

2012 Ethics & Action Survey: Voices Carry

Labaton Sucharow's 2nd Annual Integrity Survey of the American Public

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Executive Summary

In 2011, following the launch of the nation's first practice exclusively focused on protecting and advocating for SEC whistleblowers, we put our ear to the ground and polled the American public in our inaugural Ethics & Action Survey. That first survey was fairly straightforward; we sought to take the pulse of the country on the observation of corporate misconduct and the willingness to report it. Our early findings confirmed our assumptions, our fears and our best hope; most Americans had witnessed misconduct and most were willing to report it with protections and incentives such as those offered by the SEC Whistleblower Program.

With a year of whistleblower advocacy under our belt and in advance of the November elections, we broadened our scope in our 2nd Annual **Ethics & Action Survey: Voices Carry**. In addition to examining whether views have changed with respect to our original survey questions, we probed Americans' views on the actual reporting of corporate wrongdoing, the connection between corporate misconduct and the fractured economy and, importantly, government's role in reform and repair.

Our findings are both disheartening and inspiring. Across any number of spectrums—gender, income, ethnicity, political affiliation, geography—Americans are, with few exceptions, united in their attitudes about ethics, corporate wrongdoing and their willingness to create real change. While we flesh out our findings throughout this report, here are our **Top Ten Findings**:

- 54% of Americans have personally observed or have first-hand knowledge of wrongdoing in the workplace;
- 18% of Americans believe that their employer values bottom line profits more than ethical conduct;
- 64% of Americans polled believe that corporate misconduct was a significant factor in bringing about the current economic crisis;
- 81% of Americans do not believe the government has done enough to stop corporate wrongdoing;
- 77% of Americans believe politicians favor corporate interests over their constituents' interests;
- 61% of Americans will significantly factor a candidate's commitment to rooting out corporate wrongdoing in their voting decision in November;
- 63% of Americans believe government should allocate more dollars to financial regulators and law enforcement to combat corporate wrongdoing;
- 84% of Americans have a positive perception of whistleblowers that report illegal or unethical conduct;
- 24% of Americans would fear retaliation if they reported wrongdoing in the workplace and 20% believe that any report of wrongdoing would not be appropriately handled by their employer; and
- 83% of Americans would report wrongdoing with protections and incentives such as those offered by the SEC Whistleblower Program, but only 28% are aware of the new investor protection program.

Exactly one year ago, protestors gathered in a park in New York City's financial district—just across the street from our firm's headquarters—marking the launch of the movement known as Occupy Wall Street. Whether or not you identify with this particular movement, our survey results affirm the fundamental concerns voiced by these protestors; corporate wrongdoing is at extraordinary levels and more needs to be done to address this problem. Indeed, people are speaking. In hallways, conference rooms, at protests and at home. People are speaking. The question is—and meaningful reform depends upon the answer—who is listening?

Misconduct in the Workplace, Integrity at Work

While sweeping reform efforts such as the Dodd-Frank Wall Street Reform and Consumer Protection Act (and the SEC Whistleblower Program established by that legislation) have been in place for more than two years, corporate misconduct is widespread and on the rise.

- More than half of respondents (54%) have personally observed or have firsthand knowledge of wrongdoing in the workplace. This figure is 20% higher year-over-year.¹
- Naturally, the more we live, the more we see. We note that 60% of respondents between the ages of 55-64 have knowledge of wrongdoing in the workplace.
- Respondents' level of education also factored into their response. While 47% of high school graduates have knowledge of wrongdoing in the workplace, that figure jumps to 63% for Americans with some level of college education.

Cause for Concern:
54% of Americans have knowledge of corporate misconduct and nearly one in four would fear retaliation in reporting it.

In many of the most egregious corporate frauds we've seen over the last decade, we know the misconduct was not limited to one or two corporate insiders. There were witnesses. So where were they? To better understand the reluctance to come forward and report misconduct, we probed respondents' fear of retaliation.

