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**TESTIMONY IN SUPPORT OF H.B. 6921:
AN ACT CONCERNING DISCRIMINATION
BASED ON A PERSON'S CRIMINAL HISTORY**

Chairs Kushner and Porter, Ranking Members Miner and Polleta, and esteemed members of the Joint Committee on Labor and Public Relations. My name is Steve Kennedy, and I am the leader of the Connecticut branch of Iraq and Afghanistan Veterans of America (“IAVA-CT”). I write in strong support of H.B. 6921, which would greatly reduce the collateral consequences associated with a criminal record and help individuals reenter our communities.

As the committee recognizes the importance of eliminating discrimination against individuals solely based on their involvement with the civilian criminal justice system, I respectfully ask that the same protections be expanded to veterans with less-than-honorable discharges (known as “bad paper”) from the U.S. military as a result of their involvement with the military justice system. To exclude veterans with bad paper from the benefits of HB 6921 would be inconsistent with important steps the legislature took only last session to make such veterans eligible for lifesaving state veterans’ benefits.¹ Further, excluding such veterans would also be inconsistent with important policy reforms adopted last year by the Commission on Human Rights and Opportunities, which issued critical guidance clarifying that state antidiscrimination law also prohibits discrimination against veterans with bad paper, as “Honorable-only” employment policies have a disparate impact on veterans of color, LGBT veterans, and veterans with disabilities.² At present, only veterans with discharge statuses of “Honorable” or “General under Honorable Conditions” are explicitly protected against discrimination under state law.³

Although less familiar to the general public than a criminal record, less-than-honorable discharges are shockingly widespread. Since 2002, 7% of veterans have left the military with bad paper that renders them ineligible for protection against discrimination under state law.⁴ The consequences of such discharges, however, are frequently very similar to criminal records in the civilian justice system. Like people with criminal records, veterans who have received bad paper experience severe barriers to critical services and stable employment.⁵ These veterans are ineligible for federal veterans’ benefits, which include health care, disability benefits, affordable home loans, and financial support for higher education and training. Veterans with bad paper are

¹ 2018 CONN. PUB. ACTS No. 18-47

² See CONNECTICUT COMM’M ON HUMAN RIGHTS AND OPPORTUNITIES, GUIDE TO NONDISCRIMINATION IN HIRING AND EMPLOYING CONNECTICUT VETERANS (2018).

³ CONN. GEN. STAT. §27-103 (2019) (providing definition of “veteran”); CONN. GEN. STAT §46a-60 (2019) (barring discrimination against individuals based on their status as a veteran)

⁴ See SWORDS TO PLOWSHARES & NATIONAL VETERANS LEGAL SERVICES PROGRAM, UNDERSERVED: HOW THE VA WRONGFULLY EXCLUDED VETERANS WITH BAD PAPER 43 (2016).

⁵ See Jennifer McDermott, *Veterans, Discharged and Jobless, Seek Hiring-Rules Changes*, ASSOCIATED PRESS (May 25, 2018).

also subjected to widespread discrimination in employment since many employers adopt “Honorable only” hiring policies or preference programs.

What many employers and service providers don't realize is that bad paper discharges are frequently issued for minor misconduct, which is itself often attributable to invisible wounds such as post-traumatic stress disorder (“PTSD”) and other service-connected mental health conditions.⁶ Depending on the underlying reason for the separation, the military may discharge a servicemember less-than-honorably in a process similar to a termination in corporate America, or in a full court-martial, accompanied by incarceration. A minor misstep like being absent without leave, or self-medicating for PTSD with marijuana or alcohol, can get a veteran kicked out and permanently labeled as “less-than-Honorable.” Moreover, veterans facing administrative separation are afforded far fewer procedural protections than civilians facing criminal charges; they often waive their right to speak to counsel or challenge the outcome of the separation proceeding. Some veterans even report accepting bad paper discharges in the hope of receiving treatment for a mental health condition, only to find out later that their discharge status disqualifies them from care.

The military justice system also faces many of the same challenges as the civilian criminal justice system. Discrimination is pervasive within the military, with service members of color, people with disabilities, and LGBT people receiving a disproportionate number of bad paper discharges. A 2017 report from Protect Our Defenders, a service member advocacy group, found that African American service members are two times as likely as their white peers to face disciplinary action in the military.⁷ The Government Accountability Office also found that 62% of service members separated for misconduct between 2011 and 2015 had been diagnosed with post-traumatic stress disorder, traumatic brain injury, or other mental health conditions that could be associated with misconduct.⁸ Until recently, the military had an explicit policy of discriminating against our LGBT brothers and sisters, where just being honest about their sexual orientation could get them kicked out with a bad paper discharge.⁹ Even now, many transgender servicemembers live in fear of the same because the military has now banned transgender people from serving openly¹⁰.

The stigma and discrimination associated with bad paper discharges can cost veterans their lives. During IAVA-CT’s campaign for expanded state benefits last year, I spoke with veterans across the state who found themselves unemployed or homeless, some turning to drugs or alcohol for relief, and struggling without medical care because of their discharge status. And these were the

⁶ See U.S. GOV’T ACCOUNTABILITY OFFICE, ACTIONS NEEDED TO ENSURE POST-TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY ARE CONSIDERED IN MISCONDUCT SEPARATIONS 12 (2017).

⁷ See DON CHRISTENSEN, COL. (RET.) & YELENA TSILKER, PROTECT OUR DEFENDERS, RACIAL DISPARITIES IN THE MILITARY JUSTICE SYSTEM: FINDINGS OF SIGNIFICANT AND PERSISTENT RACIAL DISPARITIES WITHIN THE UNITED STATES MILITARY JUSTICE SYSTEM I (2017).

⁸ See U.S. GOV’T ACCOUNTABILITY OFFICE, ACTIONS NEEDED TO ENSURE POST-TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY ARE CONSIDERED IN MISCONDUCT SEPARATIONS 12 (2017).

⁹ See Dave Phillipps, *Ousted as Gay, Aging Veterans Are Battling Again for Honorable Discharges*, N.Y. TIMES, (Sept. 16, 2015).

¹⁰ See David Welna & Bill Chappell, *Supreme Court Revives Trump’s Ban on Transgender Military Personnel, For Now*, NATIONAL PUBLIC RADIO (Jan. 22, 2019).

veterans who were still around for me to talk to. I am still haunted by my conversation with the wife of a veteran who received a less-than-honorable discharge as a result of his PTSD and depression. He struggled with severe depression after his separation from the Army after two combat deployments and was unable to get help. After his application for a discharge upgrade was denied, he faced a lifetime of stigma and shame. In his wife's words, "With the way the Army treated him and the lack of resources available, they signed his death warrant the moment they turned him away. He took his life while we tried to get him into proper treatment."

Connecticut has become a national leader in helping veterans with bad paper, and this bill affords an important opportunity for our state to support its veterans. I applaud Representative Porter and the co-sponsors of this bill for their recognition that a criminal record should not serve as a life sentence to poverty and stigma. I only ask that this committee continue Connecticut's critical work on issues of bad paper and include protections against discrimination for these veterans in the areas of employment, housing, public education and accommodations, insurance, credit transactions, government programs and services and economic development programs. With your help, we can ensure that every veteran is welcomed home from their military service with open arms.