



## Public Citizen Strengthens Drug Price Bill

BY RHODA FENG

In September, a bill to lower drug prices made headlines when Bloomberg Government published a leaked summary of H.R. 3, the U.S. House Democratic leadership's long-awaited signature legislation to lower prescription drug prices.

Public Citizen wasted no time in hosting a telephone press conference to discuss the Lower Drug Costs Now Act's benefits and limitations. Joining Public Citizen experts on the call were Congressional Progressive Caucus

co-chair U.S. Rep. Mark Pocan (D-Wis.) and partners from Social Security Works and Indivisible.

The verdict? H.R. 3 is an important move toward bringing relief to people suffering from drug industry price gouging. However, it needs to be strengthened if it is to make medicine affordable for all.

### Inspiring Better Legislation

If H.R. 3 is an on-ramp to a larger conversation about drug pricing, the conversation itself has been enlarged through the work of

Public Citizen. Tens of millions of people ration their own treatment in the United States because of sky-high prescription drug prices, and many endure crushing debt.

Just a few years ago, the bulk of Washington's power elite, including most lawmakers, was content to accept that prescription drug corporations rip off the American people this way.

No more.

Advocates with Public Citizen and millions of Americans have raised their voices, organized and demanded that their government

do better.

They have fought despite illness.

They have stood up for their loved ones.

They are on the cusp of change, and Public Citizen has led the way.

For several years, Public Citizen has held monthly organizing meetings with other nonprofits, conducted briefings for congressional staffers and issued policy analyses.

In 2018 – more than a year before H.R. 3's introduction –

see [Drug Price](#), page 10 ▶

## Organizing a National Day of Action for Election Security

BY MOLLY KOZLOWSKI

In 2016, Russian hackers interfered in U.S. elections, undermining America's democratic process and exposing voters to disinformation.

Election interference in 2016 was only a preview of what's to come unless Congress acts, Public Citizen maintains. That's why it organized a national day of action and press conference in September to urge U.S. senators to give states the money they need to secure the vote.

The events were a stark reminder that voting systems in states remain vulnerable to internal and external hackers who might do everything from alter names and addresses in voter registration databases to change votes cast, thereby changing the

see [Election Security](#), page 8 ▶



Public Citizen Texas Director Adrian Shelley addresses organizers assembled outside U.S. Sen. John Cornyn's (R-Texas) office on Sept. 17 as part of a national day of action to call for election security. Photo courtesy of Michael Coleman.

## House Votes to Ban Forced Arbitration

BY DAVID ROSEN

It was a milestone for justice decades in the making. On Sept. 20, the U.S. House of Representatives voted 225-186 to pass the Forced Arbitration Injustice Repeal Act, or FAIR Act (H.R. 1423), which bans forced arbitration in consumer, worker, antitrust and civil rights contexts.

There may be no more blatant example of how giant corporations like Wells Fargo, Equifax, Amazon and Uber rig our economy than forced arbitration: the take-it-or-leave-it, fine print language they insert into consumer, employment, online and other contracts we enter into every day.

In private arbitration, there is no judge or jury, and the right to appeal is severely limited. Arbitra-

see [Arbitration](#), page 4 ▶

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WITH PUBLIC CITIZEN



# GET TO KNOW PUBLIC CITIZEN MELINDA ST. LOUIS

An ongoing series profiling Public Citizen leaders and staffers



When not singing in a band or writing original songs, Melinda St. Louis is running Public Citizen's Medicare for All campaign. St. Louis grew up in Morgantown, W.Va., and Pittsburgh, Pa., and received her bachelor's degree at Penn State and her master's degree in public policy at Georgetown University. She began her activism in high school when she started an Amnesty International chapter after finding the organization's table at a U2 concert. Since then, St. Louis has led multiple campaigns that challenge corporate power and promote economic justice and human rights.

St. Louis has worked in Washington, D.C., her entire career, beginning as a regional organizer with the Campaign for Labor Rights. She then went on to work for Witness for Peace, where she moved up the ranks from policy analyst and educator to executive director. St. Louis joined Jubilee USA Network as its deputy director in 2009 and for two years directed policy analysis, strategy and advocacy. In June 2011, St. Louis became the international campaigns director for Public Citizen's Global Trade Watch, and in November 2018 she transitioned to run Public Citizen's Medicare for All campaign.

### What does your day-to-day work consist of?

**St. Louis:** I work to expand and deepen the coalition of organizations that are actively engaged in campaigning for Medicare for All. I am working with a team to engage Public Citizen's members and grassroots allies around the country to urge their members of Congress to co-sponsor Medicare for All legislation in the U.S. House of Representatives and U.S. Senate, and to pass city and county council resolutions that support Medicare for All. I also craft easy-to-digest messages and educate the public and policymakers in an effort to counter the misinformation cam-

paign waged by our corporate opponents.

### What would you say is the most misunderstood idea about Medicare for All?

**St. Louis:** The idea that the health care system we have today is working and benefiting all Americans. The reality is that we can't afford our current, for-profit, fragmented private health insurance system. We spend more than double on health care per person than any other comparable country and yet we allow 30,000 people to die needlessly due to lack of health care each year. We absolutely can afford to provide comprehensive health care for everyone in the United States without spending any more than we currently do on health care if we eliminate the profit and waste from our fragmented system.

### What sparked your interest in campaigning for Medicare for All?

**St. Louis:** While working as international campaigns director for Public Citizen's Global Trade Watch, I collaborated with my dear friend Zahara Heckscher, who battled advanced breast cancer. I helped her to get arrested three times in an effort to raise awareness about the Trans-Pacific Partnership's "death sentence clause" that would lock in extended monopolies for biologic medicines needed to treat her cancer. She passed away in February 2018, and her strength to fight for access to affordable medicines for all inspired me to take this opportunity to continue the fight against Big Pharma and build our grassroots campaign to guarantee health care to every U.S. resident.

### You sing in a band. Can you tell us a little bit more about that?

**St. Louis:** I sing in a band with David Arkush, the managing director of Public Citizen's Climate Program. In addition to a repertoire of danceable covers that we play at weddings, we have started writing original music! I also really like writing political song parodies and chants. ■

— Compiled by Elizabeth Gonzalez

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Public Citizen is a national non-profit membership organization based in Washington, D.C. Since its founding by Ralph Nader in 1971, Public Citizen has fought for corporate and government accountability to guarantee the individual's right to safe products, a healthy environment and workplace, fair trade, and clean and safe energy sources. Public Citizen is active in Congress, the courts and government agencies.

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*Public Citizen News* (ISSN 0738-5927), entire contents copyrighted 2019. *Public Citizen News* is printed on 10 percent recycled paper. Postmaster: Send address changes to Public Citizen News at the address above.

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Rhoda Feng

# Impeach Trump

The outcome of the impeachment process will fundamentally alter the course of our nation for decades.

If it leaves President Donald Trump weaker – even if it doesn’t ultimately result in his removal from office – then pro-democracy forces will be ascendant. Our country stands on the precipice of transformative, progressive change and the impeachment process could help us get there.



**PRESIDENT'S VIEW**  
**ROBERT WEISSMAN**

On the other hand, if Trump emerges stronger from impeachment – not just still in office, but politically stronger – then we face the prospect of some very frightening times.

The reality of these two alternative futures is why Public Citizen is throwing everything we have

into driving the impeachment process forward.

On the merits, the case for impeachment is open and shut. Simply based on Trump’s own words, from a summary of a conversation with the Ukrainian president that Trump himself chose to release, we know that Trump withheld military assistance in order to pressure another country to intervene in our elections. That’s a shocking and undeniably impeachable abuse of power.

Trump’s manifold flagrant abuses of the Constitution provide many additional rationales for impeaching him, including his everyday violation of the Constitution’s anti-corruption (“emoluments”) provisions; his sickening violation of core First Amendment, freedom of religion principles in seeking to block people from coming to the United States based on their religion; his mockery of his duty to “take care that the laws be faithfully executed,” including by racing the world to the precipice of climate catastrophe in violation of his duties under the Clean Air Act and other statutes; and much more.

But, of course, the slam-dunk case for impeachment and conviction doesn’t provide any guarantees that Trump will be impeached and convicted – nor even that he’ll emerge from the process weakened.

We know, no matter what, that Trump will continue to claim that he did nothing wrong; that he will whine that his opponents are trying to remove him because they

can’t beat him in an election; and that, if he’s not convicted, he will try to claim exoneration.

There are real risks here, because that strategy could work.

Trump and his allies aim to focus attention on a purportedly unfair process and to make the impeachment story so confused and convoluted that the American public can’t follow it. And, they are going to politically threaten Republicans so that they vote on impeachment not out of conscience, but out of fear of retaliation from Trump.

If Trump can pull all that off and emerge stronger, then he’s likely to believe himself immune from all accountability.

Layer that on top of his fascistic rallies and ... well, the frightening scenarios are genuinely terrifying.

So, we can’t – and we won’t – let those scenarios come to pass.

We prevent those nightmare scenarios by preventing Trump from muddying the water and by mobilizing public pressure on elected officials of both major parties to stand up and defend our Constitution.

Whether or not that pressure is enough to win Trump’s conviction, it’s going to make a difference. It’ll support moderate Democrats who fear an impeachment vote may hurt their reelection chances. It will make forceful advocacy of impeachment even clearer and stronger. It will move some Republican votes. And it will force many Republicans who vote not to impeach or convict Trump at least to condemn his behavior.

We are up on Capitol Hill every day strat-

egizing with allied lawmakers and lobbying for impeachment; we are helping lead a massive coalition for impeachment; we are providing expert advice on constitutional law and the rule of law; we are running a full-fledged media campaign in support of impeachment; and we are helping drive grassroots action in targeted states where members of Congress or senators are equivocating on impeachment or conviction.

