

April 29, 2015

The Honorable Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, D.C. 20510-0505

Dear Senator Boxer,

As organizations concerned with openness and accountability in all parts of government, we write to express our appreciation and strong support for the introduction of the Legal Justice for Servicemembers Act of 2015. This legislation will further the effort to create credible whistleblower protection rights for members of the Armed Forces.

As a member of the House of Representatives, you authored the original Military Whistleblower Protection Act (MWPA) in 1988, which provided servicemembers with the first real protections against retaliation for blowing the whistle on illegal activity, waste, fraud and abuse in the military.

Over the past 27 years, the MWPA has been periodically updated to provide greater protections for whistleblowers. However, these changes have not kept pace with similar increases in protections in civilian whistleblower statutes, and as a result, servicemembers are more likely to face retaliation for reporting illegal activities. That is unacceptable.

The Legal Justice for Servicemembers Act does not expand the contexts for legally-protected whistleblowing. Rather, it is a comprehensive overhaul of existing law so that its due process structure for enforcement is on parity with other whistleblower laws. In particular, the legislation –

- permits legal challenges to retaliatory investigations;
- permits the Inspector General to issue a 90 day “stay” of alleged retaliation while it is investigated;
- guarantees an administrative due process hearing at the Board of Correction of Military Records for fully investigated whistleblower claims;
- applies the civilian Whistleblower Protection Act burdens of proof against retaliation;
- strengthens independence by allowing servicemembers to have an investigation by the Department of Defense Office of Inspector General (OIG), instead of by a Service Inspector General;
- requires OIG investigative reports to consider discipline for retaliation; and
- establishes general military administrative justice due process reforms.

These reforms are critical and long overdue. Our servicemembers should not live in fear of retaliation for speaking out. We pledge to do all we can to support the Legal Justice for Servicemembers Act, and thank you again for your longstanding commitment to protecting military whistleblowers.

Sincerely,

ACORN8

African American Institute for Policy Studies and Planning, Greenville SC

American Civil Liberties Union (ACLU)

American Library Association

Center for Science and Democracy, Union of Concerned Scientists

Community Research

Drum Majors for Truth

Federal Ethics Center

Golden Badge

Government Accountability Project (GAP)

Human Rights Watch

International Association of Whistleblowers

Just Foreign Policy

Liberty Coalition

MuckRock

National Forum On Judicial Accountability

National Network of State Community Councils

National Taxpayers Union

OpenTheGovernment.org

Organizations Associating for the Kind of Change America Really Needs (OAK)

Power Over Poverty Under Laws of America Restored (POPULAR)

Project On Government Oversight (POGO)

Public Citizen

Rural Coalition/Coalición Rural

Sunlight Foundation

Taxpayers Protection Alliance

TechFreedom

Whistleblower Support Fund

Kevin R. Downing, former Captain, US Army Reserves