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# Panel slammed for closing sex assault policy h

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An independent panel formed to recommend changes to how the military oversees, investigates and prosecutes sexual assault cases will meet Thursday in Arlington, Va., to discuss publicly the role of commanders in such cases.

The nine-member Response Systems to Sexual Assault Crimes Panel will meet in Arlington, Va., to hear testimony on the hotly debated topic, the subject of proposed legislation by Sen. Kirsten Gillibrand, D-N.Y., who seeks to remove commanders' authority to prosecute or dismiss cases within their chain of command.

The panel, appointed by Congress and Defense Secretary Chuck Hagel, has faced criticism for holding its subcommittee meetings in private.

At least one person who testified before the panel's Role of the Commander subcommittee Jan. 8 said that doing business behind closed doors suppresses open discussion and undermines the Defense Department's commitment to transparency.

Former Coast Guard judge advocate and U.S. Maritime Administration Chief Counsel Denise Krepp, said the policy seemed designed to downplay support within the services for the proposal, which Gillibrand has championed .

“I got the impression that this was a ‘check-the-box’ hearing, which is sad. I think they are trying to portray that everyone in the military opposes the Gillibrand amendment, and that is simply not true,” Krepp said in an interview with Military Times.

Speaking alongside Krepp in support of the Gillibrand amendment were retired Army Lt. Gen. Claudia Kennedy, retired Army Brig. Gen. Loree Sutton, retired Rear Adm. Harold Robinson, retired Navy Capt. Lory Manning and former Rep. Patrick Murphy, a former Army attorney and an Iraq War veteran.

Testifying in favor of the status quo were five retired general and flag officers, including retired Air Force Gen. Roger Brady and former Defense Department Sexual Assault Prevention Office director retired Air Force Maj. Gen. Mary Kay Hertog, as well as one active-duty officer, Air Force Academy Superintendent Lt. Gen. Michael Gould.

Panelists from one group were not allowed to sit in on the other presentations.

Panel spokeswoman Terri Saunders said subcommittee meetings are not open to the public because notification is required for public meetings in the Federal Register, a process that would limit the subcommittees’ scheduling flexibility.

She said transcripts are posted following the meetings but otherwise declined to comment on Krepp’s charges.

“It would be inappropriate to comment on the perceptions of a panelist regarding the mindset of the subcommittee members. Please read the transcript from the hearing, posted on our website,” Saunders said.



Another witness, Brady, said he found the panel “impressive” and believed members are seeking to find what works best for troops. “They seemed very interested in learning about command authority and good order and discipline.”

In the transcript, panel chair Elizabeth Hillman, a law professor at the University of California Hastings College of Law and a former Air Force officer, indicated she was searching for answers from the panelists. Her panel is charged with providing a report with recommendations to Congress by June.

“I’m vexed by this issue. One way to assess it is, should we defer to senior military leaders with the kind of experience and service you’ve had?” she said, speaking to panelists who oppose the Gillibrand amendment. “Or should we defer to victims of sexual assault who want to make this happen?”

Meanwhile, Gillibrand continues working to gather enough votes to support her legislation in the Senate. She has brought 53 co-sponsors aboard but needs 60 votes to overcome a filibuster threat.

In the past few months, Congress has required DoD to make a number of changes to its sexual assault policy. The 2014 National Defense Authorization Act included 30 military sexual assault provisions, including removing the authority of commanders to dismiss a court-martial finding, eliminating the current five-year statute of limitations on rape and sexual assault and establishing minimum sentencing guidelines for sex crimes.

The fiscal 2014 omnibus spending bill, just approved, also includes provisions directing the services to fully fund programs to improve the efficiency of military law enforcement agencies in collecting evidence, processing crime scenes and protecting victims’ rights.

Krepp will have an opportunity to voice her concerns when the full committee meets publicly Jan. 30 in Washington, D.C., to discuss the role of commanders in sexual assault cases. Brady said he also has been invited to attend.

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Saunders said the public will be able to hear witnesses testify at the meeting, which begins at 8:30 a.m. and have a chance to provide comment.

Krepp will speak but remains skeptical of the process.

“If DoD is serious about doing something about this problem, then be transparent about it,” she said.

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