The most important thing we are going to do is put hundreds of thousands of people on the street in protests across the country to support impeachment.

With allies, we are organizing major demonstrations in hundreds of cities and towns, for the day before the U.S. House of Representatives impeachment vote.

Our aim is simple: We want every member of Congress to know – and to feel viscerally – the strong American support for impeachment and the rule of law.

With these activities and especially the massive demonstrations, our overriding objectives are to weaken Trump, validate the fundamental principle that nobody is above the law and ensure that impeachment leaves our democracy stronger and more vital.

In so doing, we will build the political power we need to win the bold changes Americans are demanding to make our country more fair and just, to restrain corporate power and to empower the people. This is a big moment, indeed. ■

*Robert Weissman*



Public Citizen President Robert Weissman speaks to a crowd on Oct. 26 in Washington, D.C., at a rally calling for an impeachment inquiry into President Donald Trump. Photo courtesy of Bret Thompson.

# Trump's China Trade Policy Is a Mess

BY MELANIE FOLEY

## COMMENTARY

President Donald Trump's China trade policy has created a lot of pain and little gain beyond forcing a long overdue debate on China trade.

China's entry into the World Trade Organization (WTO) and the 2000 U.S.-China bilateral trade deal, which Public Citizen opposed, has delivered not the rosy outcome touted by promoters, but results far worse than critics feared. Research shows that there was a true "China shock" that devastated wide swaths of working-class communities across the United States.

As a presidential candidate, Trump pledged to fix U.S. trade policy with China and reverse its damage. But almost three years into Trump's presidency, corporations continue to outsource jobs to China, pay American workers less and bring products back here for sale. The manufacturing sector is sinking into recession.

The United States suffered the highest-ever trade deficits with China during the first two years

of the Trump administration. And Trump's promised first-day China currency action was derailed by Treasury Secretary Steven Mnuchin, former Wall Street banker.

"It is abundantly clear that we cannot stick with the failed China policy," said Lori Wallach, director of Public Citizen's Global Trade Watch. "Designed by and for America's largest multinational corporations under Republican and Democratic presidents alike, that policy has cost millions of American jobs. It has gutted American communities nationwide while financing China's massive military and economic buildup, worsening human rights conditions in China and bolstering the monopoly powers of multinational corporations."

While Trump's China policy has not delivered, most critiques of it in the press also are off base. The China model of growing world-class economic and military power in the total absence of democratic governance and with total impunity for horrific human rights violations poses a global threat.

And, unless the United States and China act to address climate change – which itself will impli-

cate numerous trade issues – the climate crisis will only be exacerbated. Add to these weighty global considerations the fact that U.S. trade policy with China has enormous implications for economic equality here and for the lives of hundreds of millions of Chinese whose working and living conditions remain bleak.

Instead of identifying goals for a new approach and policy options to achieve those goals, the U.S. debate has been almost entirely framed in reaction to the chaotic way in which Trump's China policy is being conducted and not on the underlying structural challenges for U.S.-China trade.

To counter Trump's nationalism and status quo neoliberalism, we desperately need a truly progressive approach to trade policy with China.

Progressives are for an industrial policy that builds a new green economy to save the planet and provide good jobs. Thus, instead of opposing China's use of economic planning and subsidization of research and development of industries of the future in alternative energy, we should focus on how trade policies should allow for such domestic policy tools if the

related products are not traded.

Progressives are against corporate monopolies, carbon-spewing long-distance shipping and Wall Street giants gaining more power.

So progressives should not support Trumpian get-tough-on-China demands that include China guaranteeing broader rights for U.S. firms, including financial service firms, to invest in China or better intellectual property protections in China so it is safer to outsource the production of cutting-edge manufacturing.

As first steps, progressives and Democrats can unite to expose the hypocrisy of Trump not using existing statutory authority to immediately embargo all goods made by Uighur political prisoners in forced labor camps. They also can condemn the administration's failure to tackle serious health and safety problems associated with U.S. consumers becoming reliant on Chinese-produced medicines and numerous other goods produced with worryingly lax standards and no independent inspection.

These goals – not making China safe for Wall Street banks to set up shop or incentivizing the outsourcing of more U.S. manufacturing jobs – should be the priority. ■

### ► Arbitration, from page 1

tors do not have to follow the law or precedent. The arbitrator has an incentive to keep the company that chose arbitration happy because it is a repeat customer.

And proceedings take place behind a veil of secrecy – ensuring that regulators, civil society watchdogs, the media and the public never learn about corporate crimes or widespread harm.

Shockingly, individual consumers seeking relief in arbitration win just 9% of the time, and in an arbitration against a financial company, a consumer ends up paying the company \$7,725 on average, according to research by the Economic Policy Institute.

"Corporate apologists for arbitration often say it is an alternative venue to obtain justice, but in practice, it just means cheated or abused consumers, employees and others are out of luck," said Robert Weissman, president of Public Citizen. "Over the past decade, forced arbitration clauses quietly and insidiously have gone from being the exception to the rule to being almost impossible to avoid."

Hundreds of millions of contracts now contain forced arbitration provisions and class-action waivers – denying consumers, workers and others the ability to file lawsuits in court and preventing them from joining with other similarly situated people to sue together.

In August, Public Citizen compiled a "wall of shame" showing that more than 100 major companies now use these clauses to deny justice to customers and workers. Most are household names, including Airbnb, Amazon, HBO, Hulu, Lyft, Netflix, Uber and Walmart.

Instead of being forced into a system that is rigged to let corporate criminals off the hook, the FAIR Act would ensure that the victims of rip-offs, scams, wage theft, sexual harassment and discrimination could choose between going to arbitration or going to court. Public Citizen and its allies are leading the fight to pass the FAIR Act, and that fight is far from over.

"Make no mistake: The FAIR Act has a serious chance of becoming law within the next five years, but we have no illusions about the challenges ahead," said Remington A. Gregg, counsel for civil justice and

consumer rights in Public Citizen's Congress Watch division.

"Nevertheless, forced arbitration has drawn the ire of voices on the right – most famously former Fox News anchor Gretchen Carlson and U.S. Rep. Matt Gaetz (R-Fla.), who backed the House bill – and we have Republican allies in the U.S. Senate who agree with us on ending

forced arbitration once and for all."

Gregg played a major role in bringing about the House's vote to pass the FAIR Act, including assisting in the legislation's drafting, meeting with Hill staffers and leading the broad coalition of consumer, civil rights and employment organizations that support the FAIR Act. ■



Remington A. Gregg, counsel for civil justice and consumer rights in Public Citizen's Congress Watch division, testifies at a hearing on April 3 on "Putting Investors First: Reviewing Proposals to Hold Executives Accountable" in front of the U.S. House Subcommittee on Investor Protection, Entrepreneurship and Capital Markets. Photo courtesy of Bret Thompson.

# Public Citizen Backs California in Court Battle Over Clean Car Standards

BY DAVID ROSEN



The Trump administration had no authority to revoke California's right to regulate auto emissions standards, Public Citizen and eight environmental groups told the courts in a lawsuit filed in September. California's right to do so has been recognized in law for decades and should remain in place, Public Citizen and the groups maintain.

President Donald Trump is trying to roll back greenhouse gas standards for automobiles nationwide that were put in place in 2012 jointly by the Obama administration and California. But California's right to set its own standards and

its commitment to maintaining the protections of the 2012 standards has stood in Trump's way.

So in September, the National Highway Traffic Safety Administration (NHTSA) issued a rule declaring that California has no right to regulate greenhouse gas emissions from motor vehicles.

The NHTSA's rule served as the main legal basis for an action taken simultaneously by the U.S. Environmental Protection Agency (EPA) revoking a Clean Air Act waiver that allowed California to regulate greenhouse gas emissions from automobiles and require that automakers include zero emission vehicles in their fleets. California's emissions standards and zero emission vehicles mandate were adopted in 2012 at the same time that the EPA issued greenhouse gas emissions standards and the

NHTSA issued fuel economy standards. The Clean Air Act recognizes California's right to set these standards and allows certain other states to follow them.

Public Citizen and the other groups in the lawsuit are asking the U.S. District Court for the District of Columbia to throw out the NHTSA's rule. According to the lawsuit, the rule violates the Administrative Procedure Act, the Clean Air Act, the Energy Independence and Security Act, the Energy Policy and Conservation Act and the National Environmental Policy Act – and falls outside the scope of the statutory duties and powers of the various federal agencies named in the suit.

“We aren't going to let California's auto emissions standards or the existing federal standards set by the Obama

administration go down without a fight,” said Scott Nelson, attorney for Public Citizen. “The NHTSA has no legal basis for its actions. The climate may be heating up, but so is the legal battle. Trump wants California's clean car standards out of the way, but he's going to have to get through us first.”

In addition to Public Citizen, the groups that filed the lawsuit are the Center for Biological Diversity, Conservation Law Foundation, Environment America, Environmental Defense Fund, Environmental Law and Policy Center, Natural Resources Defense Council, Sierra Club and the Union of Concerned Scientists.

California and other states also have filed suit in the same court. Challenges to the EPA's waiver revocation will follow soon. ■

# Reps. Omar, Pressley Push for Medicare for All in Town Hall

BY MIKE STANKIEWICZ

Local government resolutions, star-studded town halls and stonewalling police – it has been a wild ride on the Medicare for All front the past few months.

In November, the Los Angeles City Council passed a resolution in support of Medicare for All. With a population of four million, Los Angeles is the second-largest city in the United States. Its resolution follows successful resolutions by local lawmakers in Tampa, Fla., St. Petersburg, Fla., Tucson, Ariz., and Lucas County, Ohio, which includes Toledo, all demanding Congress adopt Medicare for All. Public Citizen is leading a coalition urging citizens nationwide to press their local governments to pass similar resolutions.