- Nearly one-quarter (24%) of Americans who become aware of corporate misconduct would fear reporting the problem because of potential retaliation.
- Fear of retaliation increases notably in certain segments of the sample. For instance, residents of the Northeast region of the United States have the highest fear of retaliation (29%). And, at 32%, Hispanic respondents are a full 10 points more fearful of retaliation than White respondents.
- Income and education also appear to impact confidence. Our findings show that as respondents' income increases, the fear of reporting wrongdoing decreases. 29% of Americans with annual income less than \$35K fear retaliation, compared to 14% of respondents with income greater than \$100K. Similarly, while 28% of high school graduates would fear reporting wrongdoing, the figure dropped to 20% for Americans with some level of college education.

¹ See Labaton Sucharow's inaugural [Ethics & Action Survey](#), December 2011.

If retaliation is one factor that silences potential whistleblowers, is faith in how a report of misconduct will be handled another? Interestingly, in 2010, as the SEC Whistleblower Program made its way through the rule-making process, many in corporate America spoke out against the program. Hundreds of comment letters to the SEC underscored a widespread belief in the corporate community that with its significant employment protections and monetary awards, the SEC Whistleblower Program would undermine internal reporting and compliance systems. The inconvenient truth, however, is that despite the plethora of well-funded corporate ethics programs and greater buy-in by corporate leaders, a significant number of Americans lack confidence in the manner in which their employer will handle a report of misconduct.

- One in five Americans believes that a report of wrongdoing would not be appropriately handled by the employer. This figure is slightly higher (23%) for female respondents.
- Interestingly, as age increases, the percentage of respondents who believe that a report of misconduct would not be appropriately handled also increases. 25% of respondents between the ages of 55-64 do not have confidence in their employer to effectively deal with a report of misconduct, compared to 28% for those over the age of 65.
- We note striking differences in responses across different regions. 29% of respondents in the Northeast believe a report of wrongdoing would not be handled appropriately, compared to 23% in the West, 20% in the Midwest and 14% in the South.
- Confidence in an employer's ability to effectively respond to a report of misconduct drops off significantly as respondents' level of education increases. 26% of Americans with some level of college education believe the report would not be handled appropriately, compared to 15% of those with a high school education or less.

In times of economic distress, it is common for employees to feel a profit-or-else 'tone from the top.' This is a frightening reality. Groundbreaking research from important think tanks such as the Ethics Resource Center indicates that an organization's ethical culture is a powerful vaccine against misconduct. So are employers sending – or are employees getting–the right message?

- While a significant number of Americans indicate that their employers put a premium on ethical conduct, we are extremely concerned that 18% of respondents employed full or part-time do not believe that their employers put ethical conduct ahead of profits.
- One-quarter of Black Americans, 24% of Hispanic Americans and 23% of female respondents do not believe that their employers put ethical values above profits.
- 26% of middle class earners (annual income between \$35K-\$50K) do not believe that their employer values ethics more than profits. This figure drops to 15% for high wage earners (over \$100K).

A Changing Landscape for Whistleblowers

Earlier this summer, the SEC announced its first monetary award under the Whistleblower Program that was finally implemented in August 2011. The award reached 30% of sanctions collected, the highest percentage allowed under the guidelines. That an award was made in the program's first year, and that the whistleblower elected to maintain anonymity, underscore that the protections available under the program are meaningful and demonstrate that this important initiative is off to a promising start. Our survey, conducted just prior to the award's announcement, also points to a changing tide in attitudes toward whistleblowing.

- 84% of respondents have a positive perception of individuals who report illegal or unethical conduct. This figure dips to 81% in the Northeast region of the United States, but climbs to 89% in the West.
- Race heavily factors into respondents' attitudes toward whistleblowers. Whereas 88% of White respondents have a positive perception of whistleblowers, the figure drops to 78% for Black respondents and 77% for Hispanic respondents.
- Generally, as level of income increases, the percentage of respondents with a positive perception of whistleblowers increases. 81% of respondents with an annual income of less than \$35K have a positive perception of individuals who report wrongdoing. That figure climbs – astonishingly – to 94% for those earning more than \$75K annually. Similarly, favorable attitudes toward whistleblowers comport with higher levels of education; 91% of college graduates have a positive perception of whistleblowers.
- Interestingly, 89% of registered Republicans have a positive view of whistleblowers, compared to 81% of Democrats and 83% of Independents.

A civilized society simply cannot tolerate the words 'rat' and 'snitch' in its lexicon. In a post-Enron world, we need truth-tellers. Our survey suggests most Americans agree.

