

MILITARY JUSTICE IMPROVEMENT ACT

Comprehensive Resource Center for the Military Justice Improvement Act

Introduction

The men and women of our Armed Forces are America's greatest asset in keeping our nation safe at home and promoting our interests abroad. Service members put their lives on the line for our country, and Congress owes them a debt of gratitude that can never be fully repaid. Congress has failed at their solemn responsibility to protect our service members.

Unfortunately, each year, thousands of service members are raped and sexually assaulted. In many of those cases, the assailant is someone in the survivor's own chain of command. Only a small fraction of the perpetrators are ever held accountable for their heinous, violent crimes. **Last year, the Department of Defense announced a record number of sexual assaults reported against service members, and the lowest conviction rates for their assailants on record, at just 9%.** Worse yet, despite repeated efforts to stamp out the scourge of retaliation against military sexual assault survivors, the most recent Pentagon survey found that **nearly 6 out of 10 survivors say they have experienced some form of retaliation for reporting the crime.** The amount of retaliation remains essentially unchanged from 2012 to 2014, while fewer cases are moving forward to prosecution and conviction.

Over the last five years, there has been a stream of national headlines and new investigative reports exposing the military's failure to combat sexual assault in the ranks or provide a military justice system that holds assailants accountable in order to maintain good order and discipline. Despite incremental reforms passed in the last four National Defense Authorization Acts (NDAA), and a sharp focus in Congress on the issue of military sexual assault, Congress has not done enough to protect our service members from sexual assault in the ranks and punish the perpetrators who commit these violent crimes. Congress owes it to the brave men and women who defend our country to fix a broken system deliver a system of justice worthy of their sacrifice.

By the Numbers, from the latest annual Department of Defense Sexual Assault Prevention and Response Office (SAPRO) Report, FY2016

- The Department of Defense estimated that there were nearly **15,000** sexual assaults against service members in fiscal year 2016
- **7 out of 10 service members did not report their assault** in an “unrestricted” (actionable) manner to their chain of command, showing a severe lack of confidence in the current system
- Of those 30% who were brave enough to make an unrestricted report, **approximately 60% of them told the Department of Defense that they had experienced some form of retaliation for reporting**
- More than **70% of cases considered for court martial were never even referred to court martial proceedings**
- Just 9% of cases ended in conviction
- Only **20% of survey respondents indicated that they were satisfied with official action(s)** taken against their alleged perpetrator

- The odds of being sexually assaulted are approximately **16 times higher for active duty women** and **50 times higher for active duty men** who indicated experiencing sexual harassment than for their counterparts who did not

In addition to the annual Department of Defense SAPRO report, Senator Gillibrand and Human Rights Watch independently released reports that demonstrate how poorly survivors are treated and how few rapists are ever punished. Human Rights Watch found that service members who reported a sexual assault were 12 times more likely to suffer retaliation than see their offender, if also a service member, get convicted for a sex offense. Much like Senator Gillibrand's 2013 Bases Report analyzing sexual assault cases at four of the largest military bases in the country, her 2014 Bases Report exposed a troubling command culture that seems to favor the higher-ranking accused, and also seems to value closing cases over pursuing justice. In this group of case files, there were multiple instances of commanders choosing not to proceed to court-martial, despite a recommendation from the military investigating officer that probable cause existed. Shockingly, Senator Gillibrand's review found a case where the accused confessed to a sexual assault, but was allowed to be discharged in lieu of trial and faced no legal consequences or appropriate punishment. That an admitted sex offender was allowed to go and live freely in an unsuspecting community suggests a disturbing disregard for public safety. The Human Rights Watch report is available [here](#). Senator Gillibrand's report is available [here](#).

The Military Justice Improvement Act

The carefully crafted **Military Justice Improvement Act** is designed to professionalize how the military prosecutes serious crimes like sexual assault, and to remove the systemic fear that survivors of military sexual assault describe in deciding whether to report the crimes committed against them.

Repeated testimony from survivors and former commanders says that the widespread reluctance on the part of survivors to come forward and report is due to the bias and inherent conflicts of interest posed by the military chain of command's sole decision-making power over whether cases move forward to a trial. This bipartisan and commonsense reform moves the decision over whether to prosecute serious crimes to independent, trained, professional military prosecutors, while leaving uniquely military crimes within the chain of command. The decision whether to prosecute 37 serious crimes uniquely military in nature, plus all crimes punishable by less than one year of confinement (Article 15, non-judicial punishment), would remain within the chain of command (see excluded offenses here).