More than 230 local efforts are underway to pass resolutions in communities across the U.S.

To help increase awareness and ensure the success of these local resolution efforts, heavy hitters in the Medicare for All arena helped launch a week of action on Oct. 28, starting with a virtual town hall.

More than 33,000 activists from around the country tuned in to hear U.S. Reps. Ayanna Pressley (D-Mass.) and Ilhan Omar (D-Minn.), co-sponsors of the Medicare for All Act in the U.S. House of Representatives (H.R. 1384), as well as the mayor pro tempore of Durham, N.C., grassroots activists, physicians and national leaders who

discussed how to translate this growing momentum into congressional action.

“I'm outraged because this is outrageous,” Pressley said during the town hall. “We are a country that quite literally punishes you if you're sick or poor or pregnant or black. Being sick shouldn't push you into poverty and poverty shouldn't push you into sickness.”

During the week of action, more than 30 new efforts to pass resolutions were initiated. Town hall meetings, grassroots petitions and resolutions are just the start; lawmakers need to know about the groundswell of support for Medicare for All so they can be spurred to act.

Their security detail, however, has been a bit of a problem.

On Oct. 15, a group of organizations went to deliver more than 2.2 million petition signatures in support of Medicare for All to the U.S. House of Representatives. Groups that collected signatures included Public Citizen, Business for Medicare for All, CREDO Action, Center for Popular Democracy, Daily Kos, Democracy for America, League of United Latin American Citizens, MoveOn, Our Revolution, People's Action and Social Security Works.

The activists planned to deliver to lawmakers binders containing information about Medicare for All as well as a flash drive containing the signatures.

The groups started by delivering the message of support from the signatories to U.S. Reps. Pramila Jayapal (D-Wash.) and Debbie Dingell (D-Mich.), coauthors of the Medicare for All Act. Activists then headed to other key lawmakers' offices.

The delivery was temporarily stymied when a Capitol Hill police officer told the group they were not permitted to deliver petitions to members' offices. Given that industry lobbyists deliver information to members' offices all the time, the groups' leaders persisted in delivering the rest of the petitions.

“We will continue to ensure that the people's voices are heard in the halls of Congress,” said

Melinda St. Louis, director of Public Citizen's Medicare for All campaign.

“The 2.2 million petition signatures we delivered are reflective of what we're seeing at the grassroots level through efforts to win city and county council resolutions in support of Medicare for All. As this campaign continues to gain steam, we expect to see more and more Americans demanding guaranteed health care for all.”

**Join the movement to win Medicare for All by contacting your member of Congress and urging them to cosponsor the Medicare for All Act of 2019: <https://bit.ly/2WNt80o>.** ■



Activists from Public Citizen and allied groups deliver petition signatures in support of Medicare for All to U.S. Rep. Pramila Jayapal (D-Wash.). Photo courtesy of Bret Thompson.

# Soft Punishments Lead to Corporate Law Breaking

BY RICK CLAYPOOL

Corporations facing criminal investigations dominate the headlines.

Boeing. Purdue Pharma. Facebook. Uber. The list goes on.

While corporations keep breaking the law, the U.S. Department of Justice (DOJ) keeps refusing to punish them. Instead, federal prosecutors increasingly rely on agreements they negotiate behind closed doors to keep corporations out of the criminal justice system, a new Public Citizen report finds.

These corporate leniency agreements effectively waive prosecution while requiring corporate wrongdoers to pay a fine, agree to reforms and promise not to commit any more crimes. Sometimes the DOJ requires corporations to be supervised by a DOJ-approved monitor. Usually after two or three years, as long as the corporation does not violate the agreement, the DOJ drops any charges it may have filed.

The agreements mean that a corporation can commit crimes but avoid being labeled a criminal, which can bring serious reputational and legal consequences.

The DOJ claims that these corporate leniency agreements – called deferred prosecution agreements (DPAs) and nonprosecution agreements (NPAs) – are sufficient to reform corporate culture and deter future wrongdoing.

Public Citizen's report finds that 38 corporations – all large and almost entirely publicly traded – have faced subsequent criminal enforcement actions from the DOJ after entering one of these corporate leniency agreements.

As an approach to reforming corporate lawbreakers, DPAs and NPAs have failed. If the DOJ wants to deter corporate crime, Public Citizen recommends that it immediately stop entering into these agreements with corporations and instead prosecute corporate crimes to the fullest extent of the law.

In the near term, Congress could pass legislation requiring greater transparency around the DOJ's decisions to enter these leniency agreements, which have been criticized by both Democratic and Republican lawmakers.

Another approach to increase corporate accountability is to hold executives criminally liable and subject to jail time when corporations violate the law, which is proposed in a bill U.S. Sen. Elizabeth Warren (D-Mass.) introduced earlier this year, the Corporate

**“If corporations know they can commit crimes and, if caught, be required to do little more than promise not to violate the law in the future, it is a virtual certainty they will break the law regularly and routinely.”**

—Robert Weissman, Public Citizen's president

Executive Accountability Act.

## The Rise of Deferred and Nonprosecution Agreements

The 38 corporations analyzed by Public Citizen account for about 15% of all deferred and nonprosecution agreements the DOJ entered with corporations since the early 1990s. Over the past two decades, both Republican and Democratic administrations increased their reliance on these agreements. Before 2003, the DOJ reached fewer than five of these agreements with corporations each year. They rose to double digits by 2005 and to more than 40 in 2007.

The practice accelerated under President Barack Obama and continues under President Donald Trump, the supposedly “tough on crime” president. The DOJ already has entered 28 such agreements in 2019. While these agreements increasingly replace prosecution for corporate violators, court statistics show that human defendants receive similar leniency from the federal prosecutors less than 1% of the time.

Meanwhile, corporate prosecutions plummeted to just 99 in fiscal year 2018 – their lowest in two decades.

## Repeat Offenders

Half of the repeat offender corporations are multinational banks

such as JPMorgan Chase, Deutsche Bank and HSBC. Other industries represented in the report include pharmaceuticals (such as Bristol Myers-Squibb and Pfizer), medical devices (such as Zimmer Biomet), and oil and gas (such as BP and Chevron).

Most of these corporate repeat offenders (63%, or 24 out of 38) received at least one additional leniency agreement after already having received a prior agreement – meaning the DOJ is protecting the same corporate wrongdoers from prosecution two, three, or even four or five times.

These agreements are supposed to work by threatening corporate offenders with prosecution if they violate the agreement by committing crimes during the term of their agreement. The report, however, finds that this almost never happens.

Out of all 535 agreements the DOJ made with corporations between 1992 and mid-2019, corporations were held accountable for breaching agreements only seven times – about 1%.

This does not mean the other 528 corporations were well-behaved. Public Citizen's analysis uncovered 12 instances in which a corporation was subject to subsequent criminal enforcement action before the expiration of its NPA or DPA, and an additional nine corporations that were subject to

criminal enforcement by the DOJ within 18 months of release from a leniency agreement.

“As profit-maximizing, risk-calculating organizations, big corporations are highly responsive to incentives and punishments,” said Robert Weissman, Public Citizen's president.

“If corporations know they can commit crimes and, if caught, be required to do little more than promise not to violate the law in the future, it is a virtual certainty they will break the law regularly and routinely. If we want corporations to follow the law, then it's past time to do away with deferred and nonprosecution agreements.”

Tragically, the DOJ has the approach exactly backward. The Trump administration has quietly released several enforcement policies that direct prosecutors to go soft on corporate crime, even as it embraces “zero tolerance” enforcement for everyone else, especially immigrants and low-income communities of color.

Humane criminal justice reforms are essential for combating the crisis of overenforcement and overincarceration that oppressive “tough on crime” policies fuel.

The crisis of underenforcement against corporate crime, however, cannot be ignored. The ultimate goal is simple: To deter corporate crime, corporations will have to learn that crime doesn't pay. ■

## The rise of corporate DPAs and NPAs (1992-June 2019)

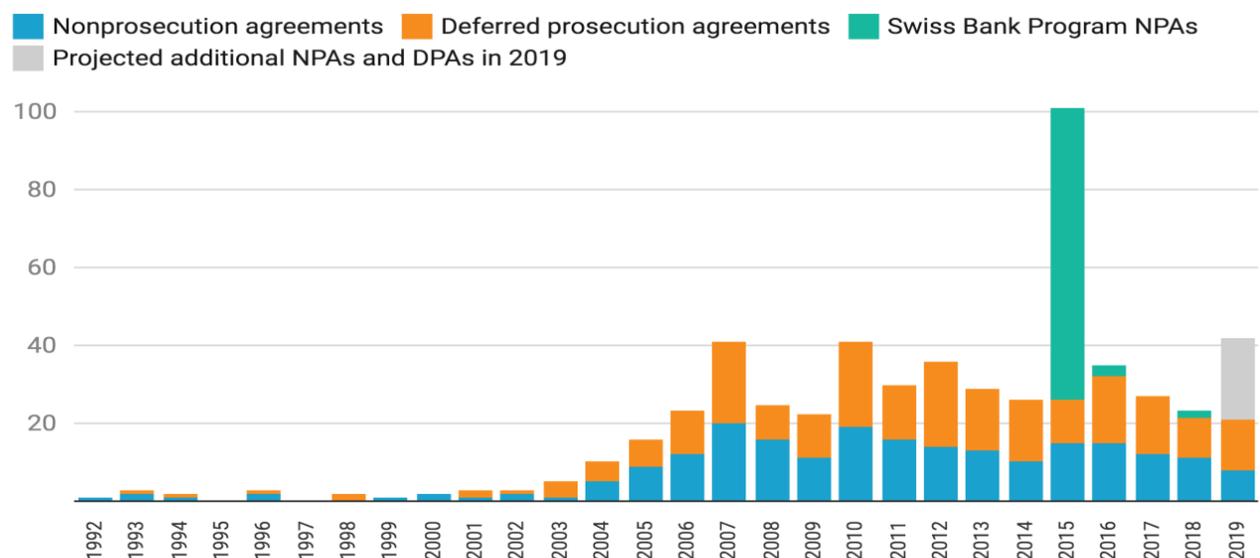


Chart: Public Citizen • Source: Duke University/University of Virginia Corporate Prosecution Registry

# Protecting Houston from Floods and Chemical Disasters

BY MICHAEL COLEMAN

Houston keeps getting battered by disasters caused by climate change and the petrochemical industry, so Public Citizen – with an office in Austin and staff in Houston – is stepping in to help.

