

They do not even get counted in the first instance. They go off to the Cayman Islands, to tax havens, they get hidden in Swiss bank accounts, who knows what, but they do not get subjected to American taxation.

By the way, that is pretty big business. Chairman Conrad, who was our predecessor chairman on the Budget Committee, used to have a slide he would show that showed a picture of a rather bland-looking four- or five-story building, the building in the Cayman Islands that did not look like much, not very big. You could drive by it, you would not particularly notice it. But he would point out in that little building over 18,000 companies claim to be doing business.

He would point out that the kind of business they were doing was monkey business with the Tax Code because nobody could put 18,000 businesses in that little building. None of that stuff gets counted in the \$14 trillion, the stuff that goes through the front and then out the backdoor.

So the spending—the earmarks—that gets done through the Tax Code is a very big treasure trove. While much of this tax spending helps low-income and middle-class families, too much of it goes to high-income taxpayers who do not need it but who are clever and connected enough to get special deals, to get their tax earmarks into the Tax Code.

But, of course, the Republicans do not want us to look into their treasure trove. Ali Baba's cave of tax tricks is where the juicy earmarks are for the special interests. If you remember back to the last Presidential campaign, it became public that Mitt Romney had to fiddle his taxes in order to get his tax rate up to a 14-percent tax rate.

Some people gimmick their taxes to try to get their rates down. The rates for people such as Mitt Romney are so low to begin with that he had to play tax games to get his rates up to 14 percent so he would not look too bad as a Presidential candidate. Fourteen percent is a lower tax rate than a solitary hospital orderly pays. The guy who is walking down the linoleum hallways of Rhode Island Hospital at 2 o'clock in the morning delivering supplies pays a higher tax rate than that.

We cannot do anything about that? That is a tax question we cannot discuss? How do Romney and the hedge fund billionaires get away with that? Look in Ali Baba's cave of tax treasures for the carried interest exception. If you want to know where ExxonMobil, which is one of the richest and most profitable corporations in the history of the world, gets its hands into the American taxpayer's pockets and pulls out oil and gas subsidies, look for those Big Oil subsidies in Ali Baba's treasure cave.

Do you want to know why Amazon, Boeing, Carnival Cruise Lines, Duke Energy, PG&E, all companies making billions of dollars in profits per year, pay effective tax rates well under 10

percent? Look at the \$150 billion in corporate tax giveaways there in Ali Baba's treasure cave.

Do you want to know how it is that corporate jets get special favored tax treatment compared to the commercial jets that ordinary mortals fly around in? Look at the accelerated corporate jet depreciation schedules in Ali Baba's tax treasure cave.

When the Speaker says that talk about raising revenue is over, look at what he is protecting? The Republican treasure trove of corporate and special interest earmarks heaped up like gold and jewels in the old illustrations in Ali Baba's cave of tax treasures.

We Democrats are knocking at that door. We are saying: Americans pay in deficit reduction \$1.5 trillion already. We are offering another \$975 billion on top of that.

We are saying that \$600 billion came out of tax increases. What about loopholes?

Now we want to go into the cave. The Republicans are getting very anxious. The alarms are ringing at the special interests, and our colleagues are rushing to the trenches to defend the special interests and to defend their cherished tax earmarks. That is why they want to keep revenue—loophole closing—out of the debt and deficit discussion. They know that once we start taking a real look into Ali Baba's cave, some of that stuff will be impossible to defend to the American people.

It wasn't fair when it first went in, it has never been fair through its sordid history in the Tax Code, and it is not fair sitting in the Tax Code now. These are things we should get rid of even if we didn't need it for the debt and deficit. This is special interest crony capitalism at its worst. We intend to have a look at it in these discussions.

If we listened in the Budget Committee, the Republicans said it plainly: Not a penny of tax loopholes can go for deficit reduction. They have said they are willing to move the treasure around a little bit in Ali Baba's cave as long as it all still gets used for corporations and the wealthy. That is not a guess; that is the way the Republican budget is structured. Those are their budget numbers, all of it to lower tax rates for corporations and the rich. They are willing to spread the wealth around as long as it stays in the same hands.

We are at the gates of Ali Baba's cave, this special treasure trove of Tax Code special deals and earmarks for the rich and well connected. We are at the place where the lobbyists wheel the sweet corporate tax deals. We are knocking on the door of the \$14 trillion in tax spending that has been left completely untouched in the deficit reduction so far. Our Republican colleagues are getting a little twitchy.

Come on, fellas. Out of nearly \$14 trillion in tax spending and earmarks, can't we put just 7 percent of it toward the debt and the deficit? Our proposal is to leave 93 percent of the treasure in

the cave. That is not unreasonable. What is unreasonable, what is unbalanced is the Republican desire that not a nickel in loophole closing can go toward our debt and deficit.

I could go through innumerable comments by our Republican colleagues warning us about the dire danger of our debt and deficit, warning about the terrible injustice to future generations, warning about the threat to our national security and to our national welfare; dire, serious warnings about the epic nature of the danger of our debt and deficit and the importance of curing it. When we actually stack it up, it is less important to them than every loophole in the Tax Code.

