistleblower was only paid \$3,500, or 3.5% of the total fines.

- Page 0510

In a 2004 case, a whistleblower came to law enforcement with information that a cruise company was allowing passengers to enter protected habitat lands without a Special Use Permit. By traveling on the land, the passengers were harassing the endangered Stellar Sea Lions. The case resolved with a settlement between the cruise company and law enforcement of \$15,000. The whistleblower was paid \$500, or 3% of the total fines.

- Page 0015

In 2013, a whistleblower called law enforcement to inform them of the identity of someone who had shot a Bald Eagle. She was paid \$500.

- Page 0662

In all of these cases the amount of rewards are radically deficient. Rewards paid in successful whistleblower programs, including those governing securities and commodity frauds, customs frauds, false claims in federal contracting programs, tax and foreign bribery are all far larger than those paid by the FWS. Unlike the FWS program, which has operated in near-secrecy, these other federal programs widely publicize their rewards, and use the payment of larger rewards to incentivize other whistleblowers to take the risk of stepping forward with information.

An outreach plan which communicates the wildlife whistleblower program to the public is a crucial piece of the program's success.

Those with information can only come forward - blow the whistle - if they are aware that the avenue to do so exists. It is crucial that a communication plan to potential whistleblowers has both breadth and depth to ensure that no brave whistleblower falls through the cracks. The consequences of this failing are clear: despite millions of dollars in appropriations, and decades having passed, laws enacted by Congress continue to see minimal and limited enforcement, while the vulnerable species continue to march toward extinction.

[GAO-18-279: Combatting Wildlife Trafficking: Opportunities Exist to Improve the Use of Financial Rewards](#), Recommendations 4 and 5: emphasizes the need for "a plan" to "communicate to the public."

Both FWS and NOAA have released statements that each "concurs with this recommendation", and NOAA has already implemented this recommendation.

Here's an example of a quite minimal outreach campaign that worked:

"On October 18, 2009, a dead Grizzly bear was found on the Blackfeet Indian Reservation in Montana... With no leads, the Service put out a \$4,000 Reward for Information and distributed flyers throughout the community. Ms. [redacted] came forward and provided critical information including the identity of the suspect... Ms. [redacted] was threatened by the suspect after she provided information to the case agents. Despite the threat of possible harm, she continued to meet with the case agent to provide information 'because it was the right thing to do'... No other persons came forward in the investigation to provide information. According to the case agent, 'if Ms. [redacted] had not come forward, the investigation may never have reached a successful conclusion."

Other successful reward programs actively publicize their programs. Both the SEC and the Commodity Futures Trading Commission have extremely well organized web sites dedicated to promoting their whistleblower reward programs. In addition they issue nation-wide press releases each time they pay a reward. For years the Department of Justice has issued nation-wide press statements on all of their successful whistleblower reward cases under the False Claims Act. The FOIA documents released by the FWS indicate that the Service has never issued a public statement calling attention to the role of whistleblowers. The other agencies with responsibility to pay rewards have likewise taken no action to pay a reward, let alone to publicize the contributions of whistleblowers.

Ensuring efficiency: rewards are a useful law enforcement tool.

Financial rewards for whistleblowers have been law in the U.S. since President Lincoln, and should continue to be expanded and utilized wherever possible to assist law enforcement capacity.

Whistleblower rewards have been proven to function as a funds generator for agencies which effectively utilize these programs. A data-driven government must assess and implement effective and fiscally effective programs; whistleblower rewards are a core component.

Whistleblower programs are also useful for building up democratic institutions. Such programs require community members to assist law enforcement; to trust and respect these mechanisms. An effective whistleblower reward program will utilize stakeholders in the community to ensure that high-quality information on crimes such as fraud, corruption, and more are caught, and criminals are held accountable.

Rewards expand the informant reporting network critical to law enforcement success.

