

United States Senate

WASHINGTON, DC 20510

June 21, 2018

The Honorable James Mattis
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Mattis,

We are writing regarding the Department of Defense's decision to provide uniformed Judge Advocates (JAGs) to support Department of Justice prosecutions unrelated to our military's missions. For years, Congress has worked with the Department on reforming the military justice system and providing the services with the resources to support the critical mission of promoting justice and maintaining good order and discipline within the armed forces. We are, therefore, deeply troubled by the Department's decision to send twenty-one active and reserve JAGs to the border on temporary orders to prosecute immigration cases.

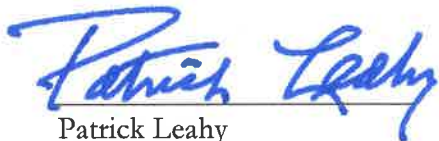
Over the past several years, Congress has enacted legislation that will allow the DoD to maintain a pool of trained and experienced military litigators for its most serious criminal cases. Those who have trial experience are desperately needed to serve as prosecutors, special victims counsel and defense counsel. In fact, just last month, the Department made clear that while it realized the benefits of expanding the services of special victims counsel to those who experience domestic violence or child abuse, "this effort would require additional resourcing and end strength and risks a significant reduction in the quality of services currently provided." Clearly, the military needs more, not fewer, lawyers available for its critical military justice practice.

Instead, we have now learned the services will be diverting these valuable resources to support a non-military mission. While JAGs currently serve as Special Assistant United States Attorneys throughout the country, this occurs in districts with military installations and involves working on cases with a clear military nexus such as theft from a commissary or civilian DUIs on a military base. However, unlike those situations, these twenty-one JAGs are being directed to practice wholly outside of their training, within the vast and complex immigration arena.

Pulling twenty-one trial counsel from military courtrooms to prosecute immigration cases is an inappropriate misapplication of military personnel. We urge you to maintain these resources within the military justice system.




Kirsten Gillibrand
United States Senator



Patrick Leahy
United States Senator

Sincerely,



Joni K. Ernst
United States Senator