

No. 19-224

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*In the  
Supreme Court of the United States*

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BRYAN JAMES STROTHER, SFC.,  
California Army National Guard,

Petitioner,

v.

DAVID S. BALDWIN, Adjutant General,  
State of California Army National Guard;  
MIKE MCCORD, Pentagon Comptroller;  
DEFENSE FINANCE AND ACCOUNTING  
SERVICES;  
United States Department of Defense,

Respondents.

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**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The Ninth Circuit**

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**PETITION FOR REHEARING**

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Per U.S. Supreme Court rule 44 (2) Petitioner presents the following arguments for Rehearing, which are intervening circumstances of a substantial and controlling effect, and which were not previously presented.

## **STATEMENT OF FACTS**

### **SB-481**<sup>1</sup>

On October 10, 2019, State of California Senate Bill SB 481 became law.

Respondents had to have been well aware of the status of SB 481 when they filed their Response 41 days later on November 20, 2019.

SB 481 removed the Office of the state's National Guard Inspector General from under the command of the Office of the Adjutant General of the California National Guard. The Inspector General now reports to the Governor (and others in addition to several other changes, Addendum 1a-13a).

The moving force (*Bryan County v. Brown*, 520 U.S. 397 (1997)) behind SB 481 was based on years of allegations that senior command officials of the California National Guard had abandoned their *Oath of Office* and engaged in discriminatory retaliation against those who reported possible wrongdoing.<sup>2</sup>

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[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB481](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB481)

2

<https://www.stripes.com/news/a-culture-of-fear-a-look-at-the-california-national-guard-allegations-spurring-lawmakers-to-consider-new-legislation-1.578116>

“ [I]t's necessary to remove the IG from under Adjutant General Maj. Gen. David Baldwin's oversight because guardsmen fear retaliation if they report wrongdoing.

**I.  
RESPONDENT BALDWIN IS A  
STATE ACTOR.**

Since October 10, 2019, the administrative workings of the California National Guard are now subject to direct oversight by the Governor and Legislative branch of the State of California.

The administrative actions of Adjutant General Respondent Baldwin being a State and not a federal employee are at issue (*Perpich v. U. S. Dept of Defense*, 880 F.2d 11 (8<sup>th</sup> Cir.1989)).

If administrative oversight of the California National Guard can be done on the State level then, under the facts of this matter, Respondent Baldwin is indeed a State Actor, as Petitioner has always asserted. All of the allegations giving rise to SB 481 occurred on Respondent Baldwin's watch and were administrative in nature and non-related to combat readiness.

Whether the Adjutant General of a State National Guard is a federal or state employee is before the Court on new grounds and is a matter that needs clarification and deserves to be fully briefed. The issue goes directly to what level of immunity could be invoked by an Adjutant General and what type of claims could be brought against the office of an Adjutant General (*Will v. Michigan Department of*

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Often, they say, that retaliation comes in the form of an investigation into the complainant, not the alleged wrongdoer.

“Each retaliation situation — they all fit a pattern,”“

*State Police*, 491 U.S. 58, 71 (1989) and the National Guard of any state.

**II.**  
**THERE SHOULD BE A CIVILIAN**  
**ACTIVITIES EXCEPTION TO THE**  
**FERES DOCTRINE .**

Since National Guard non-tactical military decisions are now subject to State administrative oversight, is the *Feres doctrine* (*Feres v. U.S.*, 340 U.S. 135 (1950)) even applicable to the National Guard and its members? Based on the above, at the minimal, there should be a civilian activities exception to the *Feres doctrine*. *Jackson v. Tate*, 648 F.3d 729,733 (9th Cir. 2011).

If a civilian activities exception component does apply, should such an exception not also apply to all servicemembers? And what falls within that civilian exception activities category?

If a civilian activities exception was allowed for National Guard members then it would only seem just to give such protections to full-time servicemembers. Or because of their status as full-time servicemembers, are they not entitled to the same Constitutional protections as Guard members?

The above issues should be fully briefed, argued and decided by this Court in a formal Opinion.