My point is that people can't have it both ways. They can't be telling the American people that the debt and the deficit is the No. 1 threat to the well-being of our beloved country but is also less important than every deduction every lobbyist ever squirreled away for every special interest in the Tax Code. Both of those cannot be true.

We must persevere to get into Ali Baba's cave of tax treasures in the loophole side of this equation. I hope very much that we will. I think that is nothing more than reasonable, nothing more than balanced. Indeed, one could argue it is actually a lot less than balanced because we only want 7 percent and we would be letting them keep 93 percent. We would be doing far more on spending than we would on revenue and loopholes combined. It is not balanced in the even-steven sense of the word, but at least it is generally fair. The Republican proposal that it should be all spending and zero loopholes is what is unbalanced and what I object to.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARKEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. HIRONO. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Ms. HIRONO. Mr. President, I ask unanimous consent that the period for morning business be extended until 6:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MILITARY JUSTICE IMPROVEMENT ACT

Ms. HIRONO. Mr. President, since the infamous Tailhook scandal in 1991, every Secretary of Defense has proclaimed that our military has a "zero-tolerance" policy for sexual harassment and sexual assault. Zero tolerance is the policy our military should have, but in reality it doesn't. We

know it doesn't because we have heard too many stories from women and men in the military who have been attacked, assaulted, or raped by their peers in uniform or by their superiors. We have heard too many stories in which the assailants go unpunished. We have heard too many stories about commanding officers using their authority to set aside court-martial convictions or to decide simply not to have a trial at all. We have heard too many stories about survivors being drummed out of the service by misinformed diagnoses of mental illness or by a chain of command that ignores the assailant and instead turns around and charges the survivor with bad behavior. We have heard too many stories about survivors who are so disillusioned by this broken system that they don't even bother to report these crimes. Instead, these men and women, warriors all, are forced to live in silence and with an unjust feeling of shame.

We all agree that commanders are responsible for maintaining good order and discipline in their units. This includes creating an atmosphere of dignity and respect for everyone under their command. Commanders must create an environment where sexual crimes do not occur. Our proposed changes to the military justice system do not absolve the commander of these responsibilities. It is still their job to prevent these crimes. But when these crimes do occur, survivors should have the ability to seek justice, and the Gillibrand amendment will help the survivors do just that.

I am glad our civilian and military leaders have committed to helping the survivors of sexual assault, punishing the predators and ending these terrible injustices. When the service secretaries and chiefs tell me fixing the problem of sexual assault is a top priority for them, I believe them. I believe they care deeply about this problem. Unfortunately, incremental change has not been and is not good enough. Commanders bear the responsibility for creating a culture where these crimes do not happen in the first place.

Congress must also do its part to ensure there is a system in place that both holds people accountable and doles out punishment that actually serves as a deterrent against future sexual assaults. Over the years, Congress has passed a variety of measures intended to fix these problems, and we have many good provisions in both the House and Senate versions of the NDAA which we are considering. But I do not believe these steps are enough. We must make a major change. We owe it to the men and women who serve our country in uniform. We owe it to the families and loved ones of those who serve because the trauma of sexual assault often extends beyond the trauma experienced by the survivor. We must do all we can to provide an environment where those who put their lives on the line for our country each and

every day are not sexually assaulted. And if they are, we must provide a fair system of justice where the survivor is heard and not ignored, is helped and not shunned. That requires, I believe, vesting the decision about whether or not to go to trial with an impartial experienced military lawyer and not with the commander in the chain of command who has an inherent vested interest in the case.

It is undeniable the current system does not work. According to the Department of Defense, there were an estimated 26,000 cases of unwanted sexual contact in 2012. We have heard about trainers at Lackland Air Force Base repeatedly raping new enlistees. We have heard about incidents at the Service Academies, Aviano Air Force Base, Fort Greely, Fort Hood, and too many other bases. It is undeniable that we have a problem. The incremental steps we have taken are not enough.

The story of Marine 2nd Lt. Elle Helmer is just one example of this broken system. She told her story in the documentary "The Invisible War," and it has also been reported elsewhere, including a CNN interview and in the Houston Chronicle.

I ask unanimous consent to have printed in the RECORD the Houston Chronicle article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Houston Chronicle, May 20, 2013]

AFTER SEX ASSAULTS INSIDE MILITARY,  
WOMEN ARE VICTIMS AGAIN OF LEGAL SYSTEM  
(By Karisa King)

Marine 2nd Lt. Elle Helmer woke up on a cold floor, lost and surrounded by darkness. Her body screamed with pain, her underwear had been removed and she tasted blood in her mouth. She could hear someone else in the room with her, breathing slowly.

Memories from the past few hours flashed through her mind as she crawled toward a doorway for light. On orders from her command on March 16, 2006, Helmer had joined her fellow officers for a St. Patrick's Day pub run, a night of bar-hopping that ended across the street from the prestigious Marine Barracks Washington, where she was in charge of public affairs.

