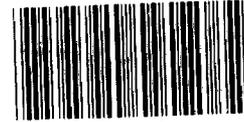


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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

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STATEMENT OF  
ROSSLYN KLEEMAN  
ASSOCIATE DIRECTOR  
FEDERAL PERSONNEL AND COMPENSATION DIVISION

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS  
OF THE HOUSE COMMITTEE ON ARMED SERVICES

ON

H.R. 2985, A BILL TO PROTECT THE JOBS OF  
NONAPPROPRIATED FUND WHISTLEBLOWERS

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before the Subcommittee today to provide our views on H.R. 2985, a bill to provide employment protection to nonappropriated fund employees in the Department of Defense who report instances of fraud or mismanagement. We support the proposed legislation but believe the bill should be amended to clarify the appeals process.

I will discuss this later.

Nonappropriated fund (NAF) activities, especially the exchanges, are big businesses which generate revenues in excess of \$5 billion a year. Department of Defense reports show that these

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activities employ about 195,000 civilians in addition to the military personnel and appropriated fund civilians assigned to them.

As in any large organization, the potential for fraud and waste is always present. Last December, we issued a report on the need for more effective internal controls to prevent fraud and waste in military exchanges (FPCD-81-19). We reported that fraud has been a problem in the exchanges for more than 20 years. Defense's semiannual reports to the Congress have regularly shown that NAF activities are involved in a significant portion of potential fraud cases under investigation in the Department.

The Department of Justice established a task force in 1977 to investigate allegations of fraud in the Army and Air Force Exchange Service (AAFES). Since then, over 30 exchange officials and sales representatives have been convicted or pleaded guilty and the investigation continues. This summer, two sales representatives pleaded guilty and a third was indicted for bribing exchange officials.

Our study of the exchange systems showed that fraud is rarely found by reviewing records in the files. Fraud is more likely to be identified by individuals reporting suspected cases. Often the files did not contain necessary records such as the basis for award of a contract or contract prices. Moreover, we found that exchange employees were reluctant to be seen talking with our evaluators but instead would often call us anonymously to tell us about instances of mismanagement. We have also

received reports of possible fraud in the exchanges over the GAO "hotline" which we referred to the appropriate investigative authorities.

Present and former exchange employees have also sent us letters requesting GAO to conduct investigations of a variety of problems. Some of these letters related to perceived improper personnel actions and complained about the lack of an independent appeals process.

In our July 1981 report on AAFES personnel policies (FPCD-81-53), we pointed out that exchange employees do not have the same appeal rights afforded most other Federal workers. Defense has not provided appeal channels independent of the AAFES chain of command. Unlike most other Federal employees, NAF workers may not appeal personnel actions to the Merit Systems Protection Board.

The Congress' recognition of shortcomings in the appeals process for most Federal employees led to the provisions in the Civil Service Reform Act of 1978 which protect certain workers from prohibited personnel practices. An independent Office of the Special Counsel has been established to investigate and prosecute merit system abuses. A major reason for having the independent Office was to eliminate the past conflicting roles of the Civil Service Commission being both rulemaker and adjudicator.

Mr. Chairman, this leads to the concerns we have with the proposed legislation as presently drafted. The bill provides for

the Secretaries concerned to establish regulations to implement the protection provisions. It does not require an independent appeals process nor state what remedies should be available to resolve instances of prohibited personnel practices. We believe the bill should specify that an organization independent of the NAF activities and the Defense personnel system should be responsible for carrying out its provisions. In completing its work on the proposed legislation, the Subcommittee may wish to consult with representatives of the Office of Special Counsel regarding problems they have experienced with the language in the Civil Service Reform Act.

This concludes my prepared statement. I will be happy to respond to any questions the Subcommittee may have.