

Grassley Continues Work for Passage of Military Justice Reform for Sexual Assault Cases

Written by Grassley Press

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Tuesday, November 19, 2013

AIR FORCE MAJOR GENERAL (RET.) MARTHA RAINVILLE, ARMY BRIGADIER GENERAL (RET.) LOREE SUTTON, IRAQ & AFGHANISTAN VETERANS OF AMERICA, VIETNAM VETERANS OF AMERICA, SERVICE WOMEN'S ACTION NETWORK, SURVIVOR/PROTECT OUR DEFENDERS ADVOCACY COMMITTEE KATE WEBER, SARAH PLUMMER, SURVIVOR & ADVOCATE, AUTHOR/LEADERSHIP COACH ARRIVE ON CAPITOL HILL TO CONTINUE PUSH FOR INDEPENDENT MILITARY JUSTICE SYSTEM

Chorus of Military Voices Continues to Grow: Senators Release New Letter Supporting Military Justice Improvement Act Signed by 26 Retired Generals, Commanders, Colonels, Captains and Senior Enlisted Personnel – Includes 4 Retired Generals/Admirals Speaking Out for First Time

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Last September, DOD's Own Advisory Panel Voted in Favor of Gillibrand Approach Without a Single Vote Against, 9 of 10 Yes Votes by Former Military Members

Washington D.C. – U.S. Senators Kirsten Gillibrand (D-NY), Chuck Grassley (R-IA), Jeanne Shaheen (D-NH), Rand Paul (R-KY), Richard Blumenthal (D-CT), Mazie Hirono (D-HI), and Dean Heller (R-NV) were joined on Capitol Hill today by Air Force Major General (Ret.) and former Vermont National Guard Adjutant General Martha Rainville, who served in the military for twenty-seven years, including fourteen years in command positions, plus Brigadier General (Ret.) Loree Sutton who served as the top psychiatrist in the U.S. Army, Iraq & Afghanistan Veterans of America (IAVA), Vietnam Veterans of America (VVA), Service Women's Action Network (SWAN), Kate Weber, a survivor and Protect Our Defenders Advocacy Committee Member from the state of California, and Sarah Plummer, Survivor & Advocate, Author/Leadership Coach to continue their unified push for an independent military justice system.

While in Washington, the generals are meeting with undecided Senators to make their case on why this reform is critically needed to strengthen our military. The Senators also publicly released a letter supporting the Military Justice Improvement Act signed by twenty-six retired generals, admirals, commanders, colonels and captains – including four flag officers (two generals and two admirals) speaking out for the first time. Rainville, the first woman in the history of the National Guard to serve as a state Adjutant General, and Sutton, are now joined by a dozen generals or admirals, known as flag officers, in supporting the Military Justice Improvement Act.

“America is home to the world's best and brightest, brave men and women who join the armed services for all the right reasons – to serve our country, defend all that we hold sacred, and make America's military the best the world has ever known,” Senator Gillibrand said. “But too often, these brave men and women find themselves in the fight of their lives not off on some far-away battlefield, but right here on our own soil, within their own ranks and commanding officers, as victims of horrific acts of sexual violence. Our bipartisan bill takes this issue head on by removing decision-making from the chain of command, and giving that discretion to experienced trial counsel with prosecutorial experience where it belongs. That's how we will

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achieve accountability, justice and fairness.”

“As a former commander, endorsing a change that removes certain authority from military commanders has been a tough decision,” said Major General (Ret.) Martha Rainville. “It was driven by my conviction that our men and women in uniform deserve to know, without doubt, that they are valued and will be treated fairly with all due process should they report an offense and seek help, or face being accused of an offense. When allegations of serious criminal misconduct have been made, the decision whether to prosecute should be made by a trained legal professional. Fairness and justice require sound judgment based on evidence and facts, independent of pre-existing command relationships.”

“Failure to achieve these reforms would be a further tragedy to an already sorrowful history of inattention and ineptitude concerning military sexual assault,” said Brigadier General (Ret.) Loree Sutton. “In my view, achieving these essential reform measures must be considered as a national security imperative, demanding immediate action to prevent further damage to individual health and well-being, vertical and horizontal trust within units, military institutional reputation, operational mission readiness and the civilian-military compact. Far from ‘stripping’ commanders of accountability, as some detractors have suggested, these improvements will remove the inherent conflict of interest that clouds the perception and, all too often, the decision-making process under the current system. Implementing these reforms will actually support leaders to build and sustain unit cultures marked by respect, good order and discipline.”