A major followed Helmer out of the last bar and summoned the 25-year-old to his office. As soon as they entered the office, he shut the door and kissed her. She pushed him away and made it halfway out the door when he caught her arm and yanked her back into the room so hard she tripped and went flying forward.

The last thing she remembered was her head slamming into his desk.

PART 1: SEXUAL-ASSAULT VICTIMS IN MILITARY  
UNJUSTLY STIGMATIZED, BOOTED OUT

Emerging from the darkened office hours later, she noticed she was wearing the major's green running shorts. She padded barefoot down a hallway to her office, where she found herself locked out. Two Marine guards found her outside the door, crying and shaking. She was certain she'd been raped.

"Call an ambulance," she kept telling them, a plea she repeated to a captain and a colonel who arrived later.

Instead, the colonel warned that if she went to a hospital, she would be prohibited from making a sworn accusation of rape because she'd been drinking. She would be

charged with public intoxication and conduct unbecoming an officer, he told her.

"Dust yourself off. You're tough. You're from Colorado," he said. "Whatever happened, it's because boys and girls and alcohol don't mix."

It was her introduction to a military criminal justice system that frequently grants impunity to offenders and punishes victims—the outcome of a fiercely guarded power of commanders who wield broad discretion over the handling of sex crimes in their ranks, according to a San Antonio Express-News investigation.

#### MANY DRUGGED FIRST

From the accounts of sexual assault survivors in every branch of the military, a stark panorama emerges: Many victims were drugged or forced to drink and were raped, attacked as they slept, beaten unconscious and coerced into sex by their superiors. They were strongly discouraged from disclosing the crimes, or forced to report assaults to commanders who are closely connected to the accused.

Few suspects face criminal punishment. Of 3,374 reports of sexual assault last year involving 2,900 accused offenders, only 302 went to courts-martial and 238 were convicted, the Defense Department says.

Meanwhile, 286 offenders received non-judicial or administrative punishment or discharges, allowing them to dodge a criminal mark on their record. In 70 cases, suspects slated for possible courts-martial were allowed to quit their jobs to avoid charges.

Prison sentences are rare. Only 177 perpetrators were sentenced to confinement. But the most jarring statistic: about half of all convicted sex offenders were not automatically expelled from the armed services.

The military had only recommended discharge for convicted offenders, but lawmakers cracked down this year and made expulsions mandatory.

#### MISHANDLING OF CASE

For Helmer, the immediate response from her chain of command foretold the mishandling of her case.

On the night she reported that she'd been raped, the colonel at Marine Barracks Washington refused to grant her medical help until she argued that her head injury demanded immediate attention. He agreed to let her go, but only after arranging for her to see a doctor he knew at National Naval Medical Center in Bethesda, Md.

"Don't say anything else and come straight back," he told her.

She was put into a car with a captain who was supposed to drive her there. But she insisted he take her to a different hospital at Andrews Air Force Base, where no one connected to the colonel would be awaiting her arrival.

The attack in the major's office was a betrayal by a superior she had trusted. But she eventually would regard the response from her chain of command and the military justice system as the biggest betrayal of all.

For all the public outrage sparked by sexual abuses at the Navy Tailhook convention in 1991, the Army's Aberdeen Proving Ground in 1996 and the Air Force Academy in 2003, the military criminal justice system has failed to stem an epidemic of sexual assaults, reaching an estimated 26,000 last year.

#### BASIC TRAINING ASSAULTS

Against that backdrop last year came explosive details of young recruits who were sexually assaulted by their basic training instructors at Joint Base San Antonio-Lackland. So far, the Air Force has identified 33 instructors suspected of illicit conduct with 63 trainees.

An Air Force general's decision to throw out a jury conviction of aggravated sexual

assault ignited an uproar on Capitol Hill. Lt. Col. James Wilkerson, an F-16 pilot at Aviano Air Base in Italy, was sentenced in November by a jury of officers to dismissal and a year in jail for sexually assaulting a party guest as she slept in a spare bedroom of his house.

But in February, Lt. Gen. Craig Franklin, Wilkerson's former commander, concluded the evidence was insufficient. Against the recommendation of his staff attorney, Franklin overturned the conviction, vacated the jury's sentence and reinstated Wilkerson to full duty.

The case underscores the unchecked legal power of commanders. Although they typically have no background or training in the law and may not be impartial arbiters, senior officers like Franklin who are endowed with "convening authority" determine which cases go to trial, and they have the ability to overturn verdicts and vacate sentences before cases enter the appeals process.

#### NO REASON AT ALL

According to military law, commanders can dismiss verdicts for any reason, or no reason at all.

For Kimberly Hanks, who testified she woke up as Wilkerson was assaulting her, it was a lesson in the conflicts of interest posed by the military justice system. Hanks, a 49-year-old physician assistant from California, was a civilian contractor at Aviano when she told military authorities she'd been assaulted.

After the verdict, she discovered that Franklin and Wilkerson had once flown together in Iraq and shared friends.

Even so, Franklin's decision to throw out the conviction shocked her. "I think the message is loud and clear. I think it tells victims: Don't bother (to report)," Hanks said.