**III.  
NEWLY OFFERED BONUSES IN  
CURRENT ENLISTMENT AND RE-  
ENLISTMENT CONTRACTS  
DESERVE TO BE RECOGNIZED BY  
THIS COURT FOR WHAT THEY  
ARE, VESTED ENTITLEMENTS.**

If a civilian activities exception to the *Feres doctrine* is recognized, as it should be, then that standard should be applied to the decision to sign an enlistment or re-enlistment contract, which is a civilian act. (“[R]e-enlistment . . . falls outside the scope of *Feres*’ “incident to service” standard,” *Jackson v. Tate* supra 735, (9th Cir. 2011)).

U.S. servicemembers are deployed around the world in more countries than ever before and in hot zones the American public did not even know about until recently (citations omitted).

The current ad<sup>3</sup> (as of this filing) on the U.S. Army website states:

After earning your place on the U.S. Army team, you’ll have many opportunities to earn *bonuses* in addition to Basic Pay and Drill Pay.

Respondents have consistently asserted that

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[https://www.goarmy.com/benefits/money/bonuses-earning-extra-money.html?iom=AFTU-20-980\\_N\\_PSEA\\_71700000059782365\\_700000001989777\\_43700049511633122\\_58700005434475538\\_%2Bmilitary+%2Bbonus&gclid=EAIaIQobChMI09vk-bOM5wIVEr7ACh3dCwPMEAAAYASAAEgKmnz\\_D\\_BwE&gclsrc=aw.ds](https://www.goarmy.com/benefits/money/bonuses-earning-extra-money.html?iom=AFTU-20-980_N_PSEA_71700000059782365_700000001989777_43700049511633122_58700005434475538_%2Bmilitary+%2Bbonus&gclid=EAIaIQobChMI09vk-bOM5wIVEr7ACh3dCwPMEAAAYASAAEgKmnz_D_BwE&gclsrc=aw.ds)

bonus pay should be treated as regular pay, yet the above clearly proves that the U.S. Department of Defense (DoD) does not consider a bonus regular pay *U.S. v. Larionoff*, 431 U.S. 864 (1977) *Costello v. U.S.*, 587 F.2d 424, 427 (9th Cir. 1978). Also see *Bell v. U.S.*, 366 U.S. 393, 401 (1961). Furthermore, the same website link notes at the bottom right hand corner in small print: Requirements for this program may vary.

With constant global deployments, zero exit strategy and a constant push to sign<sup>4</sup> and retain troops, U.S. servicemembers deserve to know with certainty that, if they sign a contract with the United States of America Department of Defense or one of its branches, that the contract says what it means and means what it says (emphasis).

If U.S. servicemembers honor and fulfill their obligations, they are owed the legitimate expectation of specific performance that the Country they serve will, in fact, also honor its commitments to them.

Is the signing of an enlistment contract purely unilateral and only binding on the soldier? Are the Oath of Office (given by officers) and the Oath of Enlistment (given by enlisted personnel) purely ceremonial? Furthermore, and of more importance, if the obligations of the United States to an enlistment contract are unbinding and only ceremonial then U.S. servicemembers are in fact entitled to an Opinion from

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Just two examples of countless enlistment ads.

<https://www.military.com/daily-news/2019/11/07/theres-still-time-snap-hefty-army-bonus-joining-infantry.html>

<https://www.military.com/daily-news/2019/08/27/army-rolls-out-new-reenlistment-bonus-worth-81000.html>

this Court stating that is the case.

While it would be a bitter pill to swallow, such an Opinion would confirm the brutal truth, that DoD promises in enlistment contracts are nothing but a charade of advertisement puffing, a classic bait and switch punctuated by false and broken promises.

If no other relief is granted U.S. servicemembers are at least owed the above requested measure of direct honesty which only this Court can deliver.

### CONCLUSION

The Declaration of Independence states Paragraph 30:

In every stage of these oppressions we have Petitioned for Redress in the most humble Terms. Our repeated Petitions have been answered by repeated injury.

Petitioner humbly asserts, since American servicemembers can be sent anywhere in the world (and with conflict seemingly at every doorstep), they have earned and deserve the simple repeated request for peace of mind knowing that any contract they sign with the DoD (which could place them in harm's way), should be honored.

