

May 6, 2014

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

We, the undersigned organizations, write to urge you to issue a waiver to allow inclusion of the Military Whistleblower Protection Act Amendment (Log 32) during tomorrow's markup of the National Defense Authorization Act for Fiscal Year 2015 (NDAA FY 2015).

The Military Whistleblower Protection Act (MWPA) Amendment would update the MWPA burdens of proof to reflect the Whistleblower Protection Act burdens of proof found in every whistleblower law and directive since 1989 – including those for the intelligence community. This change is supported by the Department of Defense Office of Inspector General, which is seeking consistency for legal standards in all of its whistleblower investigations.

Our troops have been promised protections for reporting wrongdoing, but those rights remain unattainable, because the current bar for our troops to prove retaliation for whistleblowing is simply too high. We do not disagree that standards of discipline must be at a higher level for the military due to the highest stakes consequences for national defense operations. But that also means the stakes are higher and consequences more severe, when fraud, waste or abuse are sustained through cover-ups enforced by repression. There is no valid public policy basis to handicap the rights of military whistleblowers challenging those high stakes betrayals of the public trust and national defense.

The same principles also apply to the Public Health Service, which since 2012 has been controlled by the MWPA and where life and death stakes are common, often outside the national defense setting. To have confidence that their rights will make a difference, there must not be discriminatory standards for how much evidence it takes to prove illegal retaliation.

The truth is that even with the best protections, blowing the whistle on wrongdoing is extremely risky. We believe that is even truer for our service men and women, given the military culture. Certainly, our men and women in the military deserve better than the third-rate rights they currently have.

Better protections for those seeking to fix what is wrong in our military will increase accountability for those who undermine our military readiness. With authentic protections for those who report wrongdoing, problems will more often be addressed as they arise, and many will be averted altogether.

Please issue a waiver to allow inclusion of the Military Whistleblower Protection Act Amendment during tomorrow's markup of the NDAA FY 2015.

Sincerely,

Government Accountability Project

Project On Government Oversight

Liberty Coalition

National Taxpayers Union

Taxpayers Protection Alliance