

June 4, 2013

Re: Support the Speier-Coffman Amendment to Enhance the Military Whistleblower Protection Act and Include Disclosures of Sexual Assault and Misconduct

Dear Member of the House Armed Services Committee:

Our undersigned organizations with diverse interests and ideologies write to urge you to vote for a bipartisan amendment to enhance protections for military whistleblowers and victims of sexual assault that will be offered by Representatives Jackie Speier (D-CA) and Mike Coffman (R-CO) in tomorrow's markup of the National Defense Authorization Act for FY 2014 (NDAA, H.R. 1960).

Last year, Congress finally restored and modernized the protections for non-military federal workers (WPEA). But the sad fact is that even before these significant improvements, federal workers had rights and remedies far superior to what has been provided to our men and women in uniform. We can't leave our troops behind on protections that are proven to increase effectiveness and accountability. This amendment will give sexual assault victims and other witnesses of wrongdoing in the military long-overdue protections to come forward without fear of retaliation.

Just recently, soldiers who have worked closely with the Army's battlefield intelligence network say the reportedly successful program is really a dud, describing it as a huge, bloated, excessively expensive money pit.¹ In fact, the three soldiers who talked to Politico about the flaws of this program had much to say—just not their names. They insisted on confidentiality because they feared they would lose their careers for speaking out about taxpayer dollars being wasted on a program that doesn't work.

Another particularly disturbing, systematic problem has finally caught the attention of Congress—widespread and largely unreported sexual assault in the military. *The Invisible War*, winner of the Ridenhour Documentary Film Prize this year, tells the harrowing stories of service members who have suffered from sexual assault. According to the film, women in combat zones are more likely to be raped by a fellow soldier than killed by the enemy. Similar findings are described in a military survey that reports an estimated 26,000 members of the military (up from 19,000) were victims of sexual assault last year, while only 3,374 cases were reported.²

The Speier-Coffman Amendment mirrors the Military Whistleblower Protection Enhancement Act of 2013 (S. 1081), introduced recently in the Senate by Senators Mark Warner and Tim Kaine. It likewise addresses several of the weaknesses in military whistleblower protections pinpointed in a 2012 Government Accountability Office report.³

There is already a provision in the NDAA that will add sexual assault and misconduct to protected disclosures—but it does nothing to fix the fact that the current law is a trap for those

¹ <http://www.politico.com/story/2013/05/army-battlefield-intelligence-network-91991.html?hp=l2>

² <http://www.sapr.mil/index.php/annual-reports>

³ <http://www.gao.gov/assets/590/588784.pdf>

who try to use it. This should be a readiness concern. A culture that fosters waste, fraud and abuse—sexual and otherwise—deeply affects readiness. The law now has a nearly insurmountable bar for proving retaliation—the highest bar of any whistleblower law. The Speier-Coffman Amendment would give those in the military the same fair shot at proving retaliation afforded to other whistleblowers.

Specifically, the amendment would ensure:

- More disclosures of wrongdoing are protected—including those made during one’s normal job duties, in the chain of command, or regarding sexual assault and other misconduct.
- Service members have the same shot at proving they have suffered retribution that has long been the standard for other federal employees and private sector whistleblowers.
- Those affected have a reasonable opportunity to file a complaint (the bill extends the current 60-day statute of limitations to one year).
- A more credible review process is put into place to streamline requests for hearings before the Board for the Correction of Military Records to correct the service record of those who suffer retaliation (currently only 19 percent take efforts to correct their records).
- An Inspector General must take action to make a determination of retaliation, and if substantiated, the military must provide corrective relief to service member who suffered retaliation and discipline those who retaliated.

The Speier-Coffman Amendment will go a long way to change the culture in the military from one of silent suffering to one of more accountability. With authentic protections for those who report wrongdoing, problems will more often be addressed as they arise, and many will be averted altogether.

There are always concerns raised by a few that more protections will encourage exploitation of the system. This has not been the experience with any of the more than 20 federal laws on the books—not even with the laws that offer a potential monetary reward like the hugely successful False Claims Act. The truth is that even with the best protections, blowing the whistle on wrongdoing is extremely risky. The vast majority of the time, the cost benefit analysis just ends up being cost for the whistleblower.

Our men and women in the military deserve better than the third-rate rights they currently have.

We urge you to vote in favor of better protections for those seeking to fix what’s wrong in our military and for more accountability for those undermining our military readiness. We urge you to vote YES on the Speier-Coffman Amendment to make our military stronger. For more information, you may reach Angela Canterbury, Director of Public Policy at the Project On Government Oversight, at acanterbury@pogo.org and 202-347-1122.

Sincerely,

American Values Network
Center for Effective Government
Citizens for Responsibility and Ethics in Washington
Defending Dissent Foundation
Fund for Constitutional Government
Government Accountability Project (GAP)
Just Foreign Policy
OpenTheGovernment.org
Peace Action
Project On Government Oversight (POGO)
Public Citizen
Taxpayers for Common Sense
Taxpayers Protection Alliance
The Liberty Coalition
Tri-Valley CAREs