



GOVERNMENT
ACCOUNTABILITY
PROJECT

NWC

NATIONAL
WHISTLEBLOWER
CENTER



EMPOWER OVERSIGHT
Whistleblowers & Research



To: the offices sponsoring H.R.8061 and committees of jurisdiction,

April 19, 2024

With deep concern, our five organizations – Government Accountability Project, National Whistleblower Center, Whistleblowers of America, The Anti-Fraud (TAF) Coalition, and Empower Oversight – come together to write to you in regards to the Crime Victims Fund Stabilization Act as introduced yesterday, April 18, 2024 and referred to the House Committee on the Judiciary. The undersigned comprise of organizations that have spent decades working directly on the False Claims Act’s whistleblower provisions, which are a longstanding integral part of the day-to-day function and the success of the law. Information revealed by whistleblowers is vital to anti-fraud laws such as the False Claims Act. Ensuring that whistleblowers remain protected is a crucial component for this law, and should not be disregarded.

Our organizations advocate for whistleblowers towards elected officials across the political aisle, and come together today in these concerns on a non-partisan basis.

The Crime Victims Fund has long been able to support and provide restitution for victims of serious crimes. Of note, since its creation in 1984, the Fund has always been financed by fines and penalties from wrongdoers, rather than from federal tax dollars. We share your interest in ensuring the stability of the Crime Victims Fund so that it may remain for many more years to come the lifeline that it has been up through today.

However, we are disturbed by the consequences that this legislation, as introduced, could have on whistleblowers. By changing the structure of recoveries, it will cause conflicts of interest and other downstream negative consequences. We are additionally deeply concerned that organizations which protect whistleblowers, including other organizations we were able to connect with within these this very short time period since introduction that are part of the Make It Safe Coalition (MISC), were not consulted during drafting of the bill.

Statements from subject-matter expert leadership of our undersigned organizations:

Tom Devine, Legal Director, Government Accountability Project:

The right way to support the Crime Victims Fund is by appropriating money for it, not raiding the False Claims Act. While the CVF has admirable goals, it is a Department of Justice unit. That creates a direct conflict of interest in awarding whistleblowers their share of victories for taxpayer battles they waged. Under this introduced legislation, Justice lawyers will have a structural duty to keep that percentage as low as possible.

Even currently when recoveries go to the Treasury, Justice attorneys can turn on whistleblowers when it comes to divvying up the pie. Whistleblowers who worked in extended, dangerous partnerships with the FBI get undermined as camouflaged suspects trying to cash in on their own fraud. We are deeply concerned the bill as currently drafted will be a precedent and strong incentive for worsening the bullying to fund DOJ programs.

Stephen Kohn, Chairman of the Board, & Dave Colapinto, General Counsel, National Whistleblower Center:

This bill would incentivize the Department of Justice to further deprive whistleblowers of the maximum percentage of their potential relator’s share. This will discourage whistleblowers from

utilizing the law, which ultimately undermines the goal of funding the CVF. If the DOJ wants more golden eggs (in this case, large financial fraud sanctions), they need to incentivize the goose (the whistleblower). Other agencies, like SEC, CFTC, and IRS understand this, and their programs work because empirical data shows that this causes more whistleblowers with valuable information to come forward.

The proposed Crime Victims Fund Stabilization Act bill is extremely dangerous for whistleblowers because it mis-prescribes the problem. In reality, whistleblowers – if properly incentivized – could be the catalysts for increasing criminal prosecutions by the DOJ, and therefore increasing the funds available for the CVF.

Jason Foster, Chair of the Board, EMPOWR Oversight:

There is a reason Congress structured the False Claims Act so taxpayer money recovered with the help of whistleblowers goes back to the Treasury and not the Justice Department. Congress also acted less than three years ago to strengthen the Crime Victims Fund. DOJ should follow Congress' intent to fill the fund by collecting the criminal fines it's supposed to, rather than doing it on the backs of whistleblowers.

Jacklyn DeMar, President and CEO, The Anti-Fraud (TAF) Coalition:

We are concerned about the unforeseen negative consequences the change that this introduced legislation would have on the incentives for whistleblowers, who bear incredible risks, to come forward and alert the government to fraud that it would not have otherwise discovered.

Jackie Garrick, President and CEO, Whistleblowers of America:

Protecting whistleblowers is paramount. Any changes that will disadvantage the whistleblower – the person who has the least available resources as compared to the employer, and is putting the most on the line by coming forward and speaking up – is severely risky. Equal access to justice requires transparency: this type of structural change will muddy the waters on the fiscal comparators for the whistleblower who came forward and worked with the Justice Department, and in doing so obscure justice for whistleblowers.

We strongly urge your offices to pause moving forward with the legislation and take the time to consult with all relevant stakeholders in the matter. We are available to further discuss our concerns as well; please do not hesitate to reach out to Maya Efrati (mefrati@whistleblower.org) on behalf of GAP, or Kate Reeves (kate.reeves@kkc.com) on behalf of NWC, or Rachael Soloway (rs@empowr.us) on behalf of EMPOWR to arrange.

Sincerely,

Government Accountability Project
National Whistleblower Center
EMPOWR Oversight
The Anti-Fraud Coalition (TAF Coalition)
Whistleblowers of America