Air Force officials said only five verdicts have been overturned in sexual assault cases in the past five years.

In response to the case, Defense Secretary Chuck Hagel in April proposed that commanders be stripped of their ability to toss out trial convictions. But Hagel and military brass oppose efforts to remove authority over sex crimes from commanders. At the Senate hearing in March, top military attorneys argued that sexual assault cases must remain within the chain of command, and nothing less than the military's ability to wage battle is at stake.

Kelly Smith had seen enough in her first three years in the Army to know that soldiers who can't tough out physical pain and personal difficulties—no matter how agonizing—are viewed not only as troublemakers but as a danger to the safety and cohesion of the unit.

That's why she had no intention of telling anyone in February 2003 after she woke up in her bed at Fort Lewis, Wash., as a man attempted to rape her. But Smith, whose screams drove off her attacker, said she was forced to report it to military authorities because Army guards identified the man as he ran from her room.

Although her assailant admitted the attack, the case was dropped without explanation, she said. She was sent to a psychiatric unit for therapy. Days later, she was dismayed to discover Army counselors sent her assailant to join the same therapy group. She protested, but was told she was being unreasonable.

"I sat next to him in group therapy for a week," Smith said. "At that point, I shut down."

While the soldier who assaulted her was allowed to retire, Smith, who was a Korean code breaker, soon was diagnosed with bipolar disorder, a pre-existing mental illness that prompted the Army to kick her out.

"I knew it would be the end of my career, and it was," Smith said.

#### OTHER PRIORITIES

For Elle Helmer, even those assigned to help her seemed to have had other priorities.

She met the victim advocate assigned to her case at Malcolm Grow Hospital at Andrews Air Force Base. The advocate arrived with instructions to drive Helmer back to the Marine Barracks because the colonel and executive officer wanted a word with her.

Helmer was adamant that she wanted to make a statement at Naval Criminal Investigative Services, which had jurisdiction over crimes at the barracks. The advocate warned against it.

"These cases never go anywhere," she told Helmer.

"And she's the sexual response coordinator!" Helmer now says. "It felt like walking backward in time."

Eventually the advocate reluctantly took Helmer to NCIS to make a statement.

#### UP ALL NIGHT

It was roughly 8 a.m. and Helmer had been up all night. She entered the NCIS offices, about two blocks from the barracks, and learned the colonel and executive officer were there waiting to speak with her. Again, Helmer refused. She tried not to make eye contact with them as she walked past the office where they waited.

She spent the morning in a conference room with five investigators who questioned her credibility. In what seemed like an endless cycle, she wrote out her statement, they questioned her, and then asked her to rewrite the statement. They decided to open an investigation but said they couldn't accept her statement because she had been drinking the previous night.

It wasn't until that afternoon that investigators arrived at the barracks to collect evidence from the major's office. By that time, the major had been left alone at the scene for hours. Eyewitness statements show he was spotted making trips back and forth from the office carrying cleaning supplies and towels.

Helmer was taken back to the barracks to be interviewed by the colonel. When she returned to work the following Monday, he informed her that the Marine command had opened an investigation against her for public intoxication and conduct unbecoming an officer.

The NCIS investigation lasted three days. Investigators closed Helmer's case on the grounds she could not recall any sexual assault.

"Her statements did not constitute an allegation of criminal activity," the NCIS report stated.

Investigators held out the possibility of reopening the case, depending on the results of the rape kit.

Military records show the major told a commander at the barracks that he had no sexual contact with Helmer. He said she came into the office, laid down on the floor and vomited. He left the room to retrieve cleaning supplies, and when he came back, she was gone.

Eyewitness statements contradict his account. Two Marines who saw the major wearing green shorts and cleaning up vomit had peeked through the partly open office door and reported seeing a woman's bare leg sprawled on the floor.

"This looks bad but I'll take care of the lieutenant," he told them.

It wasn't until about two hours later that guards encountered Helmer locked out of her office and wearing the major's green shorts. The captain who took Helmer to the hospital told investigators he went into the major's office to retrieve Helmer's ID card and found

the major asleep on the couch, "wearing a Saint Patrick's Day t-shirt and nothing else."

#### NO RAPE KIT RESULTS

Helmer waited four months with no results from the rape kit.

Frustrated by inaction, she told her command that she was speaking to a reporter in Washington about her case. Although nothing was published, she was fired from her job and charged with conduct unbecoming an officer and fraternization.

She was dismissed from the Marines for unacceptable conduct in January 2007 with a "general under honorable conditions" discharge.

While she waited for her final dismissal papers, military authorities told her the rape kit had been lost.

Ultimately, the major faced no criminal or administrative punishment. He was allowed to remain in the Marines and later received a promotion.

"All they did was give him expertise in how the legal system works," she said. "Now he knows he can get away with it."