Even if this matter were never remanded back to the District Court real injury has in fact occurred (U.S. Const. art. III, § 2, cl. 1,.) and declaratory relief is warranted. *Ex Parte Young*, 209 U.S. 123, 124 (1908). On behalf of his sisters and brothers, Petitioner respectfully asserts servicemembers deserve that the above issues should be fully briefed and argued before this Court in the case at hand.

**REQUEST FOR RELIEF**

For all of the above the Court should reconsider whether:

1. Bonuses in enlistment and re-enlistment contracts are vested and accrued entitlements.
2. There needs to be a civilian activity exception to the *Feres doctrine*.
3. Respondent Baldwin is in fact a State, not a Federal employee.

Dated: January 31, 2020  
Respectfully submitted,

s/Daniel C. Willman  
Daniel C. Willman  
Attorney for Petitioner

**CERTIFICATE OF COUNSEL**

Per Supreme Court Rule 44 (1) I, Daniel C. Willman, counsel of record for Petitioner, do affirm this Petition for Rehearing is presented in good faith, not for delay and is limited to the grounds mandated in section (2) of the above rule.

Dated: January 31, 2020  
Respectfully submitted,

s/Daniel C. Willman  
Daniel C. Willman  
Attorney for Petitioner



## **APPENDIX**

### **Senate Bill No. 481- CHAPTER 704**

An act to amend Sections 55 and 56 of, and to add Section 56.1 to, the Military and Veterans Code, relating to the state military.

[ Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019. ]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 481, Umberg. State military: inspector general.

Existing law establishes the California Military Department Inspector General to investigate alleged violations of law or gross mismanagement or waste of funds. Existing law establishes qualifications for a person serving in the position of inspector general, including, among other things, that the inspector general be subordinate to the Adjutant General.

This bill would instead require that the inspector general be an advisor to the Governor and responsive to the Adjutant General.

Existing law, either at the discretion of the inspector general or upon request by the Governor, a Member of the Legislature, any member of the Military Department, or any member of the public, authorizes the inspector general to investigate any complaint or allegation regarding specified issues.

This bill would instead require the inspector general to expeditiously investigate those complaints. The bill would also require the inspector general to notify the requesting party of the results of the investigation. The bill would require specified allegations presented to the inspector general to be reported to either the Governor or specified federal inspectors general, and the Adjutant General, as specified.

Existing law, the California Military Whistleblower Protection Act, prohibits a person from restricting a member of the Military Department from

making specified communications to a Member of Congress, the Governor, a Member of the Legislature, or any state or federal inspector general, or from taking, or threatening to take, unfavorable personnel actions, or withholding, or threatening to withhold, favorable personnel actions, as a reprisal against a member of the Military Department for making specified communications. Existing law requires the inspector general to, after the completion of an investigation into an allegation relating to the act, submit a report on the results of the investigation to the Adjutant General and a copy of the report on the results of the investigation to the member of the department who made the allegation.

This bill would require the inspector general to provide an interim response to allegations of actions prohibited by the act when the final response will be delayed, as specified.

Existing law requires the inspector general, if the inspector general is not outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken an action prohibited by the California Military Whistleblower Protection Act, to refer the allegation to the Chief of the National Guard Bureau and the Governor.

This bill would instead require the inspector general to refer all allegations of actions prohibited by the act to the Chief of the National Guard Bureau and the Governor.

The bill would additionally require the Governor or Adjutant General to take disciplinary actions against any member of the department who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts, as specified, against a person who reported improper activities.

THE PEOPLE OF THE STATE OF CALIFORNIA DO  
ENACT AS FOLLOWS:

SECTION 1. Section 55 of the Military and Veterans  
Code is amended to read:

55. (a) A person serving in the position of inspector  
general shall satisfy all of the following requirements:

(1) Be appointed by the Governor, with consideration  
of the recommendation of the Adjutant General and  
notification to the Senate Committee on Rules, and  
shall serve a four-year term from the effective date of  
appointment. The inspector general may not be  
removed from office during that term, except for good  
cause. An inspector general may not serve more than  
two consecutive terms.

