



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

July 23, 2013

The Honorable Lindsey Graham
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Senator Graham:

Thank you for the opportunity to address why I oppose removing commanders from the disposition of allegations of sexual assault and other serious offenses. For 33 years, I have served alongside and advised commanders at every level of the Army in peace, stability operations, humanitarian operations, counterterrorism operations, and for the last 12 years, sustained combat operations. One enduring truth remains: Soldier discipline is the foundation of a trained, focused force capable of accomplishing any mission. Soldier discipline is built, shaped and reinforced over a Soldier's career by commanders with authority – the authority to address criminal behavior quickly, visibly and locally. From my perspective administering the military justice system at its highest level, I am convinced that command authority, particularly in the context of military justice, remains absolutely critical to ensuring the integrity of the force.

First, the commander's central role in the disposition of offenses is essential to command authority. The commander is necessarily vested with that authority because he or she is personally responsible for all that goes on in a unit – health, welfare, safety, morale, discipline, training, and readiness to execute a mission in peace and war. The Uniform Code of Military Justice (UCMJ) is the vehicle by which commanders can maintain good order and discipline in the force. Command authority is the most critical mechanism for ensuring discipline and accountability, cohesion and the integrity of the force. Increased commander involvement and accountability, not diminution thereof, is essential to continuing the culture change already ongoing. Only a commander can both direct that the fight against sexual assault and harassment is the Army's primary mission, and hold those accountable who fall short of achieving that mission.

Second, removal of the commander from the disposition decision is a solution in search of a problem. Removing commanders from their central role as convening authority will, in my professional judgment, not increase the prosecution or reporting rates for sexual assaults. Both statistical and anecdotal evidence establish that Army commanders prosecute sexual assaults at a rate favorable to civilian jurisdictions. Victims tell us, in decades of surveys and sensing sessions, that the top reasons they chose not to report a sexual assault involved the loss of privacy and the shame and embarrassment that these crimes can engender in a victim. Victims also tell us that they fear retaliation – not from their commanders – but from the perpetrators and their peers. As in civilian society, victims who report a sexual assault are subjected to a cultural response from their peers that questions or even degrades the victim. Commanders with full authority, however, can protect victim privacy and respond to any retaliation directed toward the victim.

Third, comparisons to our allies and their military justice systems are misplaced. There is no single model from our allies regarding the role of the commander. Although most of these forces have reduced the role of the commander, none have removed it entirely. None of our allies implemented these changes in response to concerns about victims of sexual assault; changes were made – in most cases forced – by court rulings that the military justice systems did not adequately protect the rights of accused Soldiers. There is no statistical or empirical evidence that establishes that the system changes have increased the reporting or prosecution of sexual assault. Most critically, our allies lack the scope and scale of our operations. For example, in 2005 the U.S. had over 220,000 service members in the CENTCOM area of operations, while our largest ally, the United Kingdom, deployed approximately 9,600 to those locations. Correspondingly, over 10 years the Army alone tried 953 courts-martial in the CENTCOM theater while the United Kingdom tried none. While a centralized or more civilianized system might work for a force one-tenth our size that does not try cases in a deployed environment, that same system could cripple our current abilities to try courts-martial quickly and visibly wherever our units are sent.

Our system works best when there is a healthy dialogue between commanders and judge advocates in disposing of an allegation of misconduct. Commanders understand best the needs of good order and discipline, while judge advocates can expertly guide the range of disposition options. In the Army, we have increased that expertise by fielding special victim prosecutors and sexual assault investigators who have increased the caliber of our sexual assault advocacy across the board. That remains the best way forward. It is a solid foundation and one that we believe will resonate with the Response Systems Panel that must be allowed to deliberately examine our system, as the Congress directed last year. We will continue to prosecute where we can, but only a comprehensive approach that includes education, prevention, training, and holding commanders accountable will bring about the change in culture we seek.

Sincerely,



Dana K. Chipman
Lieutenant General, United States Army
The Judge Advocate General



DEPARTMENT OF THE ARMY
U.S. ARMY CRIMINAL INVESTIGATION COMMAND
27130 TELEGRAPH ROAD
QUANTICO, VA 22134-2253

REPLY TO
ATTENTION OF

AUG 14 2013

Office of the Staff Judge Advocate

The Honorable Jackie Speier
United States Representative
211 Cannon House Office Building
Washington, DC 20515

Dear Representative Speier:

This letter is in response to the request made by your Legislative Director, Mr. Josh Connolly, on July 17, 2013, seeking information regarding the cost of investigative training for sexual assault investigations.

The United States Army Criminal Investigation Command (USACIDC) can only provide information regarding investigative training costs for this command. The USACIDC estimates that approximately \$2 million per year is spent for training (not inclusive of sexual assault training costs). The approximate costs for sexual assault related training since Fiscal Year (FY 09) are as follows: FY 09- \$496,200; FY 10- \$831,400; FY 11- \$406,700; FY 12- \$257,200; and FY 13- \$146,000 (through June 30th).

As depicted above, the sexual assault training costs borne by USACIDC have gone down as the United States Army Military Police School (USAMPS) has received direct funding from the DoD Sexual Assault Prevention and Response Office (SAPRO) for training Military Criminal Investigation Organizations. Questions regarding how much funding was actually provided to the USAMPS for sexual assault training should be directed the DoD SAPRO at 4800 Mark Center, Suite 07G21, Alexandria, Virginia 22350 or (571) 372-2657.

I trust this information has been helpful.

Sincerely,

Timothy J. Chmura
Colonel, U.S. Army
Deputy Commander