Ms. HIRONO. Mr. President, the Houston Chronicle article tells the following account:

Lieutenant Helmer was stationed at Marine Barracks Washington in 2006, just a few blocks from the Senate Chamber. One night, after she was ordered to go bar hopping with her colleagues, a superior officer called her into his office and attacked her. She remembers him slamming her head into his desk, and then she blacked out. When she woke up she was wearing her superior officer's shorts, and she knew she had been raped. Two guards found her outside crying and shaking. She asked a colonel to call an ambulance and, instead, the colonel warned her she would be charged with public intoxication and conduct unbecoming an officer if she reported the attack. When Lieutenant Helmer finally made it to a military hospital, the sexual assault victim advocate warned her, "These cases never go anywhere."

Lieutenant Helmer pressed her case anyway. But after many months, here is the only thing that happened. Lieutenant Helmer was charged with fraternization and conduct unbecoming an officer, and the superior officer who attacked her received no punishment. In fact, he was later promoted.

This story should outrage us all. This story shows that when sexual assault occurs, the current system does not work. It is time to make fundamental changes to how sexual assault cases are handled in the military.

The amendment of Senator GILLIBRAND would be a big step in the right direction. Her amendment would take the decision to go forward with a trial out of the chain of command and place it in the hands of an experienced military lawyer. This change would improve the judicial process by increasing transparency. It would also eliminate potential bias and conflict of interest because, unlike a commanding officer, the military lawyer would be unconnected to either the survivor or the accused. Just the perception of such bias or conflict of interest could

discourage a survivor from reporting a sexual assault and thereby allow the attacker to prey on others again and again.

Many survivors of sexual assault tell us the main reason they do not report these crimes is because they think nothing will happen. The current process often does not work. It is unacceptable to allow this situation to continue.

The problem of sexual assault is a scourge on our military for which there is no silver bullet. But at the very least what we need is a military justice system where a survivor feels confident that his or her case will be fairly examined and, if deemed to have sufficient evidence, be sent forward to trial.

Sexual assault in the military is something that most people don't want to talk about. We don't want to think the men and women whose service we honor on Veterans Day are being preyed upon by their colleagues or, even worse, that they themselves may be sexual predators. There is no doubt in my mind that the overwhelming majority of our military men and women serve our country valiantly and with honor, and we should take care not to tarnish them with suspicion. In fact, we owe it to them to act.

It is for these reasons that I am a proud cosponsor of Senator GILLIBRAND's Military Justice Improvement Act. I urge my colleagues to support it, and to my colleagues who are opposed or undecided, I want to say again that keeping disposition authority within the chain of command has not worked. One of the arguments I have heard against making this change is that doing so would interfere with the commander's ability to maintain good order and discipline. Good order and discipline should not rest upon a commander's ability to decide whether or not to prosecute a sexual crime.

The time has come to make a significant change, and I believe this is a change that needs to be made. I want to commend our colleague Senator KIRSTEN GILLIBRAND for her tireless efforts and courageous leadership in this effort to help survivors of sexual assault in the military.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. GILLIBRAND. Mr. President, I had the privilege of listening to my colleagues, Senator HIRONO and Senator BLUMENTHAL, who have been addressing this issue of sexual assault in the military. As both of them said so persuasively and articulately, our military justice system is broken. The sense of trust that a man or woman serving in the military today, who has

been subjected to rape or sexual assault, has been broken—and not just between them and the assailants in their unit but between them and their commanders. In fact, the trust that their commander will have their back, that they will have these crimes investigated and the perpetrators brought to justice has been broken.

Even General Amos, Commandant of the Marines, said so. He said: I can see why a female marine might not report a case of sexual assault. They don't trust us. She doesn't trust the chain of command.

This is our challenge. We have to reform the system because these are some of the best men and women in the world that make our military as strong as it is. But we are subjecting them to not only these great acts of violence but then the second heartbreak, the second revictimization of having a military justice system that does not have their back or they are convinced not to report these crimes because justice will not be done or nothing will be done or they will be retaliated against for reporting.

The No. 1 reason 23,000 cases last year went unreported was because victims believed nothing would be done. They did not trust their chain of command to have these cases prosecuted. The second reason they didn't report these cases was because they feared or witnessed retaliation. That is not surprising, because of the 3,000 brave survivors who did report their sexual assault or rape, 62 percent were retaliated against. That is a huge number.

There is a failure within our military—our military that has promised for 25 years zero tolerance for sexual assault and rape in the military. As far as I am concerned, all we have had is zero accountability, because of those brave 3,000 survivors who did come forward and 62 percent were retaliated against means those commanders failed to maintain a command climate where retaliation is not taking place.

In our underlying bill we are going to fix that. We are going to make retaliation a crime, giving commanders more tools to go after perpetrators of retaliation. Retaliation has always been against good order and discipline. It has never been acceptable, but still it exists and too many victims do not come forward because they fear it.

So I wish to speak on behalf of these survivors, these advocates, these champions, these leaders in reform. They can't be on the Senate floor right this moment, but I can be here, and I can share their stories. I can tell what happened to them.

Sarah Plummer was raped as a young marine in 2003. She said:

I knew the military was notorious for mishandling rape cases, so I didn't dare think anything good would come of reporting the rape.

Having someone within your direct chain of command just doesn't make any sense, it's like being raped by your brother and having your dad decide the case.