The failure of the Departments of Agriculture, Interior, Commerce and Treasury to implement whistleblower reward programs is highlighted when these programs are compared with modern reward laws:

2015-16 - RECOVERIES UNDER WHISTLEBLOWER LAWS

DEPARTMENT	FINES AND SACNTIONS OBTAINED	REWARDS PAID
Treasury (Wildlife)	-0-	-0-
Interior (FWS/CITES Violations)	-0-	-0-
NOAA (Fish/IUU Fishing)	-0-	-0-
Agriculture (Lumber/Plants)	-0-	-0-
SEC		
CFTC		
DOJ		
IRS		

Current FWS wildlife whistleblower rewards are often too low to incentivize informants to come forward with high-quality information.

While whistleblowers who work with other government agencies such as the SEC and the IRS on non-wildlife related cases can be awarded between 10% and up to 30% for their bravery, wildlife whistleblowers are often given only token amounts. Here are three examples:

Operation Silver Boy: In 2013, three whistleblowers helped law enforcement halt an illegal white-tailed deer breeding and trafficking business in Texas. Law enforcement was able to apprehend six individuals and the combined fines to these individuals were in excess of \$2,000,000. Two whistleblowers received rewards of \$1,000 and a third received \$2,500. These rewards are at most 0.225% of the money recovered.

Operation Asian Elephant Tusk: In 2013, a whistleblower assisted law enforcement agents in two cases which resulted in the forfeiture of assets valued at \$197,000. The whistleblower received a reward of \$7,000, or 3.56% of the total money recovered.

Operation Plantando Las Semillas: In 2012, a whistleblower helped identify an international jaguar trafficking operation at the southern border of Texas. The informant was able to assist law enforcement in the recovery of fourteen jaguars, with a total recovery of \$154,000. Despite this, the whistleblower was awarded \$8,500, which constitutes 5.5% of total money recovered.

This problem exemplifies the inter-connected nature of the current recommendations of the GAO audit: these low rewards may be attenuated to the lack of specified and codified rewards, as well as to the lack of widespread internal understanding of the use of whistleblowers, or even the need for a uniform record-keeping system to spot such problems as they occur. Regardless of the cause, these cases all demonstrate the same issue: When wildlife whistleblowers are not sufficiently valued by the agencies in charge of these programs, it in turn harms the efficiency of the program itself. Implementation of the GAO's recommendations will result in real reform and improved results, benefiting all stakeholders in the process.

Non-profit and non-governmental organizations should be viewed as valued partners in this endeavor.

FWS itself states that the agency “often collaborates with... non-government organizations assisting with an investigation.”

Yet, the FWS has not recognized the role that NGOs play in facilitating and helping whistleblowers, especially international whistleblowers, and therefore has not fully integrated collaboration with NGOs into its program. First, frequent collaboration with NGOs was not noted in the documentation written by agents on-the-ground, as claimed by FWS leadership to the GAO. Second, outreach on a non-case specific basis by FWS appears wholly inactive. This hinders the program’s potential for growth. Third and finally, an arbitrary FWS policy currently prohibits rewards directly to NGOs, even though such actions are explicitly permitted under the Lacey and Endangered Species Acts. This policy directly contradicts the requirements of these laws and conflicts with the practical reality of how international whistleblowers can assist U.S. law enforcement.

Restitution from whistleblower cases has been awarded to:

- Idaho Fish and Game
- Oklahoma Department of Wildlife Conservation
- National Wetlands Fund
- Raptor Recovery Nebraska, Inc.
- Arizona Game and Fish Department Theft Prevention Fund
- Montana Fish, Wildlife, and Parks
- Government for Habitat Vonservation
- African Elephant Conservation Fund
- Bear Education and Restoration Group
- Idaho Department of Fish
- Game Clearwater Enforcement Trust Fund
- States: TN, AL, AK
- National Fish and Wildlife Foundation
- Washington Department of Fish
- Wildlife Endangered Species Recovery Program
- International Crane Foundation
- National Fish and Wildlife Eagle Fund
- North Dakota Game and Fish Department
- Standing Rock Game and Fish Department

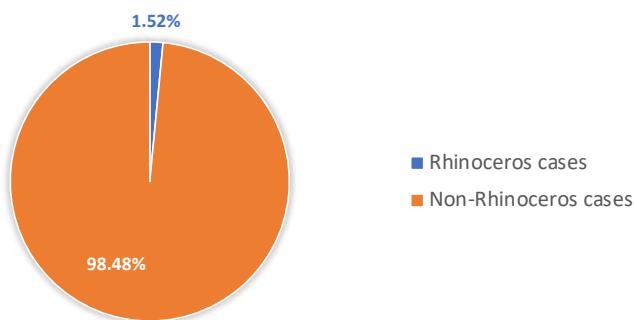
Wildlife whistleblower programs should more proactively prioritize critically endangered species.