Three factors render the SEC Whistleblower Program innovative and uniquely powerful: significant financial incentives, strong employment protections and the opportunity to report possible securities violations anonymously. No other whistleblower program in existence builds on such a strong platform. Given the fear of retaliation and doubt about whether an employer will appropriately respond to a report of misconduct, would individuals blow the whistle with such incentives and protections?

- 83% of Americans would blow the whistle with incentives and protections such as those offered under the SEC Whistleblower Program. This is five points higher than when we asked the same question in our survey last year.
- Female respondents show a higher willingness to blow the whistle, 85%, compared to 80% of male respondents.
- Age is also a significant factor, as younger respondents are far more inclined to blow the whistle. In fact, 89% of those between the ages of 18-34 would report misconduct, compared to 72% of those over the age of 65.

- The sample did not point to any statistically significant difference across political affiliations. 82% of Republicans, 85% of Democrats and 81% of Independents would report misconduct with such incentives and protections.

We are encouraged by Americans' growing willingness to stand up and speak out against wrongdoing. Nevertheless, we continue to be concerned about the lack of awareness of the SEC Whistleblower Program...two years after the Program was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act and one year after the Program's implementing rules became effective.

- 72% of respondents are not aware that the SEC has a new whistleblower program designed to protect and reward individuals who report possible violations of the federal securities laws.
- 76% of women are not aware of the program, compared to 67% of male respondents.
- Age also accounted for significant spreads in the sample. 88% of respondents between the ages of 18-34 are unfamiliar with the program, compared to 61% for individuals between the ages of 45-54.
- 81% of Hispanic Americans have not heard of the program, compared to 71% of White respondents and 67% of Black respondents.

Corporate Conduct, the Economy & the Role of Government

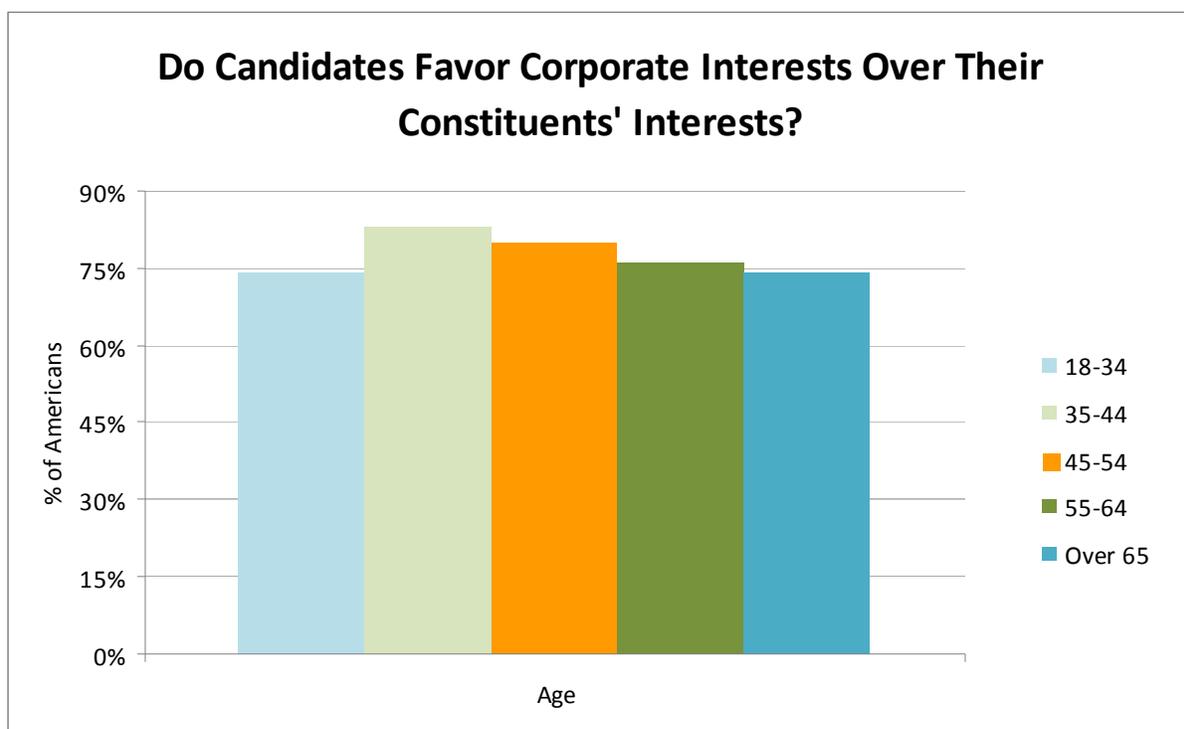
Like any perfect storm, a number of highly complex issues gave rise to the 2008 economic collapse that reverberated across the globe. Financial products like Residential Mortgage-Backed Securities (RMBS), Structured Investment Vehicles (SIVs), Auction Rate Securities (ARS), along with the nuances of structured finance and complexities of capital markets leverage are elusive to all but the most sophisticated financial minds. That said, we wanted to ask the American public whether they saw a connection between corporate misconduct and the economic crisis.