Another survivor, Trina McDonald, at 17 enlisted in the Navy. She was sta-

tioned at a remote base in Alaska. Within 2 months, she was attacked, repeatedly drugged and raped by superior officers over the course of 9 months. Can you imagine that being your daughter? Can you imagine this young woman who literally wants to serve our country and even die for our country being repeatedly drugged and raped by her supervisor?

She said:

At one point, my attackers threw me in the Bering Sea and left me for dead in the hopes that they would silence me forever. They made it very clear that they would kill me if I ever spoke up or reported what they had done.

Thank God Trina McDonald survived, because as I read her testimony from the Senate floor, she is being heard in this debate.

Army SGT Rebekah Havrilla, who served in Afghanistan and was raped in 2007, said reporting the crime to her commanding officer was unthinkable:

There was no way I was going to go to my commander. He made it clear he didn't like women.

Listen to AIC Jessica Hives, who was raped in 2009 by a coworker who broke into her room at 3 a.m. She said:

Two days before the court hearing, his commander called me on a conference at the JAG office, and he said that he didn't believe that [the offender] acted like a gentleman, but there wasn't reason to prosecute.

Breaking into someone's room, not being a gentleman. Obviously, that commander does not understand that rape is a serious crime.

I was speechless. Legal had been telling me this is going to go through court. We had the court date set for several months. And two days before, his commander stopped it. I later found out the commander had no legal education or background, and he'd only been in command for four days.

Her rapist was given the award for Airman of the Quarter. She was transferred to another base.

Many listening tonight may think this is just a crime against women, but one of the most disturbing facts is that more than half of these crimes are against men. It is not a gender issue. The crimes of rape and sexual assault are not of passion but are brutal crimes, crimes of aggression, crimes of dominance, crimes of control. These are not cases of dates that have gone badly.

Blake Stephens, now 29, joined the Army in January of 2001, just 7 months after graduating from high school. The verbal and physical attacks started quickly, he says, and came from virtually every level of the chain of command. In one of the worst incidents, a group of men tackled him, shoved a soda bottle up his rectum, and threw him backward off an elevated platform onto the hood of a car.

When he reported the incident, Stephens said, his drill sergeant told him, "You're the problem. You're the reason this is happening," and refused to take action. Blake said:

You just feel trapped. They basically tell you you're going to have to keep working

with these people day after day, night after night. You don't have a choice.

His assailants told him that once he deployed to Iraq, they would shoot him in the head. "They told me they were going to have sex with me all of the time when we were there."

If these stories aren't enough, please do listen to some retired generals, commanders, JAG officers, veterans who know from years of experience that the status quo is an injustice to those who serve, and our approach is the right way forward.

This September, three retired generals gave their public support for our proposal, including LTG Claudia Kennedy, the first woman to achieve the rank of three-star general in the U.S. Army; BG Lorree Sutton, formerly the highest ranking psychiatrist in the Army; BG David McGinnis, who most recently served in the Pentagon as the Principal Deputy to the Assistant Secretary of Defense for Reserve Affairs.

Lieutenant General (retired) Kennedy wrote me:

Having served in leadership positions in the US Army, I have concluded that if military leadership hasn't fixed this problem in my lifetime, it's not going to be fixed without a change to the status quo.

The imbalance of power and authority held by commanders in dealing with sexual assaults must be corrected. There has to be independent oversight over what is happening in these cases.

Simply put, we must remove the conflicts of interest in the current system. . . . The system in which a commander can sweep his own crime or the crime of a decorated soldier or friend under the rug, protect the guilty and protects serial predators. And it harms our military readiness. . . .

Until leadership is held accountable, this won't be corrected. To hold leadership accountable means there must be independence and transparency in the system.

Permitting professionally trained prosecutors rather than commanding officers to decide whether to take a sexual assault case to trial is a measured first step toward such accountability. . . . I have no doubt that command climate, unit cohesion and readiness will be improved by [these] changes.

BG (retired) Lorree Sutton also wrote to me, saying:

Failure to achieve these reforms would be a further tragedy to an already sorrowful history of inattention and ineptitude concerning military sexual assault.

In my view, achieving these essential reform measures must be considered as a national security imperative, demanding immediate action to prevent further damage to individual health and well-being, vertical and horizontal trust within units, military institutional reputation, operational mission readiness and the civilian-military compact.

Far from "stripping" commanders of accountability, as some detractors have suggested, these improvements will remove the inherent conflict of interest that clouds the perception and, all too often, the decision-making process under the current system. Implementing these reforms will actually support leaders to build and sustain unit cultures marked by respect, good order and discipline.

BG (retired) David McGinnis, who also served as a Pentagon appointee, wrote this to me:

I fully support your efforts to stamp out sexual assault in the United States military

and believe that there is nothing in [the Military Justice Improvement Act] that is inconsistent with the responsibility or authority of command. Protecting the victims of these abuses and restoring American values to our military culture is long overdue.

