



A Call for Fundamental Change: An open letter to the Honorable Leon Panetta, Secretary of Defense, on the need to fix how rape and sexual assault is handled in the military

Dear Secretary Panetta:

We appreciate your acknowledgment that efforts by the military to address sexual assault and rape in our armed forces have been inadequate. We very much agree that it is “no longer acceptable that we say we can just ‘do better’ on this. We need to take action.” We believe that the prevalence of rape and sexual assault is undermining readiness, unit cohesion and morale; and fixing this broken system will strengthen our military.

As you know, in 2010, 19,000 service members were raped or sexually assaulted but of these 19,000 assaults, only 13.5 percent were reported. And the Pentagon’s annual report shows a 58.5 percent increase in reported sexual assaults at service academies, with West Point being found out of compliance with DOD sexual assault prevention policy. These staggering statistics indicate that there are fundamental, serious flaws in the procedures and policies that dictate how sexual assaults are handled.

Changes announced this week, while clearly acknowledging the depth of the problem, do not go far enough to solve it. Standardizing the retention of records is to be applauded. Expediting a victim’s transfer from his or her unit is an important step toward providing basic protections for a soldier who has suffered a sexual assault but, in effect, it does nothing to change the fundamental flaws at the heart of the problem.

We believe that at the core of the flawed system is the total discretion of commanders in determining the path that these cases take and the care of those that have been victimized. Actions in recent years by DOD and Congress have been taken in good faith, but have failed to address this central flaw. Our military culture is based on the chain of command, which in most instances is vital to meeting our missions, but with cases of sexual assault and rape we believe that complete command discretion has hindered justice being served. Several of our allies have reached the same conclusion and now keep their internal military adjudication process independent from the influence of the military chain of command.

Those entitled to use command discretion in regard to the military legal system are those in command of the entire unit or base. In a case of sexual assault, a commander may be responsible for both the victim and the offender, both of their units, and the entire base or ship where the offense occurred. Command discretion empowers a commander to decide

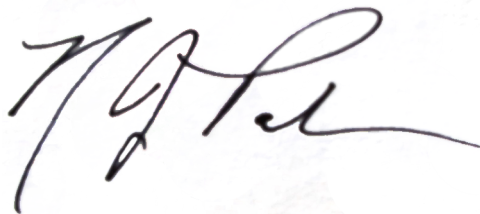
if the case goes forward to court martial. That same commander is empowered to determine which JAG officer will serve as prosecutor, which will serve as defense counsel, who oversees the investigation, and may even serve as convening authority and determine disciplinary actions. All of these functions are given to the discretion of one person. The great deference afforded to command discretion, sets up a dynamic fraught with conflict of interest and potential for abuse of power.

Some are now arguing that base commanders are yielding to political pressure and are automatically referring cases to the UCMJ. Although we have not seen credible data to support this assertion, this claim validates what we are advocating: that the authority to adjudicate cases of sexual assault and rape be given to impartial experts to determine the path of these cases and care of the victims.


In order to solve this problem, we believe that DOD must take the prosecution, reporting, oversight, investigation, and victim care of sexual assaults out of the hands of the normal chain of command and place the jurisdiction in the hands of an impartial office staffed by experts – both military and civilian. We also believe that the survivors of rape and sexual assault must be consulted to formulate a directive that effectively addresses this issue. These men and women know better than anyone the flaws that currently exist. We believe that any directive that falls short of these fundamental reforms will be half-measures.

The United States Military is the finest in the world. And the men and women who serve America in uniform are truly the definition of courage and honor. This is an opportunity to make our military even stronger and we look forward to being of assistance in this effort.

Respectfully,



Nancy Parrish
President, Protect Our Defenders



Greg Jacob
Policy Director, Service Women's
Action Network (SWAN)

Protect our Defenders is a human rights organization. We seek to honor, support and give voice to the brave women and men in uniform who have been sexually assaulted while serving their country, and re-victimized by the military adjudication system – a system that often blames the victim and fails to prosecute the perpetrator. You can learn more about Protect Our Defenders at www.protectourdefenders.com or on Facebook at

www.facebook.com/ProtectOurDefenders or follow us on Twitter at twitter.com/#!/ProtectRDfnders.

SWAN is a national human rights organization founded and led by women veterans. SWAN's vision is to transform military culture by securing equal opportunity and the freedom to serve in uniform without threat of harassment, discrimination, intimidation or assault. SWAN also seeks to reform veterans' services on a national scale to guarantee equal access to quality health care, benefits and resources for women veterans and their families. You can follow Service Women's Action Network on Twitter at <http://twitter.com/servicewomen>, or on Facebook at <http://www.facebook.com/servicewomen>.