- 64% of Americans believe illegal or unethical corporate conduct was a significant factor in bringing about the economic crisis. This figure rises to 70% for those respondents between the ages of 35-44.
- 65% of women believe illegal or unethical corporate conduct was a significant factor in bringing about the current economic crisis, compared to 63% of male respondents.
- Regionally, while 68% of respondents living in the Western United States believe corporate wrongdoing was a factor in the economic downfall, the figure dropped to 67% for the Midwest, 64% for the Northeast and 59% for respondents in the South.
- Race is also a factor. 53% of Black Americans believe unethical corporate conduct was a significant factor in bringing about the current economic crisis, compared to 65% of White respondents and 66% of Hispanic respondents.

- The middle class speaks loudly. A full 11 points above the average, 75% of those earning between \$35K-\$50K annually believe unethical corporate conduct was a significant factor in bringing about the current economic crisis, as compared to 58% (less than \$35K), 65% (\$50K-\$75K), 66% (\$75K-\$100K) and 68% (over \$100K) of respondents at other income levels.
- Similarly, while 69% of college graduates believe unethical corporate conduct was a significant factor in bringing about the current economic crisis, the figure drops to 61% for those with a high school education or less.
- Responses were roughly equal across political affiliation: 63% of Republicans believe illegal or unethical conduct was a significant factor in the economic collapse, compared to 65% of Democrats and 67% of Independents.

A significant concern expressed by the Occupy Wall Street protestors was that politicians reside in the pockets of corporate America. As we gear up for a major election at a pivotal time in our country's history, we wondered what Americans *en masse* think about the issue. The responses were deeply disheartening.

- More than three-quarters of Americans (77%) believe that politicians generally favor corporate interests over their constituents' interests.