(2) Meet the same qualifications established in this  
code for the Assistant Adjutant General.

(3) Be an advisor to the Governor and responsive to the  
Adjutant General and serve on state active duty at the  
grade of O-6 or higher.

(b) (1) The inspector general may not serve as the  
Adjutant General or the Assistant Adjutant General  
for four years from the date of leaving the position of  
inspector general.

(2) A commissioned officer on state active duty  
appointed to the position of inspector general who,  
immediately prior to that duty, held a permanent state  
active duty position shall remain on state active duty  
upon vacating the inspector general position.

(3) The inspector general, as soon as able after their  
appointment, shall attend the Department of Defense  
Inspector General School.

(c) The department shall, from the amount annually  
appropriated to it for purposes of this office, continue  
to fund the position of inspector general.

(d) The inspector general shall have access to all  
employees and documents of the department.

(e) The inspector general may receive communications from any person, including, but not limited to, any member of the department.

(f) The inspector general shall, at a minimum, continue to perform the functions of inspections, assistance, investigations, and teaching and training. The functions of the inspector general shall be performed in accordance with applicable service laws, rules, and regulations governing federal inspectors general.

(g) The inspector general shall continue to maintain a toll-free public telephone number and an internet website to receive complaints and allegations, including, but not limited to, those described in subdivision (h) or the California Military Whistleblower Protection Act. The inspector general shall continue to post the telephone number and internet website in clear view at every California National Guard armory, flight facility, airfield, or installation.

(h) (1) At the discretion of the inspector general or the Adjutant General, or upon a written request by the Governor, a Member of the Legislature, any member of the department, or any member of the public, the inspector general shall, in compliance with Army Regulation 20-1 or any subsequent regulation governing activities and procedures of the inspector general, expeditiously investigate any complaint or allegation regarding the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) (A) For all written requests submitted by a Member

of the Legislature, the inspector general shall respond in writing with the inspector general's findings. The response shall contain only that information that may be lawfully disclosed, and, if a complaint or allegation is at issue, the response shall contain, at a minimum, information regarding whether the complaint or allegation was unfounded or sustained.

(B) If the inspector general conducts an investigation at the request of a Member of the Legislature, the inspector general shall submit to that member a report of the inspector general's findings of that investigation. The report shall contain only information that may be lawfully disclosed, and shall contain, at a minimum, information regarding whether the complaint or allegations were unfounded or sustained.

(3) The inspector general shall notify a person who submitted a request for investigation pursuant to paragraph (1) of the results of the investigation, with respect to those issues and allegations directly pertaining to, or made by, the person.

(4) (A) A request described in paragraph (1) is not a public record and is not subject to disclosure under the California Public Records Act set forth in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(B) The inspector general shall not disclose to any person or entity the identity of a person making a written request or an allegation or complaint described in paragraph (1), unless the person making the request, allegation, or complaint has consented to the disclosure in writing.

(5) (A) When deemed appropriate by the inspector general, the inspector general may refer to the Chief of the National Guard Bureau any complaints or allegations described in paragraph (1), any violations of the Uniform Code of Military Justice, or any

violations of any other state or federal law.

(B) When deemed appropriate by the inspector general, the inspector general may refer to the State Auditor any complaints or allegations described in subparagraph (B) of paragraph (1) or any violation of state or federal law.

(i) If the inspector general receives, or becomes aware of, an allegation, complaint, or misconduct regarding the Adjutant General or the Assistant Adjutant General, the inspector general shall immediately refer the matter to the Chief of the National Guard Bureau and the Governor for review. The inspector general, by order of the Governor, shall conduct an investigation regarding the allegations concerning the Adjutant General or the Assistant Adjutant General concurrently with any federal investigation where appropriate. The inspector general shall report the findings to the Governor under this subdivision.

(j) If the inspector general receives, or becomes aware of, an allegation, complaint, or instance of misconduct regarding an inspector general, the inspector general shall immediately refer the allegation, by rapid and confidential means, to the Governor and the next higher echelon inspector general for appropriate action within 10 working days after receipt.