In a letter released by the Senators from twenty-six retired generals, admirals, commanders, colonels, captains and senior enlisted personnel they wrote, “It is time to create an independent, objective, and non-biased system of criminal justice in the armed forces. We believe that the decision to prosecute serious crimes, including sexual assault, should be made by trained legal professionals who are outside the chain of command, but still within the military. This change will allow prosecutorial decisions to be made based on facts and evidence and not be derailed by pre-existing relationships, attitudes, biases, and perceptions... It is our sincere belief that this change in the military justice system will go a long way to safeguard the integrity of the judicial process and provide the opportunity for real progress toward eliminating the scourge of sexual assault in the military.”

“Senator Gillibrand’s reform is needed, and it’s the right thing to do. We’ve tried working within the current system and military leaders have made promises about addressing the problem of sexual assault for years and years, but the problem only seems to be getting worse. In fact, the current system seems to be part of the problem,” Senator Grassley said. “Now, we’re being

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asked once again to wait and see if the latest attempts to reform the current system will fix the problem. The truth is, the time for waiting for another report or study has long since passed. Commanders can and should be held accountable for the climate under their command. But, the point here is that sexual assault is a law enforcement matter, not a military one. An advisory committee appointed by the Secretary of Defense himself supports this bipartisan reform initiative, and the Military Justice Improvement Act should pass along with this year's defense authorization bill."

"We have to change the way the military investigates and prosecutes cases of sexual assault within its ranks," Senator Shaheen said. "The support the Military Justice Improvement Act has received from current and retired military officials is a testament to the importance of passing this bill."

Senator Blumenthal said, "Victims of this hideous, horrific crime deserve a fairer, more effective justice system – with decisions made by a trained, experienced prosecutor – so they will be better protected and encouraged to report sexual assaults. As the best and strongest military in history, our men and women in uniform deserve a justice system worthy of their excellence. Our legislation is vital to victim trust and confidence in military justice. I am proud to stand with Senator Gillibrand and this broad, bipartisan coalition of advocates and colleagues."

"The crime of sexual assault in the military is gut-wrenching and there should be no tolerance of it," said Senator Hirono. "I'd like to applaud the work of all my colleagues to help solve this terrible problem that has plagued the military. As we move forward to pass NDAA, I urge my colleagues to support the Military Justice Improvement Act. Today's letter from retired generals, commanders, colonels, captains and senior enlisted personnel show that we are gaining support and that its time to create an independent, objective, and non-biased system of criminal justice in the armed forces."

"I want to thank my constituent – Kate Weber, an Army veteran and mother of four – for her courage in speaking out today about the horrific abuse she suffered at the hands of her fellow soldiers," Senator Boxer said. "We owe it to Kate and all the other survivors of military sexual assault to end the decades of empty promises and fix our broken military justice system."

"The status quo is simply unacceptable. These individuals deserve justice which is why prosecutorial authority should be in the hands of unbiased, objective military prosecutors," said Senator Begich. "It's time to bring change, confidence and justice back to the system by

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instituting a zero-tolerance policy for sexual assault in our ranks . This is exactly what Sen. Gillibrand's amendment will do and why I am a proud to be a co-sponsor. "

The carefully crafted Military Justice Improvement Act moves the decision whether to prosecute any crime punishable by one year or more in confinement to independent, trained, professional military prosecutors, with the exception of 37 crimes that are uniquely military in nature, such as disobeying orders or going Absent Without Leave. The decision whether to prosecute the 37 serious crimes uniquely military in nature plus all crimes punishable by less than one year of confinement would remain within the chain of command. The bill does not amend Article 15 pertaining to non-judicial punishments.