## Climate-Fueled Disasters

In September, Tropical Storm Imelda dumped up to 43 inches of rain on communities in southeast Texas. That was just two years after Hurricane Harvey and its record-breaking rainfall ravaged Houston. Some Houston-area communities are more protected from flooding than others. In 2018, Harris County voters approved a \$2.5 billion flood mitigation bond package, but the plan excluded some poorer communities that needed the most help.

The Coalition for Environment, Equity, and Resilience – a Texas-based partnership consisting of Public Citizen and 22 other public health and environmental organizations – pushed for a fair plan that would minimize flooding risks for all families, regardless of geographic location or socioeconomic level.

In August, the Harris County Commissioners Court answered Public Citizen's demands by passing a "Harris Thrives" resolution to solve flooding issues. The resolution requires that money from the \$2.5 billion flood bond package approved in 2018 be spent based on a "worst first" formula.

That means that areas of Harris County hardest hit, and where some of most vulnerable residents reside, would be protected first. The strategy marks a departure from the old approach, which focused on cost-benefit analysis. According to the Houston Chronicle, work is underway on

more than 150 projects, though most are still in the design phase.

## Curbing Climate Change-Inducing Emissions

Ambitious emissions reductions are necessary to ensure a livable climate. In Houston, Public Citizen has pushed for the development of a climate action plan to meet emissions reduction goals. Houston released its draft plan in July. It isn't perfect. That's why Public Citizen's Texas office is using social media and other channels to urge Texans to demand more ambitious near-term emissions reductions that meet the goals of the Paris Climate Agreement.

## Chemical Disasters

As if climate change and natural disasters don't present enough challenges, the Houston area also is home to one of the largest petrochemical complexes in the world. Chemical disasters happen all too frequently in the area – on average, once every six weeks.

In September, rainfall from Imelda and lightning strikes unleashed several hundred thousand pounds of pollution from Houston's petrochemical corridor. Last spring, a massive fire at the Intercontinental Terminals Co. petrochemical plant erupted and cast a dark plume of toxic smoke across the region, releasing more than 15 million pounds of pollution and forcing schoolchildren to shelter in place. These pollutants not only entered the air but also the waterways. Pollutants kill wildlife and endanger the health of first responders and community members.

During the 2019 Texas Legislature, Public Citizen lobbied for – and secured – a \$1.5 million appropriation for air quality monitoring equipment. The state announced on Oct. 21 that it was purchasing the equipment, which will be installed in mobile vans that can be deployed by Texas environmental regulators during natural disasters. It also can be

used for regular monitoring of petrochemical company fence lines, to help keep vulnerable communities safe.

Public Citizen's Texas office also participated last summer in a Harris County study to identify gaps in the county's chemical disaster response. Public Citizen's efforts helped support the allocation of \$11.1 million for additional staff and air monitoring. The county has agreed to pay for 61 new employees to begin to address emergency response efforts in an area of chemical plant expansion.

"Public Citizen has been able to help shape public policy and opinion in Houston and Harris County to help protect residents," said Stephanie Thomas, an organizer and researcher in Public Citizen's Texas office.

In the months ahead, Public Citizen's Texas office will continue to press for the strongest public health and environmental protections for Houston and its surrounding communities. ■



A neighborhood in Houston, Texas, is flooded by Hurricane Harvey. Photo courtesy of Wikimedia.

# Corporations Make Billions from Immigration Contracts

BY ALAN ZIBEL

Private federal contractors are reaping a windfall from the ramped-up immigration and corrections efforts enacted by the Trump and Obama administrations over the past decade.

A Public Citizen analysis of 10 large contracting firms working for five federal agencies overseeing federal immigration, corrections and detention policies found that these companies received \$2.32 billion in federal contract revenue in 2018, more than dou-

ble the \$942 million those same companies received in 2013. The total also was up 17% from nearly \$2 billion at the start of President Donald Trump's term.

These federal contractors run detention facilities and prisons, transport detained migrants by plane, provide security guards and build technological systems for U.S. immigration and corrections agencies, among other activities.

Spending on prison and detention contracting began to sky-

rocket during President Barack Obama's second term, coinciding with a surge in migrants from Central America. Under Trump, spending has ramped up even more as the federal government has pressed ahead with sweeping efforts to constrain the flow of immigration to the United States. These actions have outraged many Americans while benefiting private contracting firms – especially the two largest private prison companies: GEO Group and CoreCivic.

During the Trump administration, GEO Group and CoreCivic each have received more than \$1 billion from the five agencies analyzed by Public Citizen: U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, the U.S. Department of Health and Human Services, the U.S. Marshals Service and the Federal Bureau of Prisons.

"No government should hand over power to control the lives of incarcerated people to for-profit

see [Immigration](#), page 13 ►



Organizers hold a national day of action in Tucson, Ariz., on Sept. 17 to urge lawmakers to give states the money they need to secure the vote. Public Citizen file photo.

**"Any member of Congress who does not support taking concrete steps to stop foreign hackers needs to hear from their constituents that America has had enough of hackable voting machines and equipment. Right now, we are sending local election officials into battle against foreign hackers without the tools or guidance that are essential to defending our democracy."**

**- U.S. Sen. Ron Wyden (D-Ore.)**

► **Election Security**, from page 1

outcome. In 2018, the U.S. election system proved still vulnerable, as electronic voting systems in states like Georgia were left open to cyberattacks.

Congress has yet to enact universal protections against election interference or to provide enough funding for states to secure their voting systems and institute stronger voting security requirements – measures that Public Citizen has called for.

The U.S. House of Representatives in June passed a funding bill (H.R. 3351) that would allocate \$600 million to states and localities so they can replace paperless voting systems with verifiable paper ballot systems, secure voter data and hire staff to help counter the evolving threats to elections. The House in June also passed the SAFE Act (H.R. 2722) – comprehensive election security reform, including sustained funding. However, U.S. Senate Majority Leader Mitch McConnell (R-Ky.) is

blocking democracy reform bills, including the SAFE Act, and initially opposed election security funding as well.

To pressure senators to take action on election security, Public Citizen and dozens of groups, including the conservative groups Americans for Tax Reform and FreedomWorks, organized a national day of action on Sept. 17 at more than 40 locations across the country, including New York City, Chicago, Tucson, Jacksonville, Philadelphia and San Diego. Gathering in front of the district offices of U.S. senators, the activists demanded that their senators and McConnell approve the funding bill to improve the security of elections.

In San Antonio, members of the Bexar County Voter Protection Coalition, representatives of Public Citizen and other concerned Texans rallied outside the office of U.S. Sen. John Cornyn (R-Texas) and delivered letters from constituents urging his support of legislation to keep



U.S. elections safe from interference.

“Without paper ballots or an auditable paper trail, Texas is especially vulnerable to election interference,” said Adrian Shelley, director of Public Citizen’s Texas office. “That’s why we are calling on Cornyn to support \$600 million for election security. The threat is real, and we must answer it today.”

Coinciding with the national day of action, Public Citizen held a telephone press conference with U.S. Sens. Ron Wyden (D-Ore.) and Richard Blumenthal (D-Conn.), U.S. Rep. John Sarbanes (D-Md.), election security experts and activists to highlight the urgent need for security upgrades ahead of the 2020 election.

“Any member of Congress who does not support taking concrete steps to stop foreign hackers needs to hear from their constituents that America has had enough of hackable voting machines and equipment,” Wyden said. “Right now, we are sending local election officials into battle against foreign hackers without the tools or guidance that are essential to defending our democracy.”

The heads of Americans for Tax Reform and FreedomWorks also held a press conference calling on McConnell to act.

On Thursday, Sept. 19, McConnell announced that he was co-sponsoring legislation that would provide \$250 million for election security to be distributed to 50 states and thousands of counties. While it is a step in the right direction, McConnell’s funding is still inadequate, as it

would amount to only \$70,000 per county, which is barely enough to buy 13 paper ballot scanners and not nearly enough to hire IT security personnel, Public Citizen said.

“It makes no sense to give states and counties so little to stop cyberattacks compared to the funding given to our military, police and first responders to protect us physically,” said Aquene Freechild, co-director of Public Citizen’s Democracy Is For People campaign.

The same week, a U.S. Election Assistance Commission (EAC) committee met to consider allowing the next generation of federally certified voting machines to be connected to the internet, which is unsafe because it makes the machines more vulnerable to hacking.

“It is widely recognized that one of the best ways to protect machines from manipulation is to make sure they can’t connect to the internet,” Freechild said.

Time is running out for states to secure their systems before the 2020 elections. Public Citizen urges readers to tell their senators to send states the full \$600 million for voting security and urge the EAC to ban internet connectivity in our voting systems. This would help ensure secure elections and protect our democracy.

**To make your voice heard on this important issue, phone the U.S. Capitol switchboard at (202) 224-3121 and ask to be directed to the office of your senator. ■**

**“It makes no sense to give states and counties so little to stop cyberattacks compared to the funding given to our military, police and first responders to protect us physically.”**

**- Aquene Freechild, co-director of Public Citizen’s Democracy Is For People campaign**

Public Citizen began working with U.S. Rep. Lloyd Doggett (D-Texas) to draft the Medicare Negotiation and Competitive Licensing Act, which was introduced in February and has the support of more than 120 House Democrats.

