

EMPOWER OVERSIGHT

Whistleblowers & Research



July 3, 2025

Mr. Steven Stebbins
Acting Inspector General
Office of Inspector General, U.S. Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350-1500

Dear Acting Inspector General Stebbins:

Empower Oversight provides legal representation to Air Force Lieutenant Colonel Jacob R. Berry, who serves in the 78th Medical Group at Robins Air Force Base.

In mid-June 2025, Minority staff for the House Subcommittee on Disability Assistance and Memorial Affairs requested Lt. Col. Berry's testimony at a July 9, 2025 roundtable on toxic exposure at U.S. military bases. After initially requesting that Lt. Col. Berry decline the invitation, his chain of command acquiesced to his participation.

However, yesterday Lt. Col. Berry was presented with an order directing:

- He "must not use official government resources, including data acquired as part of [his] official duties";
- He "must not share non-public information gained in [his] official capacity";
- He "may not speak as a [Department of the Air Force] subject matter expert on this issue without prior approval"; and
- "[A]ny prepared remarks, information, and/or briefing should be cleared and approved for public release[.]"

Aside from the First Amendment issue of why Lt. Col. Berry would be required to obtain approval for any remarks other than for the limited purpose of protecting classified information, the aforementioned order appears to raise a more troubling issue as it relates to Lt. Col. Berry's desire to share with Congress information about his work for the Air Force.

The Military Whistleblower Protection Act of 1988 states: “No person may restrict a member of the armed forces in communicating with a Member of Congress[.]”¹ Furthermore, the statute specifically prohibits retaliating for testimony or other participation in or assistance with a proceeding even *related* to communications with Members of Congress.² Nowhere does the statute specify that a servicemember’s communications, testimony, or other participation or assistance with Congress must be limited to public information or exclude any data acquired as part of official duties. In fact, by protecting all lawful communications with Congress, the statute goes beyond the protections for disclosing to various other recipients violations of law or regulation, gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to public health or safety—all of which would involve “non-public information,” and the last of which is the very subject of the July 9 House roundtable.³

The United States has a long and storied history of military whistleblowers. Less than a year after the United States of America declared its independence in 1776—249 years ago yesterday—eleven sailors aboard the USS *Warren* filed a petition with the Second Continental Congress to report abuses they saw. This led to Congress on July 30, 1778 adopting the first whistleblower law of our new Nation:

[I]t is the duty of all persons in the service of the United States, as well as all other the inhabitants thereof, to give the earliest information to Congress or other proper authority of any misconduct, frauds or misdemeanors committed by any officers or persons in the service of these states, which may come to their knowledge.

While the situation at hand may not involve misconduct, frauds, or misdemeanors, Congress adopted the Military Whistleblower Protection Act of 1988 precisely so it is able to remain informed about servicemembers’ work in their official capacity. Accordingly, we respectfully request that you expeditiously confirm the Air Force’s order to Lt. Col. Berry is unlawful insofar as it conflicts with the Military Whistleblower Protection Act. Given the July 9 invitation, time is of the essence in this matter.

Cordially,
/Tristan Leavitt/
President
Empower Oversight

cc: Lt. Gen. Stephen L. Davis, Inspector General
U.S. Department of the Air Force

The Honorable Mike Bost, Chairman
The Honorable Mark Takano, Ranking Member
U.S. House Committee on Veterans’ Affairs

¹ 10 U.S.C. § 1034(a).

² 10 U.S.C. § 1034(b)(1)(C).

³ 10 U.S.C. § 1034(c)(2)(B).

The Honorable Jerry Moran, Chairman
The Honorable Richard Blumenthal, Ranking Member
U.S. Senate Committee on Veterans' Affairs

The Honorable Mike Rogers, Chairman
The Honorable Adam Smith, Ranking Member
U.S. House Committee on Armed Services

The Honorable Roger Wicker, Chairman
The Honorable Jack Reed, Ranking Member
U.S. Senate Committee on Armed Services