After earning the support of a bipartisan majority of Senators for the second straight Congress, the Military Justice Improvement Act was unfortunately filibustered again, meaning the fight to pass this critically needed reform will continue.

Many of our closest allies' militaries, including the United Kingdom, Canada, Israel, Germany, Norway, and Australia, have already moved reporting and prosecution of violent sex crimes outside of the chain of command. At a September 2013 Senate hearing, military leaders from Australia, the United Kingdom, Israel, and Canada testified on how changes they have made to their military justice systems — including the one up for debate in the Senate as part of the Military Justice Improvement Act — have not diminished the accountability of commanders or their ability to maintain good order and discipline.

The Military Justice Improvement Act has been endorsed by Iraq & Afghanistan Veterans of America (IAVA), Vietnam Veterans of America (VVA), Service Women's Action Network (SWAN), National Women's Law Center

NY Times Magazine Cover Story: "The Military's Rough Justice on Sexual Assault" on military's continued failure to combat sexual assault – including accounts of retribution and retaliation

VIDEO: "Military Justice's Dirty Secret": Fmr. Chief Prosecutor USAF "Put Out to Pasture" for Speaking Out & Doing His Job

5/9/16 DOD IG Report: Evaluation of the Separation of Service Members Who Made a Report of Sexual Assault

Quotes You Should Read

MJIA: Myths vs Facts sheet

12/3/2014: Top Reasons Why Military Justice Improvement Act Is Still Needed After Previous Incremental NDAA Reforms (pdf)

Senators Who Voted In Favor of MJIA

Retired Military Officers Supporting MJIA

Veterans', Faith, & Women's Groups Supporting MJIA

Letter from UCMJ legal experts supporting MJIA (pdf)

Editorials & Op-Eds Supporting MJIA

ESPN Report: The Enemy Within

Read DOD's Own Advisory Panel Opinion in Support of MJIA

Allies Testimony: No Impact on Good Order & Discipline From Change To Independent Military Justice System

Gillibrand Testimony to Response Systems Panel

Text of Response Systems Panel Dissent (pdf)

List of Excluded Offenses

Useful Links

Iraq and Afghanistan Veterans of America

Vietnam Veterans of America

Survivor Stories: 1 | 2

DOD Annual SAPR Reports

Defense Advisory Committee on Women

The Invisible War

“Twice Betrayed” Investigative Report

ESPN Report: The Enemy Within

Service Women’s Action Network

Protect Our Defenders

(NWLC), Protect Our Defenders, and the National Task Force to End Sexual and Domestic Violence Against Women, just to name a few. The bill is also supported by dozens of U.S. military flag officers, including the first female three-star General of the Army, Claudia Kennedy; UCMJ experts; and major newspaper editorial boards across the country.

Video

5/24/16 Full MJIA Press Conference

5/24/16 Full Military Justice Improvem...



Senator Gillibrand Speaks In Support of MJIA 6/9/15

6/9/15 Senator Gillibrand Speaks In Su...



Senator Gillibrand Renews Push For MJIA 6/4/15

Gillibrand Presses Military Officials on ...



Key Facts and Info

Home

Read the Gillibrand Report of Four Largest U.S. Military Bases (2015): Documents Reveal Continued Lack of Improvement in Military Justice System

Read the Gillibrand Report of Four Largest U.S. Military Bases (2014): Despite Recent Congressional Reforms, Dysfunction In Military Justice System Remains

Read the Gillibrand Report of Four Largest U.S. Military Bases (2013): Nearly Half of Survivors Who Reported Assaults Dropped Out of Military Justice Process; Sexual Assaults More Prevalent Than Previously Acknowledged (pdf)

Read AP story: "Pentagon Misled Lawmakers on Military Sexual Assault Cases"

Read Human Rights Watch Report: U.S. Raped In Military - Then Punished: Unjust Discharges Cause Lasting Harm

Read "Embattled" the Human Rights Watch Report: Survivors 12x More Likely to Suffer Retaliation Than See Assailant Convicted; Not A Single Case of Serious Disciplinary Action Found for Retaliation (pdf)