Two big species, too little focus: *Rhinoceros*

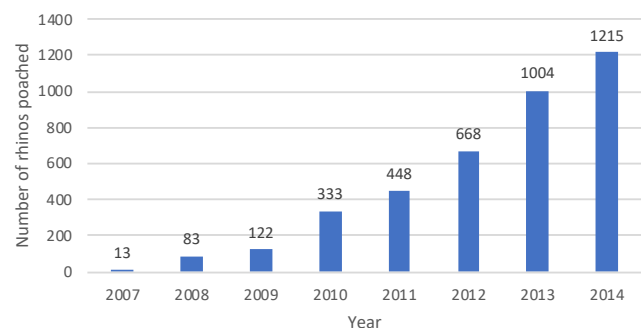
Out of 66 cases and 77 whistleblowers, only a single whistleblower case related to the poaching of rhinoceroses and the illegal trafficking of rhinoceros horn. The FWS has not effectively utilized the reward program to protect rhinoceroses and police the illegal rhinoceros horn trade. By implementing strong whistleblower provisions, the FWS will be better situated to pursue those who decimate rhinoceros populations worldwide.

Between 2007 to 2014, South African rhinoceros poaching increased more than 9,300%. In the same time period, rhino populations worldwide have been decimated. For example, the last male northern white rhinoceros in the world died in 2018, bringing the subspecies to the brink of extinction.

RHINOCEROS CASES IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE (2003-2016)



Number of rhinoceroses poached in South Africa 2007-2014



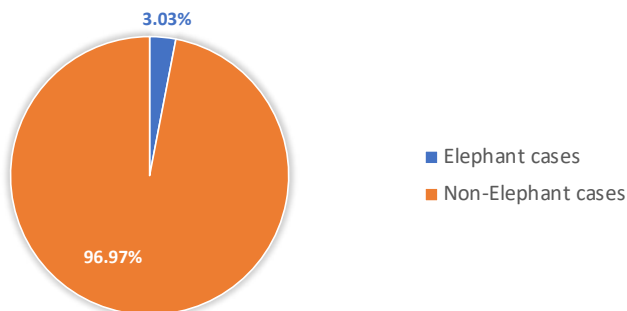
Two big species, too little focus: *Elephants*

Based on the FWS documentation, only two cases of illegal poaching of elephants and elephant ivory trafficking were successfully prosecuted as a result of the whistleblower reward program.

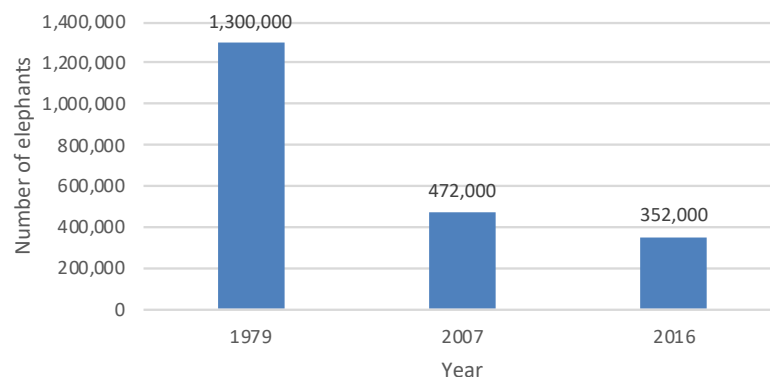
of decline is attributed to the poaching of elephants for their ivory, and the illegal ivory trade is responsible for a minimum of 27,000 elephant deaths a year.