(k) Any allegation presented to the inspector general against a person recognized by the federal government as grade E-8 or E-9, or against any officer recognized by the federal government as a rank of major through colonel, that resulted in the initiation of an inspector general investigation or investigative inquiry or a command-directed action, such as an investigation pursuant to Army Regulation 15-6, commander's inquiry, or referral to the United States Army Criminal Investigation Command, shall be reported to the inspector general of the Department of the Army or

the inspector general of the Department of the Air Force, as appropriate, and the Adjutant General within 10 working days after receipt.

(l) Any allegation presented to the inspector general against a person not recognized by the federal government as grade E-8, E-9, or against any officer not recognized by the federal government as a rank of major through colonel, that resulted in the initiation of an inspector general investigation or investigative inquiry or a command-directed action, such as an investigation pursuant to Army Regulation 15-6, commander's inquiry, or referral to the United States Army Criminal Investigation Command, shall be reported to the Governor and the Adjutant General within 10 working days after receipt.

(m) Any allegation presented to the inspector general against general officers or brigadier general selectees shall be reported, by rapid and confidential means, to the Governor and the Adjutant General within 10 working days after receipt.

(n) (1) (A) The inspector general shall, on or before July 1, 2013, and on or before July 1 each year thereafter, submit a report to the Governor, the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs. The report shall include, but not be limited to, a description of significant problems discovered by the office and a summary of investigations conducted by the office during the previous year. Upon submitting the report to the Governor, the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs the report shall be made available to the public and posted on the office's internet website.

(B) A report to be submitted pursuant to subparagraph (A) shall be submitted in compliance with Section 9795

of the Government Code.

(2) Upon the completion of an investigation conducted by the inspector general pursuant to paragraph (1) of subdivision (h) or Section 56, the inspector general shall also prepare and issue on a quarterly basis a public report that includes all investigations completed in the previous quarter. The inspector general shall submit a copy of the quarterly report to the Legislature, the Senate Committee on Veterans Affairs, and the Assembly Committee on Veterans Affairs. The inspector general shall have the discretion to redact or otherwise protect the names of individuals, specific locations, or other facts that, if not redacted, might hinder prosecution under state or federal law or the Uniform Code of Military Justice related to the investigation, or where disclosure of the information is otherwise prohibited by law, and to decline to produce any of the underlying materials. In a case where allegations were deemed to be unfounded, all applicable identifying information shall be redacted. Each quarterly report shall be made available to the public and posted on the office's internet website.

(o) For purposes of this section, all of the following shall apply:

(1) "Department" means the Military Department.

(2) "Inspector general" means the California Military Department Inspector General.

(3) "Member of the department" means the Adjutant General, any person under the command of the Adjutant General, any person employed by the department, including, but not limited to, any service member or employee of the office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps, or the Naval Militia, any person on state active duty, any person with a state commission, or any civil service or



part-time employee of the department.

(4) "Office" means the Office of the California Military Department Inspector General.

SEC. 2. Section 56 of the Military and Veterans Code is amended to read:

56. (a) This section shall be known, and may be cited, as the "California Military Whistleblower Protection Act."

(b) Notwithstanding any other law, a person shall not do any of the following:

(1) (A) Restrict a member of the department from communicating with a Member of Congress, the Governor, a Member of the Legislature, or any state or federal inspector general.

(B) Subparagraph (A) shall not apply to a communication that is unlawful.

(2) Take, or threaten to take, an unfavorable personnel action, or withhold, or threaten to withhold, a favorable personnel action, as a reprisal against a member of the department for making a communication to any person, including, but not limited to, any of the following:

(A) A Member of Congress.

(B) The Governor.

(C) A Member of the Legislature.

(D) The inspector general.

(E) The State Auditor.

(F) A federal inspector general or any other inspector general appointed under the Inspector General Act of 1978.

(G) Any member of a Department of Defense audit, inspection, investigation, or law enforcement organization.

(H) Any local, state, or federal law enforcement agency.

(I) Any person or organization in the chain of command of the department.