It gives the U.S. Department of Health & Human Services (HHS) direct power to negotiate drug prices with manufacturers. The bill also gives the agency the power to license patents and introduce generics when drugmakers do not offer a reasonable price.

Meanwhile, Democratic Party leaders were crafting a much more modest plan to lower prices through arbitration, which would have empowered a third party to decide what the government must pay for a prescription drug.

The Doggett bill, though, set the standard for drug pricing legislation and the parameters for the legislative debate. Public Citizen met with House Speaker Nancy Pelosi's (D-Calif.) office throughout the year, insisting on policy to match the scale of the drug affordability problem. The organization also coordinated a sign-on letter to Pelosi, laying out progressive groups' requirements for her legislation. In response, the party leaders were forced to adopt a more

**“Fundamentally, high medicine prices are rooted in the monopoly powers our government grants to prescription drug corporations. Making medicine affordable for everyone requires that we challenge this power.”**

—Peter Maybarduk, director of Public Citizen's Access to Medicines program

ambitious approach.

By the time Public Citizen held its telephone press conference, arbitration had been removed from the legislation. The bill still empowers the U.S. government to negotiate directly with drugmakers for lower prices, but it imposes a steep tax penalty on companies that refuse, rather than sending the matter to arbitration.

That would mean a better deal not only for Medicare patients but for people with private insurance. H.R. 3 also would guard against price spikes by requiring drug companies to pay rebates to Medicare when they increase prices beyond the level of inflation.

“Democratic leaders understand that after their Better Deal pledge to midterm voters, they need a big drug pricing bill around which Democrats can rally,” said Peter Maybarduk, director of Public Citizen's Access to Medicines program.

### Making It Even Better

Yet the legislation has limitations

that must be addressed. The plan, for instance, does not limit how much consumers pay for new drugs. And it doesn't allow the government to negotiate prices for all drugs. So patients who use expensive medicines that do not qualify for negotiation may still be at the mercy of Big Pharma's price gouging.

Some aspects of the plan rely too heavily on prices abroad, which derive from monopolies just as they do in the U.S., rather than providing a fresh opportunity to establish fair prices related to real research investments and priorities.

“Fundamentally, high medicine prices are rooted in the monopoly powers our government grants to prescription drug corporations,” Maybarduk said. “Making medicine affordable for everyone requires that we challenge this power.”

### Strengthening H.R. 3

Some of the issues with H.R. 3 may be remedied ahead of a final vote on the floor of the House. On Oct. 16, the U.S. House Education and

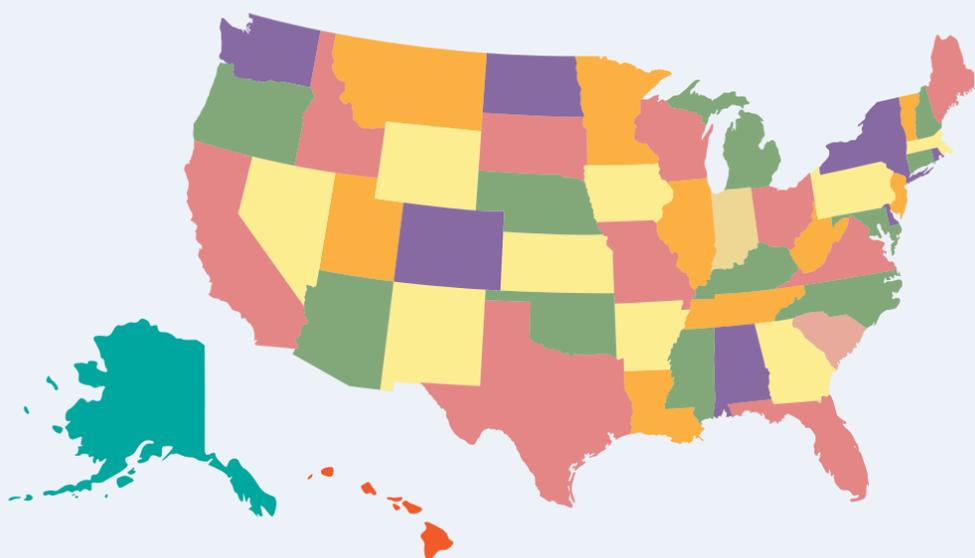
Labor Committee incorporated an amendment sponsored by U.S. Rep. Pramila Jayapal (D-Wash.) to expand price spike protections beyond Medicare to employer-sponsored health plans.

As Public Citizen News went to press, Public Citizen and progressive allies inside and outside of Congress were working to further strengthen the bill through amendments, including ones that would ensure people without insurance can benefit from lower prices and expand negotiations to cover more drugs.

“The changes made so far to the legislation from its more conservative, earlier iteration testify to the power of patients and their families who spoke out about medical debt and treatment rationing and demanded that their government do better,” said Steve Knieval, advocate with Public Citizen's Access to Medicines program. “Ultimately, making medicine affordable will require going further to disrupt corporate monopoly pricing.” ■

## PUBLIC CITIZEN IN YOUR STATE

Much of Public Citizen's work focuses on federal policies, but the organization also works in the public interest at the local and state levels. Here's what Public Citizen has been doing in your state lately.



### Public Citizen Mobilizes Activists on Impeachment Inquiry

Declaring that nobody is above the law, Public Citizen is helping lead an effort to organize grassroots activists nationwide to take to the streets in hundreds of cities on the night before the U.S. House of Representatives votes on whether to impeach President Donald Trump.

The actions are being organized by the “Nobody Is Above the Law” coalition, which also mobilized activists to protect Special Counsel Robert Mueller's investigation into Russian interference in the 2016 U.S.

presidential election.

The coalition includes Public Citizen, Stand Up America, Indivisible, By The People, Progressive Democrats Of America, March For Truth, MoveOn, Need To Impeach, Women's March, People For the American Way, Daily Kos, act.tv, Democracy for America, National Action Network, National Organization for Women, Greenpeace and CREDO Action.

By gathering in front of the district offices of House members as lawmakers finalize their positions, coalition members plan to urge lawmakers to uphold the Constitution and their oath of office by supporting Trump's impeachment.

These actions will take place in cities across the country, including Juneau, Alaska; Columbus, Ohio; Sedona, Ariz.; Salt Lake City, Utah; and Atlanta, Ga.

Since the beginning of his administration, Trump has behaved with contempt for the values enshrined in the Constitution and used the presidency to enrich himself.

However, the recent revelations surrounding his extortion of an allied foreign government, his urging of a foreign government to interfere in the 2020 presidential election and his attempt to cover it up are a clear threat to our democracy. Impeachment is no longer a political option but a moral and constitutional obligation, as nobody is above the law, advocates, including Public Citizen, say.

Public Citizen News encourages readers to RSVP for a “Nobody Is Above the Law” event at [www.impeach.org](http://www.impeach.org). ■ — Molly Kozlowski

# Workers Sue the USDA Over Hog Line-Speed Rollback

BY DAVID ROSEN



For more than a decade, whistleblowers at the U.S. Department of Agriculture (USDA) have warned workers at hog slaughter and pork processing plants against speeding up production lines. Faster line speeds at these plants increase the risks to consumers of ingesting contaminated food and endanger the health and safety of plant workers.

Workers in these plants, many of whom are people of color or immigrants, already face some of the highest workplace injury and illness rates in the country: 2.3 times higher than the average for all private industries, according to the U.S. Bureau of Labor Statistics. They regularly suffer from a variety of repetitive stress injuries, including tendonitis; carpal tunnel syndrome; knee, back, shoulder and neck traumas; and lacerations from knives and blades used in their work. Swine slaughter workers regularly report pressure to work as fast as possible, which increases the risk of injury.

That's what thousands of commenters told the USDA when it proposed eliminating the caps on line speeds at hog slaughter plants and reducing the number of government safety inspectors on each line by 40%. Public comments submitted to the USDA, including those provided by Public Citizen last summer, identified dozens of peer-reviewed studies and expert analyses showing that eliminating line-speed maximums would put plant workers at greater risk.

In its final rule, published in September, the USDA did not dispute any of this evidence. Nonetheless, the agency refused to consider the impact of its actions on worker safety, despite having done so for decades.

"Allowing plant management to decide for itself what line speeds are safe and privatizing the inspection process is a classic case of the fox guarding the henhouse, and it must be stopped before irreparable harm is done," said Shanna Devine, worker health and safety advocate for Public Citizen's Congress Watch division.

In response to the rule, Public Citizen's legal team sprang into

action. Lawyers from Public Citizen, assisted by lawyers at United Food and Commercial Workers (UFCW), filed a lawsuit on Oct. 7 in the U.S. District Court for the District of Minnesota, urging the court to set aside the USDA's rule.

The lawsuit was filed on behalf of UFCW and three of its local unions: UFCW Local 663, Local 440 and Local 2. Together, the union and locals represent thousands of employees in Minnesota, Iowa, Kansas, Missouri and Oklahoma who work at pork plants where the USDA expects companies to increase line speeds and alter safety inspection methods pursuant to the rule.

The complaint explains that the USDA's refusal to consider the harms its actions will have on workers reflects arbitrary and capricious decision-making, violating the Administrative Procedure Act. Not only has the USDA considered worker health and safety impacts previously, but in proposing this rule, the agency acknowledged the importance of considering these impacts.

"There are two basic principles

of administrative law: Agencies cannot refuse to address concerns about the impacts of their actions, and they must acknowledge and explain when they change their positions," said Adam Pulver, the Public Citizen attorney handling the case.

"By refusing to discuss the mountains of evidence showing that faster line speeds will endanger workers – even after acknowledging in its proposed rule the importance of considering worker safety – the USDA broke these two bedrock principles."