The population of African elephants specifically suffers and continues to steadily decline despite the species' CITES Appendix-I status. The Great Elephant Census of 2016 estimated that between 1979 and 2016 the African elephant population has decreased from 1.3 million to only 352,000. The primary cause

ELEPHANT CASES IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE (2003-2016)



African elephant population estimates for years 1979, 2007, and 2016

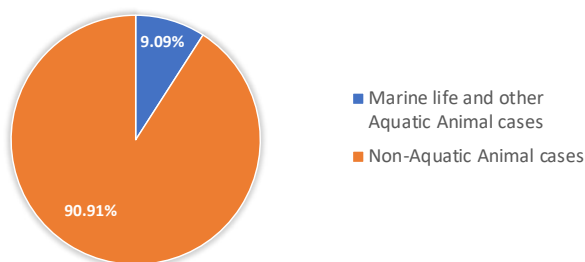


Whistleblower reward incentives must further emphasize the protection of aquatic life.

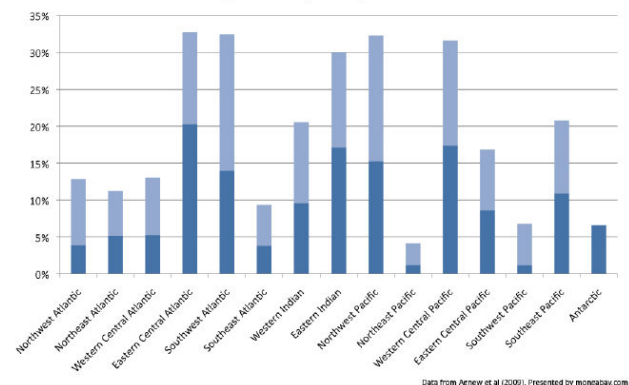
Illegal, unreported, and unregulated (IUU) fishing is one of the greatest threats to the oceans and the continued health of numerous fish and marine species. A 2014 UN and Interpol report estimates that illegal fishing constitutes a \$11 billion to \$30 billion USD per year industry. It is estimated that as much as 32% of wild-caught U.S. seafood imports are illegal.

Despite the magnitude of the problem, the FWS has failed to properly utilize its whistleblower reward program to prosecute aquatic life related crimes. NOAA's actions were even worse.

MARINE LIFE / AQUATIC CASES IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE (2003-2016)



Estimated illegal catch as a percentage of total fish catch by oceanic region (2009)

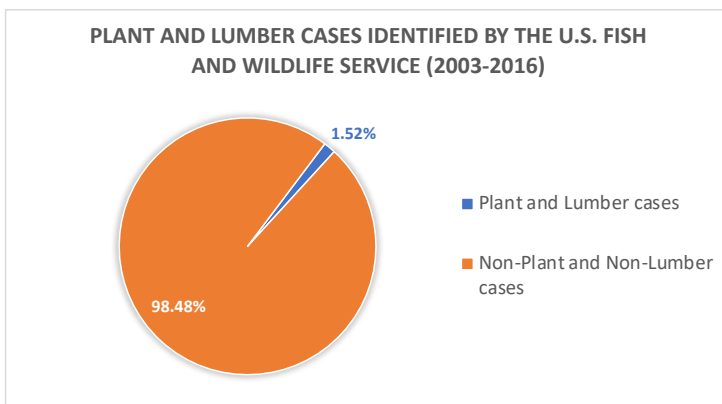


The illegal import and trade of plants and lumber was neglected.

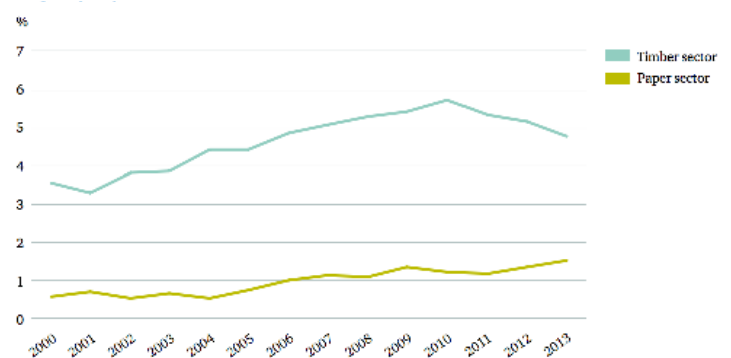
Not a single case related to the trade of illegal logging was pursued as a part of the current whistleblower rewards program. Yet the scale of the illegal lumber trade and forest crime is immense, estimated at \$30 to \$100 billion annually. Instead, the FWS has produced a single case that involves the illegal trafficking of a plant. Furthermore, The U.S. is one of the largest importers of wood-based products in the world. A Chatham House study cites that

“if illegal logging were eliminated, the value of U.S. timber-sector products would increase by around 500-700 million annually.”