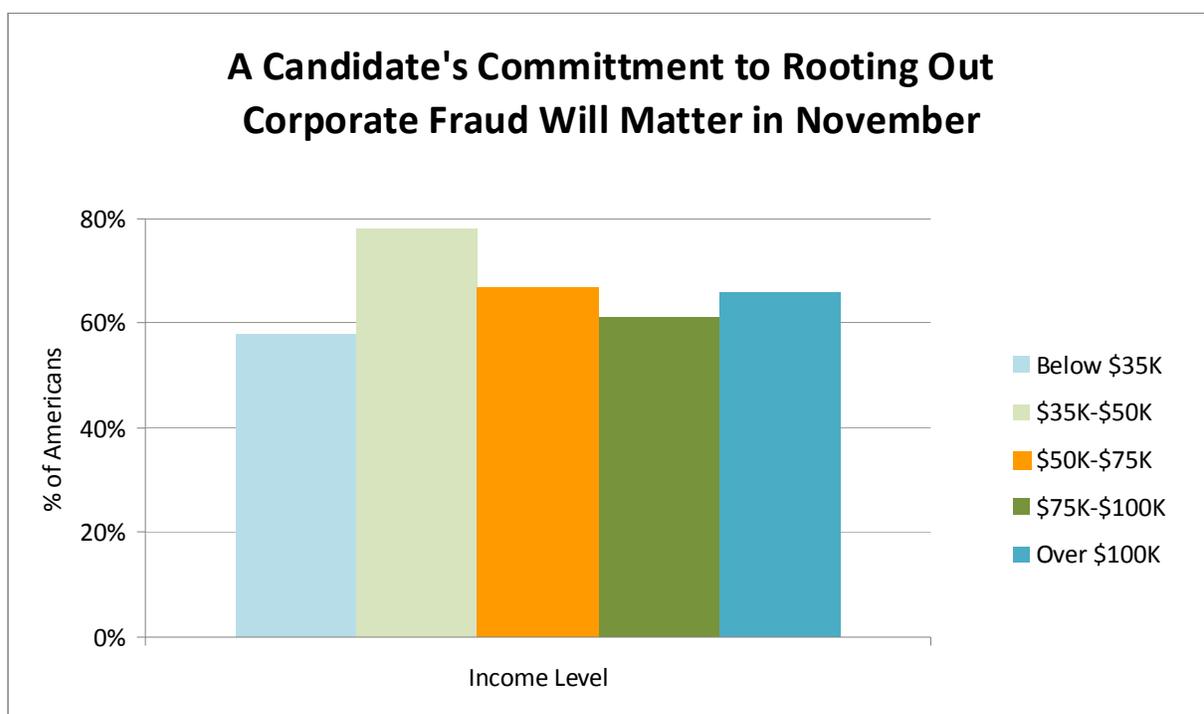


Responses were consistent among both men and women, with 78% of males and 76% of females believing that politicians generally favor corporate interests over their constituents' interests.

Regionally, we note the following breakdowns: 79% of respondents living in the Midwest, 78% living in the South, 77% of those in the West, and 75% of respondents living in the Northeast believe that politicians generally favor corporate interests over their constituents' interests.

- Respondents earning between \$75K-\$100K believe politicians generally favor corporate interests over their constituents' interests more than any other income level at 83%, as compared to 77% (less than \$35K), 80% (\$35K-\$50K), 76% (\$50K-\$75K), and 76% (over \$100K) of respondents at other income levels.
- There was no meaningful divergence in views across political affiliation: 75% of Republicans, 76% of Democrats and 77% of Independents feel politicians favor corporate interests.

As campaign commercials take over prime-time and rhetoric shifts from substantive dialogue to personal and divisive attacks, we are encouraged by the fact that those Americans we surveyed are sticking to core issues. Indeed, at the polls, a significant percentage of Americans will place a particular emphasis on a candidate's commitment to take on corporate misconduct.



- 61% of respondents indicate that a candidate's commitment to rooting out corporate wrongdoing will be a significant factor in their voting decision in November. This percentage was identical for both male and female respondents.
- As age increases, the percentage of respondents who will be influenced by a candidate's commitment to rooting out corporate wrongdoing also increases: 55% of those between the ages of 18 and 34 will seriously weigh a candidate's commitment to take on corporate wrongdoing, compared to 66% of those over age 65.
- With respect to race, Black Americans indicate the strongest focus on a candidate's commitment to root out corporate fraud (72%), compared to 60% of Hispanic respondents and 59% of White respondents.

- We again note a strong voice from the middle class. A startling 78% of those earning between \$35K-\$50K indicate they will be influenced in the next election by a candidate's commitment to rooting out corporate wrongdoing, compared to 58% (below \$35K), 67% (\$50K-\$75K), 61% (\$75K-\$100K), and 66% (over \$100K).
- Regionally, 63% of respondents living in the Midwest, 61% living in the South, 61% of those in the Northeast, and 58% of respondents living in the West indicate that a candidate's commitment to rooting out corporate wrongdoing will be a significant factor in their voting decision in November.
- Democrats will place the most emphasis on a candidate's commitment to root out corporate misconduct. At 71%, this figure was markedly higher than the response from Republican and Independent voters (both groups at 52%).

63% of respondents believe that the government should allocate more dollars to financial regulators and law enforcement organizations to combat corporate wrongdoing.

Has government done enough?

A startling 81% of respondents believe that the government has not done enough to stop corporate wrongdoing. This figure climbs to 85% for females, compared to 77% of males.