The record before the USDA showed a clear link between worker safety and food safety – a connection Congress noted in adopting the Federal Meat Inspection Act in 1906 and the Humane Methods of Slaughter Act in 1978.

The complaint also alleges that the USDA violated the Federal Meat Inspection Act by replacing 40% of federal inspectors with inspectors employed by the company they are charged with inspecting.

Public Citizen and UFCW are asking the court to block implementation of the rule and set it aside. ■

## Meet Public Citizen Activist Liz Wally

BY ELIZABETH GONZALEZ AND MOLLY KOZLOWSKI

Indomitable. Dedicated. Passionate. Those are just some words that come to mind when colleagues are asked to describe Liz Wally.

Wally's work with Public Citizen began in 2012, when she helped organize an event marking the second anniversary of the U.S. Supreme Court's disastrous *Citizens United v. FEC* decision. Since then, Wally has partnered with the organization on a variety of mobilization initiatives, including the Integrity Texas coalition and a voting rights coalition following the nationwide Democracy Awakening mobilization in 2016.

This year, Wally worked with Public Citizen's Texas office to defeat S.B. 9 in the Texas state Senate. Among other things, the legislation would have made it a felony for Texans to vote when they're ineligible – even if they do so unknowingly.

Wally also was instrumental in coordinating the Secure Our Vote rally with Public Citizen in Dallas this September (see story on page 1), gathering activists in front of U.S. Sen. John Cornyn's (R-Texas) office to demand funding for election security and accountability.

A native Texan and Stanford alumna, Wally has always been drawn to solving problems, starting her career as a conflict mediator in Texas elementary schools. However, it was a local movement in Dallas, Texas, focused on addressing money in politics that drew her to taking on election reform and working with Public Citizen.

"None of your issues will be taken care of unless you take care of money in politics," Wally said. "I also came to the realization

that if you haven't voted in the right people to make the change, the [political] system will never change either."

In 2007, Wally helped found Clean Elections Texas, a nonpartisan organization that seeks to promote transparent and responsible government in Texas by building statewide support for public funding and other campaign reform measures.

As an activist, Wally has developed a reputation as a skilled networker and coalition builder, bringing together groups such as Democracy Matters and Democracy for America to tackle clean election reform in Texas.

"Liz sees where democracy needs defending and gets to work, finding and building up local leaders and coalitions, and getting things done. She is a joy to work with and a force to be reckoned with in Texas," said Aquene Freechild, co-director of Public Citizen's Democracy Is For People campaign.

Wally's advice for activists wishing to maintain their optimism in the face of challenges with organizing is to remember that "the people who are working toward the same vision are what makes your work worthwhile."

As Adrian Shelley, director of Public Citizen's Texas office, has observed, Wally's hopeful vision and spirit is often a source of inspiration for the activists she collaborates with.

"In a state where fighting for voters' rights is an uphill battle, Liz Wally is a pleasure to work with. Her knowledge and depth of experience in the Dallas-Fort Worth area make her a valuable ally in our statewide coalition," said Shelley. ■



# Suing to Ban Cesium Chloride Dietary Supplements

BY RHODA FENG



Public Citizen in September sued the U.S. Food and Drug Administration (FDA) over its failure to respond to the organization's petition urging the agency to ban the marketing of cesium-containing dietary supplements. The suit was filed in the U.S. District Court for the District of Columbia.

The FDA has long recognized the dangers of cesium chloride; the agency's own reviewers have noted that cesium chloride presents "serious safety concerns" and "is not safe for human use." Nonetheless, the ingredient has long been used in dietary supplements and pharmacy compounding despite its link to preventable life-threatening cardiovascular events.

Public Citizen petitioned the FDA in December 2017, requesting that it ban the use of cesium chloride in compounded drugs. The FDA dragged its feet, but on July 23, 2018, partially granted Public Citizen's petition, placing cesium chloride in a category of substances that may not be compounded under interim FDA guidance and issuing a health alert to

medical professionals. That same day, Public Citizen petitioned the agency to ban cesium chloride in dietary supplements and to provide safety communications to consumers and doctors about the dangers of the supplements.

On Sept. 5, 2019, the FDA issued a proposed rule to make permanent the ban on cesium chloride in pharmacy compounding. For Public Citizen, it was the right move but came too late.

"Although we strongly support the FDA's action to block pharmacy compounding of cesium chloride, the agency should have acted more than two years ago," said Dr. Michael Carome, director of Public Citizen's Health Research Group. "By not acting more expeditiously, the agency allowed consumers to continue to be exposed to a dangerous and ineffective medication that has been promoted without basis to vulnerable cancer patients."

However, the agency did nothing to stop the use of cesium chloride in dietary supplements, despite cesium chloride's link to fatal adverse effects and a lack of evidence that it has any health benefits.

"It is amply clear from the scientific literature and case reports that the risks of using cesium chloride or any other cesium salt outweigh

any claimed benefits," said Dr. Meena Aladdin, health researcher in Public Citizen's Health Research Group. "The FDA also must protect the public from cesium-containing dietary supplements."

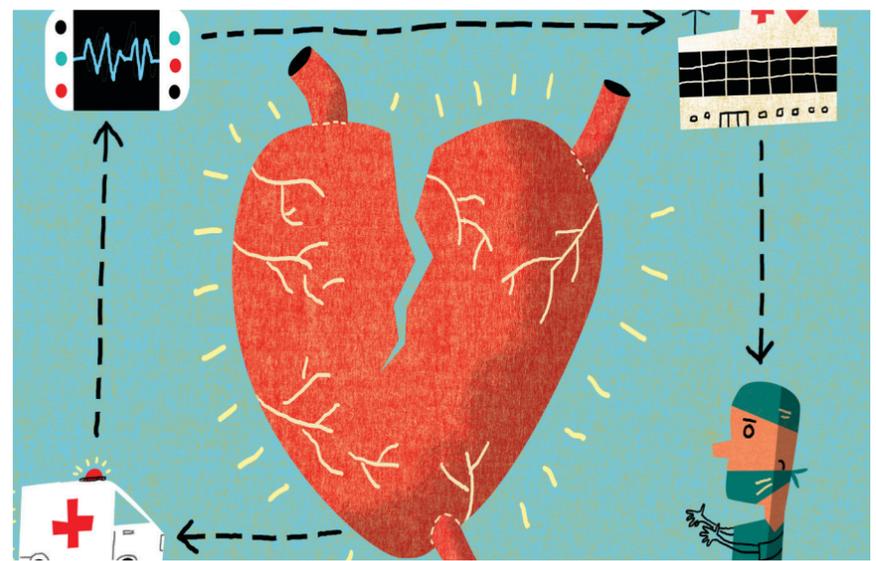
## Life-Threatening Cardiac Effects

The greatest danger posed by cesium chloride and other cesium salts is cardiac toxicity. Numerous animal studies conducted over the past four decades have shown that cesium causes changes to the electrical activity of the heart that can lead to cardiac arrest. Additionally, there have been multiple reports of patients experiencing cardiac arrest after ingesting cesium chlo-

ride. Use of cesium also can cause dangerously low blood potassium levels and has been linked to seizures.

More than a year has passed since Public Citizen submitted its petition to ban cesium dietary supplements, and the FDA has yet to issue a decision. Such a delay violates the Administrative Procedure Act, Public Citizen said in its lawsuit.

"Given the abundance of evidence indicating the dangers associated with ingesting cesium chloride or any other cesium salt, it is imperative that the FDA prohibit the marketing of dietary supplements containing these chemicals," said Aladdin. ■



Graphic courtesy of James Yang.

# Americans Continue to Die as the FDA Refuses to Act

BY MIKE STANKIEWICZ

Despite the opioid overdose epidemic continuing to claim lives every day, the federal government has failed to implement a detailed plan to help address the public health crisis that was issued more than two years ago by the esteemed National Academy of Sciences, Engineering, and Medicine.

The U.S. Food and Drug Administration (FDA) has moved too slowly and insufficiently in creating an updated regulatory framework for reviewing and approving new opioids, and the agency's recent, woefully inadequate draft guidance for assessing the risks and benefits of opioids proves how little the agency has done to help address America's rampant opioid crisis, Dr. Michael Carome, director of Public Citizen's Health Research Group, told the FDA at a public hearing on Sept. 17.

In June, the agency solicited

public comment on a draft guidance that merely "encouraged" drugmakers to provide information that could help the agency determine the risks and benefits of a new opioid.

This is inadequate because it is focused on nonspecific, general factors that the FDA would consider when reviewing any new drug application instead of specific benefit and risk information of opioids, Public Citizen contends. A stronger framework has been available for years. In fact, the FDA asked for it.

In early 2016, the FDA commissioned the National Academies to review the agency's regulatory oversight of opioids and make recommendations for improving it.

The National Academies in mid-2017 presented the FDA with detailed and in-depth recommended improvements for the opioid review and approval process.

But the FDA has not yet adopted

them. Meanwhile, the agency approved the superstrong and dangerous opioid Dsuvia in 2018, which it wouldn't have done had the agency followed the National Academies' recommendations.

"The FDA must make the development and implementation of an effective opioid approval framework its number one priority," said Carome.

"Had the FDA acted with the urgency demanded by the ongoing opioid crisis and begun the important process of developing desperately needed criteria when it received the National Academies' recommendations more than two years ago, the framework likely would have been completed by now, rather than just beginning. Lives are at stake," he said.

In April, Public Citizen and Dr. Raeford Brown, then chair of the FDA's Anesthetic and Analgesic Drug Products Advisory Committee, filed a petition with the FDA to impose a moratorium

on approval of all new opioids or opioid formulations.

In the petition, Public Citizen contended that the FDA should not approve any new opioids until the agency has implemented the National Academies' recommendations.

