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URGENT MATTER

Hon. William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Attorney General Barr:

I am writing on behalf of the [National Whistleblower Center](#), the National Whistleblower Legal Defense Fund (“Fund”), and my [whistleblower law firm](#) regarding the U.S. Department of Justice’s (“DOJ”) response to Coronavirus crisis.

We want to applaud the actions taken by you, as [announced](#) in the March 20, 2020 press release entitled “Attorney General William P. Barr Urges American Public to Report COVID-19 Fraud.” This release made the American public aware of the role of the Justice Department’s [National Center for Disaster Fraud](#) (NCDF) in managing a nation-wide reporting system. Additionally, the announcement made the public aware of a [special webpage](#) dedicated to informing the public about Coronavirus frauds and how to report these crimes. These actions were absolutely necessary, and the DOJ created this reporting structure very quickly.

We want to raise one area of concern with you and the DOJ. This concern regards confidentiality for a whistleblower who provides information through email or by phone to the hotline.

Between my law firm and a legal assistance program managed by the [Fund](#), we obtain approximately 3500 whistleblower intakes per/year. We also manage respected public education websites, informing whistleblowers how to report frauds. Our advice always includes a warning that whistleblowers should speak to an attorney before contacting any other person concerning their allegations. One of our primary concerns is that whistleblowers can lose their right to confidentiality by making disclosures before ensuring that their identity is protected.

Given the emergency nature of the Coronavirus crisis, there is an urgent need for the government to obtain quick access to information about potential frauds, many of which could have an immediate and direct impact on health and safety. Thus, many whistleblowers may have difficulty locating counsel and obtaining legal advice before making a report to the DOJ. This time delay may not be in the public interest.

Thus, to facilitate immediate reporting to the DOJ, and to encourage such reporting in circumstances where a whistleblower may fear retaliation because he or she cannot protect their identity, we recommend the following:

- The DOJ should guarantee protection as to the identity of anyone who reports frauds related to the Coronavirus unless the report is knowingly false;
- The DOJ should explain that all tips provided on or through the NCDF's hotline (1-866-720-5721) or email (disaster@leo.gov) will be treated as confidential;
- The DOJ should expedite granting formal confidential informant status to all whistleblowers who provide actionable information about Coronavirus frauds and those who request confidentiality;
- The DOJ should create FAQs for Coronavirus similar, to the FAQ created and published by my law firm. See [Q&A explaining the legal protections for whistleblowers who report Coronavirus-related frauds](https://www.kkc.com/coronavirus-whistleblowing-and-qui-tam-reporting-fraud-and-misconduct-on-public-health-and-safety-violations/), published at <https://www.kkc.com/coronavirus-whistleblowing-and-qui-tam-reporting-fraud-and-misconduct-on-public-health-and-safety-violations/>.
- The DOJ should review all intakes for potential violations of the [False Claims Act](#), as that FCA has significant civil penalties and has been a most effective legal tool for combating frauds;
- In all cases where a whistleblower submits information to the NCDF's reporting program that may constitute a violation of the False Claims Act, the DOJ should inform the whistleblower of his or her right to file a [qui tam](#) legal action and qualify for a reward.

In this manner, the DOJ can help ensure timely notifications regarding fraud and incentivize reporting. It will also permit NGOs like the National Whistleblower Center to feel comfortable about widely publicizing the NCDF's hotline number and email, knowing that such contacts will shield the whistleblower from having their identities revealed to their employer.

I understand that the DOJ may already have a policy protecting the identities of persons who submit hotline or email allegations regarding fraud. However, there is no explicit explanation of these protections on the website dedicated to reporting Coronavirus frauds.

Thank you very much for your time and attention to these matters. We look forward to hearing from you by March 27, 2020. If you have any questions or would like to discuss further the requests set forth herein, please do not hesitate to contact me.

Respectfully submitted,

/s/

[Stephen M. Kohn](#)

/s/ [Stephen M. Kohn](#)

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