Retired Air Force Maj. Gen. Martha Rainville, the first woman in the history of the National Guard to serve as a State Adjunct General and served in the military for 27 years, including 14 years in command positions, wrote:

As a former commander, endorsing a change that removes certain authority from military commanders has been a tough decision. It was driven by my conviction that our men and women in uniform deserve to know, without doubt, that they are valued and will be treated fairly with all due process should they report an offense and seek help, or face being accused of an offense.

When allegations of serious criminal conduct have been made, the decision whether to prosecute should be made by a trained legal professional. Fairness and justice require sound judgment based on evidence and facts, independent of pre-existing command relationships.

That is the crux of the problem. You have commanders who have biases. Maybe they don't want women in the military. Maybe they don't believe gay members should serve openly. Maybe they need or appreciate or like the assailant more. Maybe the perpetrator has done great things in battle. Maybe he is more experienced, more important. Maybe he is more popular.

Those biases color decisionmaking. Because when the decisionmaker actually weighs evidence, one of the fundamental pieces of evidence in these cases is the testimony of the victim and the accused. If that commander doesn't value the victim because she is new, he may not believe her when he sees the perpetrator is a family man with two kids, a lovely wife: How could he possibly do that? He has been in Iraq five times. I don't believe her and I believe him. He has weighed the evidence through a colored lens.

That is not justice. That is not fairness. That is not what our democracy is based on. We believe in justice being blind. We believe in the scales of justice not being weighed for the victim or the accused. Justice is blind. It is fair. It is impartial. It is objective.

If that decisionmaker is not even a trained lawyer, how do we hope they are going to get it right, colored with biases, colored with self-interest. No commander wants to say rape is happening under their command. That is a failure. It is a failure of military readiness. It is a failure of good order and discipline. It is a failure of good command climate. Why would they want to report their own failure? Many times they don't. That is why the deck is stacked against the victims of these crimes in too many cases.

We have had a recent ruling that I think is incredibly important.

The DOD for 50 years has had a panel called the DACOWITS panel. It is a panel of advisers that have been asked by the Secretary of Defense, for the past 50 years, to please tell him what

policies and proposals are most important to protect and support women in the military. The whole purpose of the committee is to look at this issue and say what is the status of women in the military, how are they faring.

This panel actually has been studying sexual assault in the military for decades. They have been focused on it, have had hearings on it, opining on it, giving recommendations for a very long time. They have looked at this proposed recommendation, studied it, and they actually recommended every piece of this legislation to be passed by this Congress. They have actually recommended the decisionmaking go outside the chain of command. The vote for that proposal: 10 in favor, 6 abstained, none against. Of the 10 in favor, 9 out of 10 are all former military, 5 of them senior officers. The one nonmilitary was a woman who was head of the Women's Law Center. They want every aspect of this reform put into law. They are the experts. Even Secretary Hagel said he looks at this group with great regard, with high authority. He regards them as the pre-eminent advisory panel for women in the military.

We also have a lot of support from other retired members of the military, Retired U.S. Army MG Dennis Laich, Retired Navy CAPT Lory Manning, Former JAG officer and Congressman PATRICK MURPHY, and military legal experts such as Diane Mazur and Rachel Natelson.

When the DACOWITS panel, the Defense Advisory Committee On Women In The Services, voted in support of the measure, they say they believe these are the reforms that will make the difference. They say they must implement these reforms to make sure the status of women in the military is protected. Secretary Hagel places a great premium on this panel.

We also have the support of leading veterans groups, veterans groups who actually have served. They are veterans; they understand what happens. "We want to be clear, a vote for the Military Justice Improvement Act is a vote for our troops, and a vote for a stronger military." We should listen to our veterans.

I think it is time we restore trust. The military has had 25 years to deal with this problem. They have been saying zero tolerance for 25 years. They keep saying: We got this. They keep saying: We can handle this, just give us more time. If this happened to my son or daughter—how much more time do you need? How many more thousands of victims are going to be raped and assaulted in the military and have no hope for justice? How many more good men and women are we going to lose to sexual assault and rape, who are retaliated against and pushed out, being told they are the problem? How much are we going to lose in terms of military readiness, in terms of unit cohesion, in terms of troop morale, in terms of good order and discipline, to the scourge of sexual violence in the military?

I don't think we should wait another day. I don't think we should wait for another panel, another report, another study, another, another, another, another. We have boxes of studies over the last 25 years making recommendations. But until you create a transparent, accountable military justice system, you do not have a hope of solving this problem. Until you give the decisionmaking authority to an actual trained lawyer who is not biased, you don't have a hope.

All of our allies have done this, all of them. The ones we fight side by side with—Israel, UK, Canada, Australia, Netherlands, Germany—are allies. They said if it is a serious crime; let the decisionmaker be unbiased; let the decisionmaker be trained.

Did they have a fall-off of good order and discipline when they let these decisions be made by trained prosecutors? They told us no.

When we tried to repeal don't ask, don't tell, military commanders said you cannot possibly do this; this will undermine good order and discipline. When we wanted women to be able to serve in the military, they said you cannot possibly do that because of good order and discipline. When we integrated the armed services, commanders said you cannot possibly do this; it will undermine good order and discipline. We did it. We did every single one of those reforms.

