

## Op-Ed: Keep commander authority

Dec. 11, 2013 - 09:06AM |

airforcetimes.com

### GEN. ROGER BRADY (RET.)

Brady is former commander of U.S. Air Forces in Europe. He retired in February 2011.

On Nov. 13, a jury in Virginia returned a verdict of not guilty in a widely reported case alleging sexual assault. The accused, Air Force Lt. Col. Jeffrey Krusinski, had been the deputy in an office handling the service's effort to deal with the same crime. The jury's verdict has been followed by an eerie silence from those who would strip commanders of their authority in such cases. One wonders why.

In recent months following two rare reversals of court-martial convictions by senior commanders, many Congress members and victim advocacy groups were outraged. Generals, admirals and senior Defense Department officials were called before committees who challenged the witnesses to explain why such crimes should remain under their apparently inept stewardship. Officials asserted that carving out a set of crimes from their jurisdiction would result in fewer, not more, reports by victims, and fewer, not more, convictions, and would be harmful to good order and discipline. This seemed to fuel the outrage of some.

While the congressional hearings played out, Krusinski was accused of groping a woman in a bar and arrested by local police. The district attorney charged the individual with assault, stripping away the sexual component of the allegation. At trial, the defense highlighted the inconsistency of testimony by the alleged victim and other witnesses. The jury, apparently not convinced beyond a reasonable doubt that assault had occurred, returned a verdict of not guilty. Some useful facts about the case:

Prosecutors like to win, whether they are military or civilian. They craft charges in a way they believe is most likely to yield a conviction. Some will criticize the DA for dropping the sexual component. Like commanders, sometimes prosecutors make unpopular decisions.

In almost every sexual assault case, the facts are murky.

If the accused had been a civilian, the case would be over — done. But because the accused is active-duty military, the Air Force has several options. It can retry the case, administer nonjudicial punishment, separate Krusinski from service short of retirement or, if he is allowed to retire, retire him at a lower grade, greatly affecting his lifetime earnings.

The Virginia verdict should demonstrate that stripping commanders of authority to deal with these cases will not guarantee the outcome one might expect or desire. These cases are difficult, and it comes as a surprise to no one who understands the nature of the crime that sometimes getting to guilty beyond a reasonable doubt simply cannot be done. To remove this authority from the chain of command lets commanders off the hook and decreases options for securing justice for victims. For the military, senior leaders must ensure that only commanders dedicated to stamping out this cancer can be successful. Even if one is offended by the Virginia verdict, nobody would seriously suggest that we abandon the trial-by-jury system. So, why would we allow a couple of legal but controversial decisions by commanders convince us we should undermine the authority of commanders that has served us well for more than 200 years?

Start your day with a roundup of top defense news.

- [Air Force on lower end of best fed jobs](#)
- [Should time in grade, service be scrapped?](#)
- [Air Force Band celebrates museum's 10th anniversary](#)

[Sign up now](#) for free Military Times E-Reports. Choose from Money, Education and Careers. Subscribers: [log in](#) for premium e-newsletters.