

January 30, 2014

Statement of Rear Admiral Marsha J. Evans, U.S. Navy (Retired) to the  
Response Systems To Adult Sexual Assault Crimes Panel

Judge Jones, Members of the Panel, ladies and gentlemen...

Thank you for inviting me to meet with the Panel today. It is an honor for this retiree to be given the opportunity to testify today.

By way of background, I served for nearly 30 years on active duty in the U. S. Navy. More than eight of those years were as a commander of units in the U. S. and overseas, ranging in size from 200 to over 6,000 personnel. Commands included the Naval Station in San Francisco, Navy Recruiting, the George C. Marshall Center for European Security Studies in Germany, and the Naval Postgraduate School. For six of those command years I had the authority to convene general courts martial.

I also had a one year assignment as the Director of the Navy's Standing Committee on Military and Civilian Women in Department of the Navy, created in 1992 in the wake of the infamous Tailhook scandal. That Committee's mission was to develop a strategy to change the culture and climate of the Navy and Marine Corps to value and respect women. We did develop a strategy (80 specific actions) and it was implemented...it included a "get tough" approach to dealing with sexual assault and harassment, education and many substantive changes to systems and processes...and yet here we are again, addressing the same issues of leadership, command climate and accountability. I also served as a Presidential appointee on the Military Academy Board of Visitors for five years and on the board of the Naval Academy Foundation.

Like many Americans I have watched the debate about the military justice system and the military's handling of sexual assault cases for the last year. From

my perspective this has always been first and foremost about readiness: recruiting, training, organizing, equipping, and, most importantly, leading America's finest men and women to be ready to go into harm's way supporting the Nation's interests. The number of incidents and persistence of the criminal conduct compels a new and improved approach. Since at least 1992 and Tailhook, commanders have said they "get it," yet the statistics tell a different story. When incidents of unwanted sexual conduct are alleged to have occurred, victims should feel confident in reporting them to their chains of command, and believe "the system" will handle the complaint seriously and sensitively; and as important, alleged perpetrators should also feel they will be treated fairly in the military justice system.

As a commanding officer and commander I appreciated those particular prerogatives entrusted to us in the military justice system. I, too, believed they were essential to the maintenance of good order and discipline in my commands. Today I believe some of those same prerogatives contribute to a culture that is not, in fact or perception, promoting a climate free from unwanted sexual conduct and safeguarding the rights of both the accused and the victims. I applaud the most recent changes in in the military justice system. In my judgment they represent significant and long-needed progress particularly with regard to crimes involving unwanted sexual conduct and the seeming epidemic of sexual assault in the military.

There is no question once again a full court press is on, yet I am not convinced it is all that is necessary to address the crisis which is why I support Senator Gillibrand's proposal. With commanders retaining the decision on which cases go to trial, I believe overcoming the fact or appearance of a conflict of interest is a too high a mountain to climb. From my own experience, it was gut-wrenching to receive a sailor's allegation of sexual assault by another member of the command, particularly one who was senior and perhaps had an excellent performance record. But it is even more gut-wrenching to reflect on what crimes

may not have been reported because a man or woman in my command did not believe I would believe their side of the story or felt there would be retaliation. I think I would have accepted, *even welcomed*, a senior JAG officer with prosecuting experience weighing the evidence and making a fact-based decision about whether to move forward with a court martial. That would be in the best interest of both the alleged victim *and* the accused.

I cannot see how a commander's authority would be undermined and that he/she would somehow not be able to set the proper command climate to support the unit's mission if cases proceed to trial based on the strengths and weaknesses of the evidence. When I was a commander in my first command assignment, I did not have general court martial convening authority. The regional commander, a one-star admiral, held that authority. My having to refer the most serious cases to him did not in any way lessen my charge and ability to lead my sailors and officers effectively...and certainly did not absolve me of any accountability for good order and discipline and mission accomplishment. I believe Senator Gillibrand's legislation strikes exactly the right balance between military command needs and supporting victims and accused. It is more important than ever to implement the substantive changes enacted by the NDAA but also take this additional measure to enhance trust and confidence in the military justice system.

Thank you again for giving me the opportunity to speak with you today.