Congress had an action, elected leaders had a responsibility. We provide oversight and accountability over the Department of Defense. It is an important relationship, and sometimes we may have an idea for reform that can make the difference, that can make our military stronger, that can utilize all of our best and brightest.

Don't ask, don't tell—we lost 10 percent of our foreign language speakers because of that corrosive policy. How many thousands are we going to lose to sexual assault and rape in the military? How many? How many good men and women? Losing one more is too many.

I ask my colleagues to support this bill. It is not a Democrat nor is it a Republican idea. It is a good idea. It is a commonsense reform. It makes perfect sense when people learn about the issue and want a solution. This is what this place is supposed to be about. It is supposed to be people of good will coming together to solve problems, to make a difference.

We need leadership. We do not need followers, we need leaders. We need people who will do that job and provide oversight over the Department of Defense, especially in an area where they failed so much. This reform will make a difference, and I urge my colleagues to support it.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, I am pleased to be here to join my colleague Senator GILLIBRAND in expressing my concerns about how we address sexual assault in the military.

For the past several years, we have all become increasingly aware of the prevalence of sexual assault in our military. Personally, I know I share the outrage of all Americans that one of our Nation's proudest institutions is afflicted by this level of criminal violence. In 1989, Secretary of the Navy H. Lawrence Garrett III established a policy of zero tolerance for sexual harassment and sexual assault. Two years later, the Tailhook scandal happened at a convention attended by the Secretary and the Chief of Naval Operations.

On June 2, 1992, Secretary Garrett wrote a memo to his military leaders that said:

While each individual must be accountable for his or her own actions, commanding officers have a unique responsibility for leadership in ensuring appropriate behavior and attitudes of those under their command.

In the end, the Tailhook scandal resulted in 90 victims—83 women and 7 men—140 officers facing possible punishment and zero criminal prosecutions for incidents of assault. All of these events occurred under the same zero tolerance policy that military leaders espouse today.

The Tailhook scandal was only the beginning of our awareness of the silent crisis within the military. Since that time, there have been numerous scandals in every service. Yet 20 years later we are not only told that the system works but that the status quo, maintaining the chain of command on this issue, is vital to solving the problem. This, of course, ignores the reality of the sexual assault crisis.

In fact, according to the Department of Defense Sexual Assault Prevention and Response Office, 26,000 cases of unwanted sexual contact and sexual assault occurred in 2012, and that was an increase of 37 percent since 2010. Clearly, something must change and it must change now.

Thanks to the hard work of Senators GILLIBRAND, BOXER, BLUMENTHAL, and HIRONO, along with so many supporters on both sides of the aisle, this issue is back at the forefront of our national debate. We now have a historic opportunity not only to make additional meaningful commonsense reforms to our military criminal justice system, but I think the Defense authorization bill that we are going to take up before the end of this year, hopefully, has a number of very critical proposals to address sexual assault in our military, and I certainly support those. I was pleased those provisions got unanimous support within the committee. But I do not think we went far enough in that bill.

We also need to send a powerful message to the tens of thousands of victims, many of whom have been suffering quietly for decades, that what happened to them in our military is unacceptable. In too many of those cases it is criminal. And it will no longer be tolerated.

The Military Justice Improvement Act of 2013 addresses what victims tell us is the No. 1 problem in the current system. Victims decide not to report sexual assaults because they fear their commanding officers will not take the issue seriously and they will be retaliated against or nothing will be done.

According to the Department of Defense Sexual Assault Prevention and Response Office, 50 percent of female victims said they did not report the crime because they believed nothing would be done with their report. And 25 percent of women and 27 percent of men who received unwanted sexual contact indicated that the offender was actually someone in their own military chain of command.

Our legislation addresses the chain-of-command issue. It removes the decision of whether to go to trial from the chain of command and puts it into the hands of experienced prosecutors. This is a straightforward change. It is designed to promote transparency and accountability in the prosecution of these crimes.

It would also ensure that impartial individuals specifically trained to handle these cases determine whether they move forward, which permanently eliminates the conflicts of interest that exist in the current system. We need all victims to know that if they come forward, their cases will be handled fairly and impartially.

Several days ago in America, we celebrated Veterans Day. Many of us went home to our home States to honor the men and women who, throughout our history, have served in our military. Our military's traditions of honor and respect are too important to continue to be plagued by the issue of sexual assault. That is why I urge my colleagues to support the Military Justice Improvement Act, because we strengthen our military when victims of sexual assault have the confidence to come forward and report crimes, and when we remove fear and stigma from the process. We strengthen our military when we create a process to deliver fair and impartial justice on behalf of the victims of these crimes.

Every man and woman who wears the uniform deserves these rights, and after more than 20 years of waiting, it is way past time we come through for them.

I yield the floor.

#### FY 2014 BUDGET PROCESS

Mr. LEAHY. Mr. President, I once again express my strong support for the efforts of the chairwoman of the Appropriations Committee, Senator MIKULSKI, and the chairwoman of the