- There are minor regional differences. 83% of respondents living in the Western United States believe that the government has not done enough to stop corporate wrongdoing, compared to 82% of those living in the South, 80% of those in the Northeast and 78% of respondents living in the Midwest.
- We note interesting spreads across the age spectrum. The youngest respondents in the sample (between ages 18 and 34) and the oldest respondents in the sample (those over age 65) are the least satisfied with the government's response to corporate misconduct, at 87% and 83%, respectively.
- With regard to income, 88% of the middle class (those earning between \$35K-\$50K) are the least satisfied with the government's response to corporate misconduct, compared to 81% (below \$35K), 84% (\$50K-\$75K), 76% (\$75K-\$100K) and 79% (over \$100K).
- Minorities are significantly less pleased with the government response to corporate wrongdoing. 90% of Hispanic Americans do not believe the government has done enough, compared to 85% of Black respondents and 79% of White respondents.
- While high-profile corporate scandals have occurred during both parties' administrations, it is notable that 71% of Republican respondents, 87% of Democrat respondents and 91% of Independents feel that government has not done enough to address corporate misconduct.

It's one thing to argue that the government should do more to combat corporate greed. It's quite another – particularly in such challenging times when most Americans are experiencing major financial stress – to state unequivocally that the government should spend more to fund the fight. The fact is, while the mandate of many regulators and law enforcement entities has expanded significantly, their budgets have not followed suit. In examining American's attitudes on this issue, our findings were simply startling.

- 63% of respondents believe that the government should allocate more dollars to financial regulators and law enforcement organizations to combat corporate wrongdoing.
- More female (65%) than male (60%) respondents believe that the government should allocate more dollars to financial regulators and law enforcement organizations to combat corporate wrongdoing.
- Regionally, we note the following breakdowns: 66% of respondents living in the West, 65% in the Northeast, 62% of those in the South, and 60% of respondents living in the Midwest believe that the government should allocate more dollars to financial regulators and law enforcement organizations to combat corporate wrongdoing.
- Minority respondents indicate a higher belief that the government should spend more to take on corporate misconduct: 77% of Hispanic Americans and 66% of Black Americans, compared to 60% of White respondents.
- We detect notable differences based on respondents' income levels. 70% of those earning less than \$35K annually believe the government should allocate more funds to combat corporate wrongdoing, compared to 65% (\$35K-\$50K), 69% (\$50K-\$75K), 54% (\$75K-100K) and 60% (over \$100K).
- Not surprisingly, political affiliation accounts for the largest spread in response to the question of government spending. 46% of Republicans, 78% of Democrats and 72% of Independents felt that government needs to better fund the fight against corporate wrongdoing.

Conclusion

Reform is hard work. It requires an acknowledgement that something is broken and demands a real commitment to find new solutions to difficult problems.

To be sure, as we sift through the results of this year's Ethics & Action Survey, we are mindful of fractures. More Americans have witnessed corporate misconduct. More Americans fear retaliation. Real and pervasive doubts about employers' integrity persist and there is wholesale disappointment in the government's response to corporate wrongdoing.

But our survey results also provide a great deal of promise. Americans have, by and large, demonstrated a greater willingness to stand up against corporate wrongdoing. For many, being a whistleblower no longer carries the negative stigma that it used to. We are certain that this new desire to have a voice, the desire to be heard, the desire to make a difference—at work, at the polls, at large—will be the engine of necessary corporate reform.

Methodology

Between August 16-19, 2012, ORC International conducted 1,015 telephone interviews of 511 men and 504 women 18 years of age and older, living in the continental United States. This report presents the findings of a telephone survey conducted among two national probability samples; 765 interviews were from the landline sample and 250 interviews from the cell phone sample. All CARAVAN® interviews were conducted using ORC International's (ORC) computer assisted telephone interviewing (CATI) system.

About Labaton Sucharow LLP

Labaton Sucharow was the first law firm in the country to establish a practice exclusively focused on protecting and advocating for whistleblowers who report possible violations of the federal securities laws. Building on the firm's top ranked securities litigation platform, the Whistleblower Representation Practice leverages a world-class in-house team of investigators, financial analysts and forensic accountants with federal and state law enforcement experience to provide unparalleled representation for whistleblowers.

Labaton Sucharow, one of the nation's premier law firms, has been a champion of investor and consumer rights for close to 50 years, seeking recovery of losses and the adoption of necessary corporate governance reforms to protect institutional investors, businesses and consumers in complex securities, antitrust & competition, M&A, derivative, corporate governance/shareholder rights litigations. The firm has been recognized for its excellence by the courts and peers. Offices are located in New York and Wilmington, DE. More information about Labaton Sucharow and the Whistleblower Representation Practice is available at <http://www.labaton.com/>.