Therefore, the strong enforcement of existing laws should be prioritized because it has the potential to increase the value of the U.S. timber sector and minimize the harmful effects of the illegal trade.



Estimated percentage of U.S. imports of timber- and paper-sector products at high risk of illegality (2000-2013)



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

The FWS could be benefitting from cooperation with both international whistleblowers and NGOs.

The FWS has paid not a single reward to international whistleblowers or to NGOs, both of which are allowed by law. Given the transnational nature of wildlife crime supply chains, 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.

Additionally, 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.

PART III.

Remaining Concerns of Accountability





Annual appropriations earmarked by Congress to pay whistleblowers have not been utilized.

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.¹¹ 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.¹² 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.”**¹³

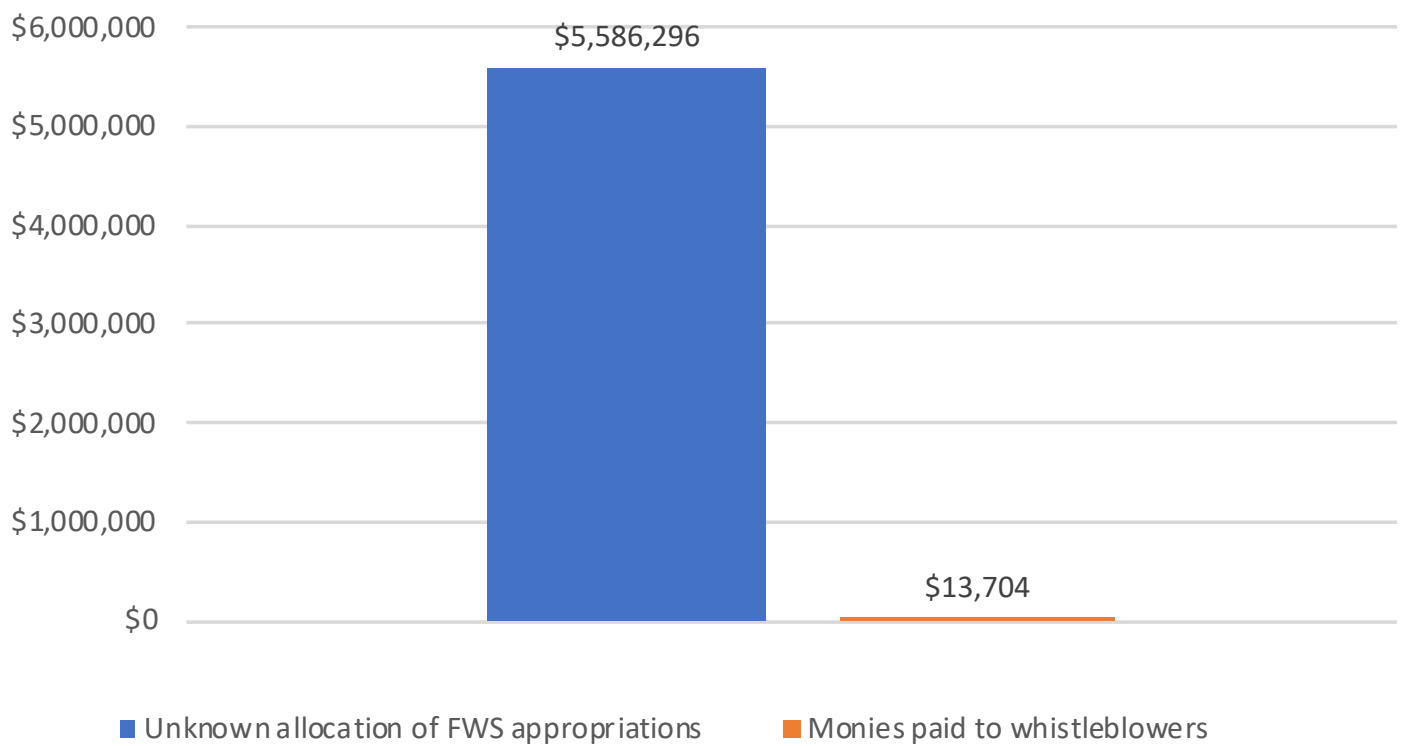
FWS then received an annual appropriation of \$400,000 based on this testimony, primarily intended to pay whistleblowers for providing information that assists in efforts to combat wildlife trafficking.¹⁴ These are payments that can be made to the whistleblower upfront—that is, even before prosecution 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. Although included in the FOIA request, the FWS did not provide any documentation as to how the remaining amount (over \$5.58 million) has been spent.

