

16 August 2013

Dear Senator Gillibrand:

I write to comment your bipartisan work toward combating the epidemic of sexual assaults occurring in our military. As you may know, I proudly served for 32 years in the United States Army and have the greatest respect for the institution, our military leadership and our brave service members.

After carefully thinking about this issue, I believe the Defense Department's time to solve the problem on its own has expired. Civilian and uniformed military leaders have had absolute discretion and power to make changes, but have not fixed the problem and have not stopped retaliation suffered by survivors who report the crimes committed against them.

Having served in leadership positions in the US Army, I have concluded that if military leadership hasn't fixed the problem in my lifetime, it's not going to be fixed without a change to the status quo. The imbalance of power and authority held by commanders in dealing with sexual assaults must be corrected. There has to be independent oversight over what is happening in these cases.

Simply put, we must remove the conflicts of interest in the current system. The value of loyalty over integrity prevents too many who hold the reins of power, discretion and authority from doing the right thing. I have seen for myself that the culture of having your buddy's back is a reason why there are too many cases of sexual harassment or sexual violence that are not prosecuted. The system in which a commander can sweep his own crime or the crime of a decorated soldier or a friend under the rug, protects the guilty and protects serial predators. And it harms military readiness. The bottom line is there are officers that molest men and women and we in the military know it. We know that 90% of victims don't come forward. Many fear nothing will be done or their careers will be adversely affected. In the most recent Pentagon report we learned that 60% of victims who did report state they were retaliated against professionally, socially or administratively.

Until leadership is held accountable, this won't be corrected. To hold leadership accountable means there must be independence and transparency in the system. Permitting professionally trained prosecutors rather than commanding officers to decide whether to take sexual assault cases to trial is a measured first step toward such accountability.

I have no doubt that the command climate, unit cohesion and readiness will be improved by two changes:

1. giving disposition authority (authority to decide whether to prosecute sexual assault cases) to trained, independent lawyers

2. moving conveying authority (authority to select a judge and jury pool and set final sentences) to senior officers outside the chain of command of the victim and the accused.

Thank you for your dedicated effort on behalf of the proud men and women who serve our country.

Sincerely,
Claudia J Kennedy
Lieutenant General
USA, Retired