



June 7, 2016

Officers

Chair

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hilary Shelton
NAACP

Treasurer

Lee A. Saunders
American Federation of State,
County & Municipal Employees

Board of Directors

Barbara Arnwine
Lawyers' Committee for
Civil Rights Under Law
Helena Berger
American Association of
People with Disabilities
Cornell William Brooks
NAACP
Lily Eskelsen Garcia
National Education Association
Marcia D. Greenberger
National Women's Law Center
Chad Griffin
Human Rights Campaign
Linda D. Hallman
AAUW
Mary Kay Henry
Service Employees International Union
Sherrilyn Ifill
NAACP Legal Defense and
Educational Fund, Inc.
Jo Ann Jenkins
AARP
Michael B. Keegan
People for the American Way
Samer E. Khalaf, Esq.
American-Arab
Anti-Discrimination Committee
Elisabeth MacNamara
League of Women Voters of the
United States
Marc Morial
National Urban League
Mee Moua
Asian Americans Advancing Justice |
AAJC
Janet Murguía
National Council of La Raza
Debra Ness
National Partnership for
Women & Families
Terry O'Neill
National Organization for Women
Priscilla Ouchida
Japanese American Citizens League
Rabbi Jonah Pesner
Religious Action Center
Of Reform Judaism
Anthony Romero
American Civil Liberties Union
Shanna Smith
National Fair Housing Alliance
Richard L. Trumka
AFL-CIO
Randi Weingarten
American Federation of Teachers
Dennis Williams
International Union, UAW

Policy and Enforcement

Committee Chair

Michael Lieberman
Anti-Defamation League

President & CEO

Wade J. Henderson

Executive Vice President & COO

Karen McGill Lawson

**Support the Military Justice Improvement Act, Amendment 4310 to the National
Defense Authorization Act, S.2814**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we urge you to support Amendment 4310, the Military Justice Improvement Act (MJIA), to the National Defense Authorization Act (NDAA). The fundamental shift in decision-making authority away from commanders to professional military justice prosecutors mandated in this amendment is necessary to ensure that appropriate legal action is taken to prosecute and prevent future incidences of sexual assault.

The Leadership Conference continues to believe it is critically important for Congress to support removing from the military chain of command the prosecution and other key decisionmaking in military cases involving most serious crimes punishable by one year or more in confinement, including sexual assault. Despite repeated promises from the Department of Defense and modest reforms made in the 2014 and 2015 NDAA bills, as demonstrated by a recent Rand Corporation survey, the current system still fails to result in adequate prosecution of sexual assault crimes or any punishment for retaliation against survivors of sexual assault.¹ This independent study found that the sexual assault rate remains the same as in 2010.² Moreover, one in 7 victims were assaulted by someone in their chain of command.³ Perhaps, most importantly, the Rand survey found that 86 percent of victims did not report the crime in 2014 because they believe that reporting would hurt their career; that the process would be unfair; or that nothing would be done and retaliation from their chain of command or coworkers would result.⁴ And given that the retaliation rate against victims remains at 62 percent, the same rate as in 2012,⁵ these service members appear to have good cause for their concern that reporting could hurt their career.

These findings are further supported by the Department of Defense FY15 Annual Report on Sexual Assault in the Military, Annex 3, which found that victims who made an unrestricted report expressed dissatisfaction with the way their chain of command handled the case. And

¹ RAND Corporation, *Sexual Assault and Sexual Harassment in the U.S. Military*, Volume 2. (2015). http://www.rand.org/content/dam/rand/pubs/research_reports/RR800/RR870z2/RAND_RR870z2.pdf

² *Id.* at 69

³ *Id.* at 22

⁴ *Id.* at 53

⁵ *Id.* at 73



in almost two-thirds of the cases, a victim who reported retaliation felt that the situation got worse after they made the report.

Unfortunately, the high incidence of sexual assault in the military, as well as persistent evidence of retaliation, attest to the ongoing failure of the current chain of command system to effectively address this pernicious problem affecting our servicemen and women. Moreover, a recent Protect Our Defenders review of case records obtained from DOD under a Freedom of Information Act request “found no evidence that any case was prosecuted at a commander’s insistence,”⁶ thus undercutting the principal argument made by the Pentagon in support of the current system.

Mounting evidence shows that neither the training and survivor assistance programs undertaken, nor modest reforms previously adopted, are sufficient to effectively address and prevent the high incidents of sexual assault. The time has come for Congress to act and shift decisionmaking in cases of sexual assault, retaliation, and other serious crimes except those offenses that are uniquely military in nature, from the military chain of command to military prosecutors, as proposed by the Military Justice Improvement Act, Amendment 4310, to the NDAA.

There is broad agreement that victims of unwanted sexual contact should not have to live in fear of coming forward. Our military service members risk their lives for this country, and it is time that meaningful structural changes are made within the military justice system to ensure their safety. The MJIA will provide a fair and objective system so that victims can come forward and be provided an impartial hearing without fear of retaliation.

For these reasons, we urge you to vote to support Amendment 4310, the Military Justice Improvement Act to S.2814. We look forward to working with you on this important legislation. If you have any questions, please feel free to contact June Zeitlin, Director of Human Rights Policy at zeitlin@civilrights.org or (202) 263-2852. Thank you for your consideration of this critical issue.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

⁶ Richard Lardner, “Pentagon Misled Lawmakers on Military Sexual Assault Cases,” *Associated Press*, April 18, 2016