These payments total roughly \$13 million over the past three decades.

fig. 2

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



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

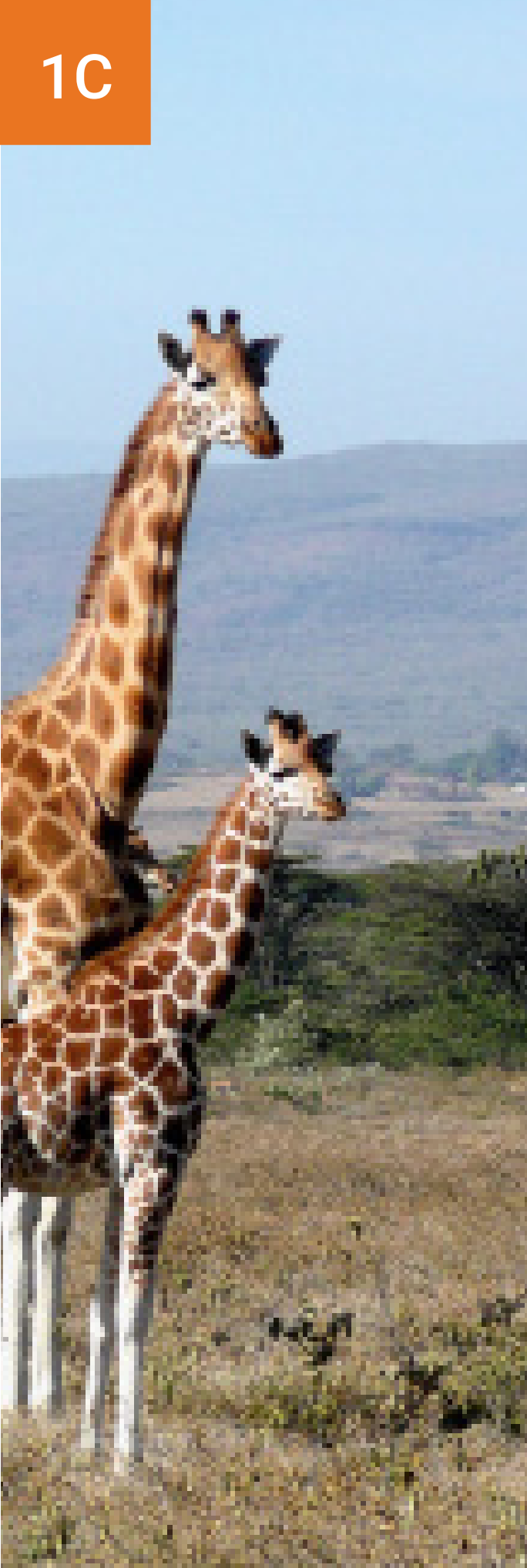
Congress requires that the \$400,000 annual appropriations be approved **“for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violation so laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses in enforcement activities, authorized or approved by the Secretary and to accounted for solely on his certificate.”**¹⁵

In a FOIA request, the NWC asked the Secretary of Interior to produce these certificates.¹⁶ In response, the Secretary’s office stated that no such records existed.¹⁷

This is extremely troubling, as Congress required that these certificates be issued for all such payments.¹⁸ 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.



