

The Honorable Barbara S. Jones  
Chair, Systems Response Panel, and  
Chair, Role of the Commander Subcommittee  
875 North Randolph Street  
Arlington, Virginia 22203-1995

Dear Judge Jones:

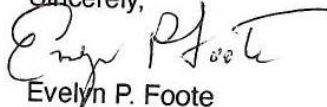
At the invitation of your Systems Response Panel support staff, I appeared before the Role of the Commander Subcommittee on January 30, 2014 to present my rationale for supporting the proposed legislation of Senator Kirsten Gillibrand. I was truly pleased to have this opportunity to participate in the hearing, sharing time with a distinguished group of former commanders who also believe that it is past time to significantly change how we deal with the crime of sexual assault within the armed forces. Unfortunately, I was not able to remain and listen to the positions of those who oppose the Gillibrand legislation.

On the morning of 31 January, I was shocked to learn that your full panel had been given a detailed copy of the Role of the Commander Subcommittee report entitled **Initial Assessment of Whether Senior Commanders Should Retain Authority to Refer Cases of Sexual Assault to Courts-Martial**. While the report was described as an "initial" statement of the subcommittee's position in its deliberations, the conclusions were written in final form and heavily weighted to maintaining the status quo by leaving that authority in the hands of senior commanders. Of particular note was the date of this report: January 29, 2014: the day before the hearing. The one statement dissenting from the panel's recommendations was submitted by Professor Elizabeth L. Hillman. It was placed at the end of the Panel report. Her statement was a masterpiece of logic, fully documented and supporting the thesis that change in how we adjudicate military sexual assault cases is an imperative. I noted that Professor Hillman was present in the room before the hearing began. She was not present, however, during the hearing.

Judge Jones, the distribution of the subcommittee "initial report" on January 29 before we participants even had the chance to speak to the entire panel was, in my estimation, both insulting and out of order. Why this action was taken, I do not know. Placing the document in the hands of all panelists a day before our hearing seems to me to have been a premature act which would have a good chance to influence the panel in a given direction. In many respects, this is analogous to using undue command influence to tilt the playing field.

With all of this said, I can only question why the hearing on January 30th was even held. My perception is that your time and our time at the hearing was probably wasted and will, in all likelihood, be of no consequence to the ultimate outcome of your full panel's report.

Sincerely,



Evelyn P. Foote

Brigadier General, US Army ( Retired )