

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20514

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20514

The Honorable Mitch McConnell
Majority Leader of the United States Senate
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader of the United States Senate
Washington, D.C. 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer:

We write to seek genuine protection for whistleblowers who defend the public against abuses of power that could magnify the impact of the COVID-19 pandemic. Secrecy enforced by repression is a clear and present danger to public health and safety. As the public's eyes and ears, whistleblowers use free speech rights to challenge uses of power that betray the public trust. That makes them one of America's best resources to minimize unnecessary tragedies.

Unfortunately, America's once pioneering free speech rights have proven inadequate in practice, fragmented with serious loopholes, difficult to enforce, and now even on paper are badly outdated compared to the rest of the world. Institutions already are gagging and purging those who blow the whistle on life-threatening misconduct while responding to the pandemic. However, as a general theme, these whistleblowers' rights have been either weak or nonexistent.

This is unacceptable. This pandemic requires an unprecedented national consensus to prevent further disaster, both medically and economically. That survival response will not be possible without unprecedented trust by citizens in our public and private leaders. Already, however, conflicts over secrecy, disinformation and neglected responsibility are expanding as fast as the virus. Truth is the best medicine against this threat. The truth, the whole truth and nothing but the truth is critical to public health.

Some have suggested that in wartime civil liberties are a luxury. China adopted that approach. Our intelligence agencies have confirmed the result: denial and secrecy that delayed an effective response, and false statements about the scope of the illness that continues to undermine efforts to combat it. The lesson learned is clear. Retaliation against those who "commit the truth" could maximize rather than minimize this human tragedy. Freedom of speech for whistleblowers is a public health necessity.

Effective whistleblower laws will require respect for two basic principles missing in current whistleblower rights:

1) Best practice rights should go beyond employee protection to shield all who bear witness with significant evidence. These rights also should protect citizens victimized by misconduct; profit and nonprofit corporations and contractors facing improper political pressure and the media for reporting uncensored information. For example, funding recipients might face retaliation or be denied grants/contracts in reprisal for challenging demands to cover-up wrongdoing. There is no rational public policy basis to exclude those sources of information, and international laws increasingly are protecting non-employee whistleblowers. The legal right to commit the truth should not be limited to workers.

2) Whistleblower laws should protect against all retaliation, not just workplace harassment.

Traditionally the most frightening way to silence whistleblowers was to fire them from their jobs or force them into resignation. That is the boundary for U.S. rights. Increasingly, however, those who abuse power have found a more effective tactic: prosecute them civilly or criminally. If termination creates a chilling effect, these uglier forms of retaliation create a freezing effect. Unlike the U.S., 39 out of 59 countries with national whistleblower rights protect against civil and criminal liability. Since last December, this includes all European Union nations, even Ukraine, which also provides psychological therapy to their whistleblowers. It is time for the U.S. to catch up to the rest of the world. Life-saving information will remain secret if whistleblowers are defenseless against these forms of retaliation. So will information that could maximize the effectiveness and minimize the waste of precious public money spent.

Our national leaders cannot continue to pass over this accountability cornerstone in their legislative responses to the pandemic. We are spending trillions of dollars in an effort to protect public health and the economy. Whistleblowers should not be legally defenseless when they risk their professional or economic lives, or even their freedom, to help ensure this effort succeeds in its aims.

Sincerely,

ACORN 8

American Civil Liberties Union

Coalition 4 Change

Demand Progress

Dialysis Advocates

Fight for the Future

Fund for Constitutional Governance

Government Accountability Project

Government Information Watch

Greenpeace US

Jobs to Move America

Liberty Coalition

National Association of Medical Malpractice

National Center for Health Research

National Coalition Against Censorship

National Council for Occupational Safety & Health

National Security Counselors

National Taxpayers Union

Open the Government

Project On Government Oversight

Public Citizen

Public Employees for Environmental Responsibility

Society of Professional Journalists (DC Chapter)

TSRadio Network

Union of Concerned Scientists

USDA Coalition of Minority Employees

X-Lab