There has been no focused targeting within the FWS whistleblower program.

For example, FWS has not prioritized CITES Appendix-1 species, which are only those species that are threatened with extinction.¹⁹

Less than one-fifth 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.²⁰

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

Yet only six marine cases were documented by FWS. In fact, the plight of the vaquita species, and the lack of FWS activity on the problem, was recently highlighted in the award-winning investigative publication [Earth Island Journal](#).

In order for the wildlife whistleblower laws currently on the books to work effectively as well as conform to Congress' intentions, program administrators should immediately begin a focused targeting agenda.

The Wildlife Conservation & Anti-Trafficking Act: An Urgent Need to Pass

HR -----

1

It will strengthen wildlife crime detection.

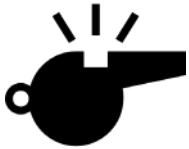
2

It will enhance wildlife crime law enforcement mechanisms.

3

It will generate and increase wildlife conservation funding.

The Wildlife Conservation & Anti-Trafficking Act (HR --) was drafted to modernize the wildlife whistleblower laws and address the issues identified in this report. HR --- incorporates the best practices of the highly succesul FCA, Tax, Commodity, Securites, Auto-Safety, and FCPA whistleblower laws, while also addressing some of the specific issues necessary to sucessfully fight international wildlife trafficking.



The Act mandates whistleblower rewards for citizens and NGOs, in the U.S. and internationally, who report information on wildlife crime after a successful prosecution. Monetary rewards will incentivize whistleblowers, those with insider information, to step forward with evidence of wildlife crime.



The Act expands transnational law enforcement to stop wildlife trafficking at the source. It also mandates that wildlife trafficking becomes an offense under the federal racketeering and organized crime statutes, the RICO and Travel Acts. This is the first bill to recognize wildlife trafficking as a form of organized crime, finally giving enforcement the legal teeth to combat this type of crime.



The Act mandates that monies recovered from successful prosecution under the RICO and Travel Acts as well as other wildlife protection laws must be put directly into conservation efforts. As a result, the funding for conservation will come directly from the criminals, with no cost to the taxpayer.

Additional and up-to-date information about the Wildlife Conservation and Anti-Trafficking Act can be found at: -----

Conclusion

A whistleblower reward program which is efficiently and effectively implemented can serve as a key linchpin to halting the current extinction crisis.

The DOI FWS FOIA documents, as well as the GAO audit of wildlife whistleblower rewards, demonstrate the incredible potential a proactive whistleblower program could have on the detection of wildlife trafficking and the successful prosecution of these cases.²¹

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 Executive Order No. 13773 on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking (February 2017).²²

The B i - P a r t i s a n Wildlife Conservation and Anti-Trafficking Act (HR ---) modernizes the wildlife whistleblower programs in a manner consistent with current other successful whistleblower laws. It is absolutely critical legislation.

HR --- has been endorsed by -----.

The bill was introduced by Congressmen --- (D-CA) and Don Young (R-AK). As of September 9, 2019 the bill has --- Democratic and Republican co-sponsors.

HR --- has been endorsed by numerous wildlife and conservation organizations, including ---

To support HR --- please TAKE ACTION at -----.

Your financial contributions to the NWC's Wildlife Program are essential for its continued effectiveness. Please DONATE at -----.



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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's Global Wildlife Whistleblower Program 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. The NWC's wildlife program has also been supported by a generous grant from the Wildcat Foundation.

This report was written and drafted by Stephen M. Kohn, Chairman of the NWC Board of Directors, Maya Efrati, the Policy Counsel of the NWC and Anna Wyses, an intern with the NWC. The policy recommendations set forth herein represent the official position of the National Whistleblower Center.

ACKNOWLEDGEMENTS

Thank you to former NWC staff Julia Malleck for putting together the design and layout of the initial draft report released March/April 2018. Additional thanks to Kohn, Kohn, and Colapinto staff Kelsey Condon, Esq., and interns Stephany Saavedra, and Yelena Wang for their indispensable research contributions. Finally, thanks to John Kostyack, Mary Jane Wilmoth, and Scott Hajost for their leadership in NWC's Global Wildlife Whistleblower Program.

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