According to the FY2012 SAPRO report released earlier this year by the Defense Department, an estimated 26,000 cases of unwanted sexual contact and sexual assaults occurred in FY2012, a 37% increase from FY2011. Another report released by the Defense Department this year showed that more than 1 in 5 female service members reported experiencing unwanted sexual contact while serving in the military. Also according to the FY2012 SAPRO Report, 25% of women and 27% of men who received unwanted sexual contact indicated the offender was someone in their military chain of command. Further, 50% of female victims stated they did not report the crime because they believed that nothing would be done with their report. Even the current top military leadership admits the current system "has failed" and as Commandant of the Marine Corps General James F. Amos stated this year, victims do not come forward because "they don't trust the chain of command."

The problem of sexual assault in the military is not new, neither are the pledges of "zero tolerance" from commanders, which date all the way back to then-Secretary of Defense Dick Cheney in 1992. The Military Justice Improvement Act would for the first time remove the decision whether to take a case to general court-martial completely out of the chain of command and give that discretion to experienced military prosecutors for all crimes punishable by one year or more in confinement, except crimes that are uniquely military in nature, such as disobeying orders or going AWOL.

In September, the Defense Advisory Committee on Women in the Services (DACOWITS) voted overwhelmingly in support of removing the decision whether to prosecute sexual assaults and other serious crimes from the chain of command. Ten members voted in support of the measure, six abstained to study further, none voted against. DACOWITS was created in 1951 by then Secretary of Defense, George C. Marshall. The Committee is composed of civilian and retired military women and men who are appointed by the Secretary of Defense to provide advice and recommendations on matters and policies relating to the recruitment and retention,

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treatment, employment, integration, and well-being of highly qualified professional women in the Armed Forces. Historically, DACOWITS' recommendations have been very instrumental in effecting changes to laws and policies pertaining to military women. Secretary Chuck Hagel was recently quoted as saying, "I have a put a premium on that advisory board."

Many of our allied modern militaries have reporting outside of the chain of command, such as Britain, Canada, Israel, Germany, Norway and Australia. For example, the British military has prosecutors making trial decisions for all crimes through the Service Prosecuting Authority (SPA) within Britain's Ministry of Defense. Four allied commanders recently [testified](#) to the Response Systems Panel that these changes to their military justice systems had no negative consequences to good order and discipline.

The text of the full letter from twenty-six retired generals, admirals, commanders, colonels and captains is below. For more information, visit www.gillibrand.senate.gov/mjia

Dear Senator Gillibrand:

We write to express our support for the changes to the military justice system proposed in your bill, the Military Justice Improvement Act (S. 967). We represent all branches of the military and bring many years and a range of experiences, including that of convening authority for courts martial.

We know that, in too many cases, service members have not reported incidents of sexual assault because they lack confidence in the current system. The inherent conflicts that exist in

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the military justice system have led service members to believe that their allegations of sexual assault will not receive a fair and impartial hearing and that perpetrators will not be held accountable.

Additionally, we know firsthand that commanders often lack the deep and broad legal experience necessary to make critical decisions about whether sufficient evidence exists to move forward with a prosecution.

It is time to create an independent, objective, and non-biased system of criminal justice in the armed forces. We believe that the decision to prosecute serious crimes, including sexual assault, should be made by trained legal professionals who are outside the chain of command, but still within the military. This change will allow prosecutorial decisions to be made based on facts and evidence and not be derailed by pre-existing relationships, attitudes, biases, and perceptions.

The bill appropriately excludes uniquely military crimes and leaves commanders with the tools they need to maintain good order and discipline, including non-judicial punishment.

We applaud the Department of Defense for its ongoing efforts to address this serious problem.

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However, it is our sincere belief that this change in the military justice system will go a long way to safeguard the integrity of the judicial process and provide the opportunity for real progress toward eliminating the scourge of sexual assault in the military.

We thank you for your leadership on this important issue that affects mission readiness and national security.

Sincerely,

Arlen D. Jameson, Lt Gen, USAF (Ret.), Austin, TX 78731

Claudia J. Kennedy, LTG, USA (Ret.), Hilton Head Island, SC 29928

Marty Evans, RADM, USN (Ret.), Ponte Vedra Beach, FL 32082

Dennis J. Laich, MG, USA (Ret.), Powell, OH 43065

Elizabeth M. Morris, RADM, USN (Ret.), Herndon, VA 20171

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Brynn Tannehill, LCDR (former), USN, Xenia, OH 45385

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