(J) Any other person or organization designated pursuant to regulation or any other established administrative procedures for such communications.

(c) Notwithstanding any other law, if a member of the department submits to an inspector general an allegation that a personnel action prohibited by paragraph (2) of subdivision (b) has been taken or has been threatened to be taken against the member of the department, the inspector general shall take action as provided by subdivision (d).

(d) An inspector general receiving an allegation pursuant to subdivision (c) shall do all of the following:

(1) Expeditiously determine whether there is sufficient evidence, in accordance with federal regulations governing federal inspectors general, to warrant an investigation of the allegation.

(2) Conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing under both of the following circumstances:

(A) There has not been a previous investigation.

(B) There has been a previous investigation but the inspector general determines that the previous investigation was biased or otherwise inadequate.

(3) Upon determining that an investigation of an allegation is warranted, expeditiously investigate the allegation.

(e) The inspector general shall refer all allegations regarding personnel actions prohibited by paragraph (2) of subdivision (b) to the Chief of the National Guard Bureau and the Governor.

(f) (1) After completion of an investigation the inspector general shall submit a report on the results of the investigation to the Adjutant General and a copy of the report on the results of the investigation to the member of the department who made the allegation.

The report shall be transmitted to the Adjutant General, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation.

(2) The report on the results of the investigation transmitted to the Adjutant General shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(3) Except for that information that is not required to be disclosed under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), in the copy of the report transmitted to the member of the department the inspector general shall ensure the maximum disclosure of information that may be lawfully disclosed. The copy of the report need not, however, include summaries of interviews conducted, or any document acquired, during the course of the investigation. These items shall be transmitted to the member of the department, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(4) The inspector general shall provide an interim response to allegations when the final response will be significantly delayed due to operational demands, complexity of the case, or the receipt of additional information. The inspector general shall provide interim responses every 60 days until the matter is

resolved and the case closed.

(5) If, in the course of an investigation of an allegation under this section, the inspector general determines that it is not possible to submit the report required by this subdivision within 60 days after the date of receipt of the allegation being investigated, the inspector general shall provide to the Adjutant General and to the member making the allegation a notice of all of the following:

(A) The reasons why the report may not be submitted within that time.

(B) When the report will be submitted.

(g) Nothing in this article is intended to supersede the rights, benefits, processes, and procedures already afforded to members of the dept. under existing law.

(h) For purposes of this section, all of the following shall apply:

(1) A “communication” means any communication or report in which a member of the department complains of, or discloses information that the member of the department reasonably believes constitutes evidence of, any of the following:

(A) A violation of law, including, but not limited to, regulations, the Uniform Code of Military Justice, and any law prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specified danger to the public health or safety.

(2) “Department” means the Military Department.

(3) “Inspector general” means the California Military Department Inspector General.

(4) “Member of the department” has the same meaning as defined in Section 55.

(5) “Office” means the Office of the California Military Department Inspector General.

SEC. 3. Section 56.1 is added to the Military and Veterans Code, to read:

56.1. (a) A member of the department who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against any other member or former member of the department, or employee of any department, board, or authority, for having disclosed what the member or former member of the department or employee in good faith believed to be improper activities in the Military Department shall be disciplined by the Governor or the Adjutant General, or by adverse action as provided in Article 1 (commencing with Section 19570) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code, if applicable. If no adverse action is taken by the appointing power for a civil service or other state employee, the State Personnel Board shall begin procedures as if charges were filed pursuant to Section 19583.5 of the Government Code.

(b) Persons subject to the Uniform Code of Military Justice (UCMJ) who violate Section 56 shall additionally be subject to punishment pursuant to Article 92 of the UCMJ, and subject to adverse administrative action as authorized by state law or federal law.

(c) Any member of the department who violates the prohibitions defined in Section 56 shall be subject to disciplinary action or criminal prosecution as authorized by state or federal law.

(d) . . . [T]he following definitions apply:

(1) "Department" means the Military Department.

(2) "Employee" has the same meaning as defined in Section 8547.2 of the Government Code.

(3) "Improper activities" means the same thing as "improper governmental activity" under Section 8547.2 of the Government Code.