The FDA denied the petition on Sept. 6, saying that it was developing a framework for approving opioids. But as the agency continues to craft what likely will be a watered-down process, thousands of Americans will continue to die.

Nearly 69,000 Americans died from drug overdoses in 2018, according to the U.S. Centers for Disease Control and Prevention, 12,757 of which were from prescription painkillers.

"The FDA has wasted valuable time," Carome said. "Thousands of lives are being destroyed or lost in the opioid crisis, but the FDA has continued to approve increasingly potent new opioids." ■

► **Immigration**, from page 7

businesses. Doing so virtually guarantees civil and human rights abuses,” said Robert Weissman, president of Public Citizen.

Five companies have seen contract revenue increases of 25% or more from the last two years of the Obama administration to the first two years of the Trump administration. Contract revenue more than tripled (329%) at Deloitte Consulting, was up by 43% at Geo Group and increased 40% at MVM Inc. Others showing large increases over that same time period were Comprehensive Health Services Inc. (39%) and Unisys Corp. (25%).

Trump’s aggressive immigration enforcement actions were exemplified by the administration’s “zero tolerance” policy for illegal entry and its prosecution of all adults detained for illegal border crossings. To comply with a requirement that children can-

not be held in family immigration detention for more than 20 days, children with imprisoned parents have been placed in federal custody. After the separation of thousands of children from their parents and the resulting public outcry, Trump backtracked months later, reversing the prior policy and allowing families to be detained together.

Most recently, the Trump administration proposed new rules that would allow the federal government to detain migrant families indefinitely while judges consider applications for asylum – a move that would involve withdrawing from a consent decree that has set standards for treatment of detained migrant children.

The for-profit prison industry has a history of political campaign spending, having spent nearly \$8.9 million since 2000 on campaign contributions, with about 60% going to Republicans, according to

the Center for Responsive Politics. Since 2009, the industry has spent more than \$25 million lobbying lawmakers and federal agencies.

During the 2018 campaign cycle, political action committees and individuals tied to the sector gave more than \$1 million to Republican lawmakers at the federal level, making up 88% of industry contributions, with only 12% going to Democrats, according to the center’s data.

The industry also has been influential at the state level. From 2009-2016, private prison companies contributed more than \$7 million at the state level, with the vast majority coming from GEO Group (\$4.3 million) and CoreCivic (\$2.4 million), according to a report by the National Institute on Money and Politics.

“The use of private prisons is a self-reinforcing problem. The for-profit prison and detention industry functions as a lobby to

perpetuate and expand private detention,” Weissman said. “It’s past time to shut down this business once and for all.” ■



Graphic courtesy of John Tomac.

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## IN THE SPOTLIGHT

The following are highlights from our recent media coverage.

**Robert Weissman, Public Citizen president**

**On President Donald Trump’s bid to host the G-7 summit at his Miami property:** *The New York Times*, *Associated Press*. **On Trump’s real estate properties:** *The New York Times*, *The Boston Globe*, *Santa Fe New Mexican*. **On Trump’s repeal of the clean car standards:** *CNN*. **On protecting immigrant rights:** *Newsweek*. **On forced arbitration:** *CNBC*. **On Hunter Biden’s business dealings:** *ABC*, *The Washington Post*, *The Boston Globe*. **On Trump’s attacks on presidential candidate Joe Biden:** *HuffPost*. **On undisclosed sponsors of Amazon’s gift guide:** *Bloomberg*.

**Lisa Gilbert, vice president of legislative affairs**

**On the weaponization of donor information:** *The Washington Post*. **On Podesta Group lobbyists:** *The Hill*. **On a Republican lobbyist being hired to save Google from legal troubles:** *Politico*. **On bank regulatory revisions:** *The New York Post*. **On the influence of Big Tech lobbyists:** “*Full Measure with Sharyl Attkisson*.”

**Lori Wallach, director of Public Citizen’s Global Trade Watch**

**On the fate of the North American Free Trade Agreement (NAFTA) rewrite amid impeachment proceedings against Trump:** *The Washington Post*, *HuffPost*. **On Trump’s NAFTA negotiations:** *Politico*, *The American Prospect*. **On Democratic presidential candidates’ trade policies:** *NPR*. **On Trump’s trade deal with Japan:** *The Washington Post*. **On effects of the U.S.’s tariffs on consumer goods made in China:** *KOLN-TV (Lincoln, Neb.)*.

**Dr. Michael Carome, director of Public Citizen’s Health Research Group**

**On Lyme disease vaccinations:** *NPR*. **On fraudulent medical awards:** *ProPublica*. **On Zantac’s cancer risk:** *NPR*. **On the U.S. Food and Drug Administration’s (FDA) guidance on new opioids:** *MedPage Today*. **On the FDA’s proposed ban on the herbal supplement, Curcumin, in compounded drugs:** *Science-Based Medicine*.

**Peter Maybarduk, director of Public Citizen’s Access to Medicines Program**

**On U.S. House Speaker Nancy Pelosi’s drug pricing plan:** *Politico*. **On pharmaceutical monopolies:** *The American Prospect*. **On the Consumer Prescription**

**Drug Index:** *Politico*. **On 2020 presidential candidates’ drug pricing plans:** *The Hill*.

**Tyson Slocum, director of Public Citizen’s Energy Program**

**On utility companies violating grid security rules:** *The Wall Street Journal*. **On the Federal Energy Regulatory Committee’s (FERC) elimination of its Division of Energy Market Oversight:** *The Washington Post*. **On FERC nominees:** *Politico*. **On JPMorgan Chase’s purchase of Texas electric utilities:** *The American Prospect*. **On state energy regulators:** *The Washington Post*. **On Trump’s energy plan:** *NJ.com*.

**Adrian Shelley, director of Public Citizen’s Texas office**

**On pollutants unleashed in the wake of Tropical Storm Imelda pollutants:** *Associated Press*, *Houston Chronicle*, *Hartford Courant*, *The Baltimore Sun*.

**Craig Holman, government affairs lobbyist with Public Citizen’s Congress Watch division**

**On the federal grand jury investigation of D.C. Councilmember Jack Evans:** *The Washington Post*. **On U.S. Sen. Elizabeth Warren’s (D-Mass.) criticism of the Pentagon:** *Mother Jones*. **On changing the D.C. Council’s ethics laws:** *The Washington Post*. **On Federal Election Commission appointees:** *Bloomberg Government*. **On the U.S. Department of Justice’s crackdown on illegal foreign lobbying activity:** *Bloomberg Government*. **On Trump profiting from the presidency:** *HuffPost*. **On conflicts of interest within political families:** *Newsweek*. **On presidential candidate Andrew Yang’s giveaway of campaign funds:** *The New York Post*. **On Washington, D.C., charter schools:** *Washington City Paper*. **On Trump’s bid to host the G-7 summit at his Miami property:** *Quartz*. **On Kansas GOP candidate Amanda Adkins skirting campaign finance rules:** *The Kansas City Star*. **On Big Oil’s silencing of climate activists:** *NJ.com*. **On political action committees helping Missouri politicians dodge donation limits:** *Springfield News-Leader*.

**Public Citizen Litigation Group**

**On U.S. Supreme Court cases addressing LGBTQ rights:** *Politico*. **On the U.S. Department of Labor’s bias settlement:** *Bloomberg Law*. **On U.S. Rep Devin Nunes’ (R-Calif.) lawsuit against Twitter:** *The Herald Bulletin*.

## Lock Them Up! Lock Them Up!

BY JIM QUINLAN

### Across

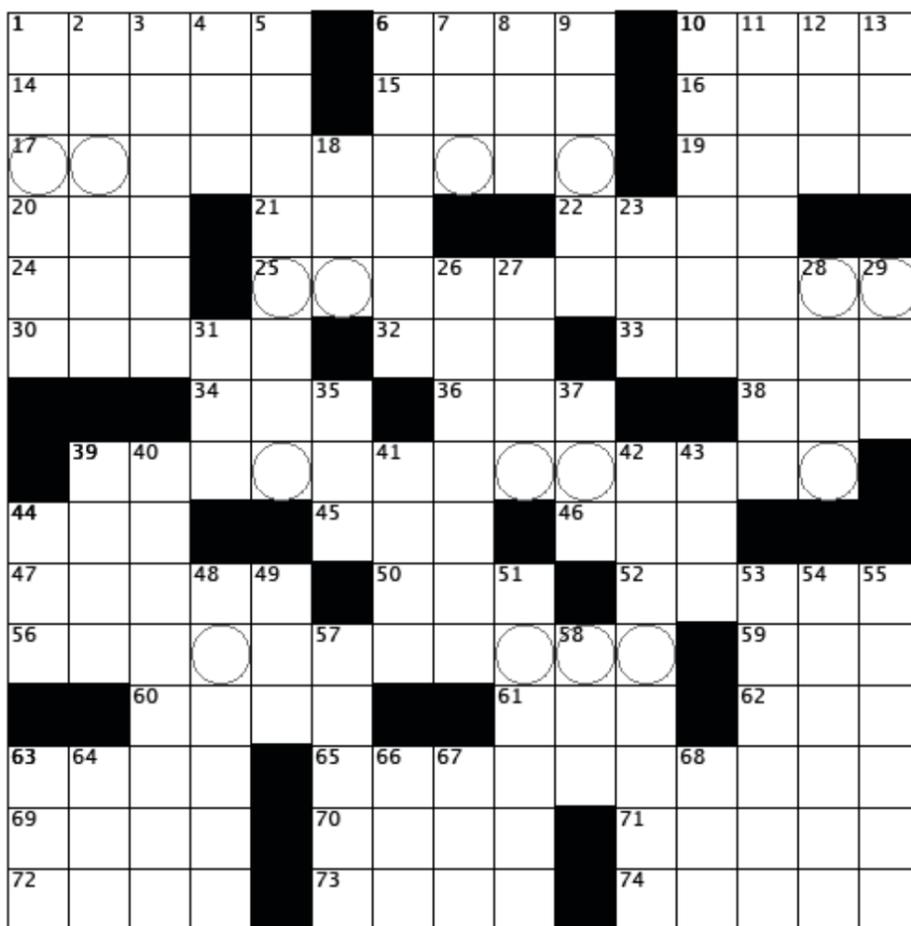
1. In a complete fog
6. Some
10. Many a robocall
14. Major impact, as of an attack
15. Loose dress: var.
16. Italian "dear"
17. Spanish bandits
19. Basics, colloquially
20. Like all primes except one
21. Blanc with many voices
22. Anita who was interviewed by John Oliver
24. It's spilled
25. Those attempting to evade a court appearance
30. Attempt
32. Grp. that can say "I towed you so!"
33. Muppet portrayed on a recent SNL 'Joker' movie parody
34. Noted trio member
36. League's top performer, briefly
38. "Many years \_\_\_..."
39. Some violators of city street laws
44. Adam's spare part
45. Green product prefix
46. Sound from a toy
47. "Buenos Aires" musical
50. Eastmost hour on a grandfather clock
52. Temptress
56. Stealthy thieves
59. Modern campus extension?
60. Cartoon possum
61. West in old movies
62. \_\_\_ diem

63. Stereotypical sound in a haunted house
65. In jail, as the criminals in 17-, 25-, 39-, and 56- Across are
69. The \_\_\_ (U2 guitarist who co-wrote the rock musical 'Spider-Man: Turn Off the Dark')
70. "I \_\_\_ debt of gratitude to..."
71. Worth keeping
72. Be mindful of
73. One for Trump... hopefully
74. More saintly

### Down

1. "Who's on First?" straight man
2. Buyer and seller
3. Part of a setting in a Sondheim musical title
4. Word with bitter or dead
5. Manhattan Project project
6. Bedelia whose name (appropriately) means "to cause trouble"
7. What PETA pans
8. Moody, as music
9. Chinese martial arts form
10. Sells for twice the cost, maybe
11. San Francisco staple
12. Missile's path
13. More in Madrid
18. DeLaria of 'Orange is the New Black'
23. "As I see it," in textspeak
26. Kerosene
27. Coffee variety
28. Precursor of riches
29. Box office warning
31. T in a fraternity
35. Arena shout
37. Inquire nosily
39. Bette Midler or Lady Gaga
40. Where to find departure info?
41. Juul, for one
42. Brownnosed
43. Prefix with center or gram
44. Button on a camcorder
48. Hit perpendicularly
49. 8, on a calendar
51. Enthusiastic response to

- "Who's ready for ice cream?"
53. Make good as new
54. English Channel swimmer of '26
55. Slow wine drinker, say
57. R2D2, e.g.
58. Sought office
63. "I've seen better"
64. Keats' "To Autumn," e.g.
66. Farm animal that sounds like a pronoun
67. "That lady!"
68. A/C measure, for short



Jim Quinlan constructs the crossword gratis. Public Citizen appreciates his generous contribution.

## Public Citizen Recommends ...

### 'Financial Exposure: Carl Levin's Senate Investigations into Finance and Tax Abuse'

By Elise J. Bean; \$49.99; Palgrave Macmillan

When then-U.S. Sen. Carl Levin (D-Mich.) took on JPMorgan Chase as chair of the U.S. Senate Permanent Subcommittee on Investigations regarding its \$6 billion in illegal gambling losses known as the London Whale, the megabank's lawyers and experts filled the first two rows of the cavernous U.S. Senate hearing room. It was an unfair fight. That's because Levin was staffed by Elise J. Bean.

Bean is a national treasure. She served as staff director and chief

counsel of the subcommittee during a span that included not just the London Whale, but also major money laundering crimes of HSBC (the world's largest bank), tax evasion by Credit Suisse, tax cheating by major American corporations, the financial crash of 2008 and more. Under her direction, the subcommittee exposed raw frauds at some of the largest enterprises in the United States. She penned voluminous accounts for each one, producing tomes that fully inform any serious, patient reader.

Bean came to the Senate as a University of Michigan-trained lawyer from the U.S. Department of Justice, where she worked as a young trial lawyer.

'Financial Exposure' walks us through Bean's investigations like any good detective novel, sharing uncertainties, frustrations and fatigue, peppered with anecdotes missing from the final official fraud report. JPMorgan CEO Jamie Dimon insisted on major security precautions for his closed-door interview. Levin declined, and it turns out no press ever discovered Dimon had even visited Levin's committee.

What's striking is how few people the subcommittee employed to face down these giant corporations. Bean rarely worked with more than a handful of colleagues.

It's obviously fictional in TV dramas that the same small cast of heroes saves the world in each episode. At the Senate Permanent Subcommittee on Investigations,

it's true.

For much of her tenure, Bean worked in a more courteous bipartisan Senate, where Republicans expressed as much zeal in ferreting out fraud as did Democrats. Alas, these days are over, and it's telling that the subcommittee hasn't produced much since Levin's retirement.

Congressional hearings can become history and shape policy. Watergate hearings ousted Nixon. The Church hearings helped reform the CIA. Bean-led hearings led to better criminal settlements with major corporations. When enlightened lawmakers finally control Washington, Bean's hearings will shape necessary financial laws. ■ — Bart Naylor

To order books, contact the publisher or visit your local bookstore or library.

# Public Citizen Website Was Blocked as 'Adult/Mature' Content

BY ANGELA BRADBERRY



**WIN!** When David Halperin went to the U.S. Department of Education last year for a meeting and tried to access Public Citizen's website on his computer, he got a strange error message:

"Web Access Webguard Filter Violation ... You have tried to access a web page which is in violation of your Internet usage policy. ... Category: Advocacy Organization."

It happened the next time he was there, and the next. It also happened to a Public Citizen attorney who attended a meeting at the department.

Their discovery prompted Public Citizen to sue the Education Department in April for violating the First Amendment. As a result of the litigation, Public Citizen's website is no longer blocked on the department's Wi-Fi and employee internet networks.

The litigation revealed the bizarre reason that access to citizen.org was blocked at the department: The website was classified as "adult/mature" content that was inappropriate for viewing on the department's networks. The site had been lumped in with pornography and gambling sites.

"I found it bizarre," said Halperin, a Public Citizen Foundation board member and

lawyer who attends hearings and multi-day meetings at the department for his work.

"The reason given on the screen when I tried to access citizen.org was 'advocacy organization.' But advocacy is at the core of free speech activity."

Public Citizen staffers became concerned that Education Secretary Betsy DeVos and her staff had blocked access to the website because of disagreement with Public Citizen's work in recent years pushing for strong protections for student borrowers.

Public Citizen's website includes a wide range of information, including material critical of the department and DeVos. A December 2018 report provided a critical analysis of grant-to-loan conversions under the department's TEACH Grant program, for instance.

The website also has information about how Public Citizen successfully challenged the department's delay of a rule to protect students from predatory for-profit colleges.

But the lawsuit revealed that DeVos was not the source of the problem. Instead, the problem stemmed from the Education Department's web filtering service provider, a company called Fortinet. Fortinet classifies websites for filtering purposes, and it had correctly tagged Public Citizen as an advocacy organization.

But Fortinet also classifies the websites of advocacy organizations as a type of "adult/mature

content," the same category as websites devoted to pornography or gambling.

As a result, when the department asked Fortinet to block "adult/mature content" on its network, Fortinet also blocked the websites of advocacy organizations, such as Public Citizen.

"Federal agencies understandably may want to block access to material inappropriate for a workplace environment," said Nandan Joshi, the Public Citizen attorney who handled the case.

"But when an agency blocks access to the websites of advocacy organizations, it violates the First Amendment right of the organization to speak and of people seeking to visit the websites to access that speech."

In response to the lawsuit, the department adjusted its web filter so that advocacy organizations will no longer be blocked on its networks. Because Public Citizen's site is now accessible at the department, Public Citizen dismissed the lawsuit in September.

But the websites of other groups may face the same problem at other federal agencies that use Fortinet's services. Public Citizen urged Fortinet in July to remove the "advocacy organizations" subcategory from the "adult/mature" category, but the company declined.

As a result, other federal agencies that use the company's Fortiguard web filtering service may still be violating the First Amendment by blocking access

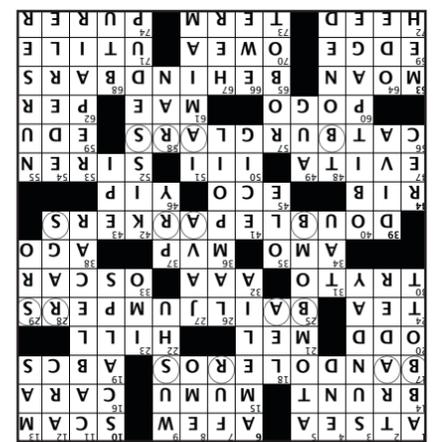
to advocacy groups' websites.

Public Citizen encourages internet security personnel at other agencies – particularly those that use Fortinet's web filtering services – to review their web filtering settings and make any changes needed to ensure compliance with the First Amendment.

"This case highlights the increasing control of technology companies over what information Americans see and hear," said Joshi.

"But when the government is involved, officials have an obligation to uphold the Constitution and cannot turn a blind eye by outsourcing their responsibility to private contractors. Instead, they must engage in continual, vigorous oversight of their operations to maintain compliance with constitutional requirements." ■

## Crossword Answers



## IN THE NEXT ISSUE...

Public Citizen testifies before the U.S. Food and Drug Administration to advocate the ban of Makena.

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70	5.6%	\$560
75	6.2%	\$620
80	7.3%	\$730
85	8.3%	\$830
90 and over	9.5%	\$950

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