

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

TRIBUTE TO JIM YOUNG

Mr. JOHANNES. Mr. President, I rise today with a heavy heart that I pay tribute to the life and legacy of a friend, Jim Young. Jim passed away on February 15 after a courageous battle with pancreatic cancer. My thoughts and prayers are with his wife Shirley, his children, and his grandchildren during a very difficult time.

Even as we mourn his passing, though, we celebrate his deep love for his family, his tremendous commitment to his community, and his impressive example of leadership. Jim's family, friends, coworkers, and admirers from across Nebraska and our great Nation are mourning the loss of a life defined by great service and great leadership. It is my privilege today on the floor of the Senate to honor his legacy.

Jim knew the importance of hard work and commitment to purpose. That is how he climbed the ladder of success to become the president and chief executive officer and, later, chairman of the board of Union Pacific Corporation.

Jimmy's integrity was unquestioned. He loved his work. He carried his enthusiasm beyond UP as he led the American Association of Railroads and other professional organizations.

Jimmy's leadership spurred impressive reinvestment and growth in the railroad, but many would say his true accomplishment was his focus on a positive work environment and taking care of his coworkers. His concern for their well-being was genuine, and they knew it.

It would be difficult to categorize Jimmy's greatest contributions because beyond his tremendous impact on UP and the rail industry, Jim did everything. He loved our great State. He loved his hometown of Omaha. He set a shining example of what it means to give back to the community.

The list of boards on which he served and organizations for which he volunteered could literally fill a book. From the Greater Omaha Chamber of Commerce to the Joslyn Art Museum, from the University of Nebraska to the Salvation Army, Jimmy's commitment to serving and to improving the lives of others is just simply unmatched.

He did not take for granted his success, and he dedicated time and attention to assisting those who had less—those with fewer resources. Evidence of his generosity can be found in all corners of the community. It would range from the Jim and Shirley Young Scholarship Program at Jimmy's alma mater, the University of Nebraska at Omaha, to his involvement in the Knights of Ak-Sar-Ben and his service as a church elder and a youth sports coach.

I am so confident I speak for all Nebraskans when I say we have lost a great leader and a community partner. I feel as though I have lost a friend.

Jim gave of himself in all he did. From the boardroom to the ballfield, his presence is going to be so missed.

It is my sincere hope that Jimmy's wife Shirley, his children and his grandchildren, find comfort knowing that so many lives were made better because of his efforts.

Jim leaves a vibrant legacy of leading by example, inspiring others by believing in every single person's potential, and of dedicating both time and treasure to opening doors of opportunity for those who just needed a champion. It would be difficult to imagine a more meaningful life legacy.

Mr. President, I thank the Chair. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

All time has expired.

The question is, Will the Senate advise and consent to the nomination of Rose Eilene Gottenmoeller, of Virginia, to be Under Secretary of State for Arms Control and International Security?

Mr. BARRASSO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 58 Ex.]

YEAS—58

Alexander	Gillibrand	Murphy
Baldwin	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Heinrich	Pryor
Blumenthal	Hirono	Reed
Booker	Isakson	Reid
Boxer	Johnson (SD)	Rockefeller
Brown	Kaine	Sanders
Cantwell	King	Schatz
Cardin	Klobuchar	Schumer
Carper	Landrieu	Shaheen
Casey	Leahy	Stabenow
Collins	Levin	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	Markey	Warner
Donnelly	McCaskill	Warren
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Flake	Mikulski	
Franken	Murkowski	

NAYS—42

Ayotte	Graham	Paul
Barrasso	Grassley	Portman
Blunt	Hatch	Risch
Boozman	Heitkamp	Roberts
Burr	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Tester
Cornyn	Kirk	Thune
Crapo	Lee	Toomey
Cruz	McCain	Vitter
Enzi	McConnell	Walsh
Fischer	Moran	Wicker

The nomination was confirmed.

NOMINATION OF SUZANNE ELEANOR SPAULDING TO BE UNDER SECRETARY, DEPARTMENT OF HOMELAND SECURITY

The PRESIDING OFFICER. Under the previous order, the clerk will report the Spaulding nomination.

The bill clerk read the nomination of Suzanne Eleanor Spaulding, of Virginia, to be Under Secretary, Department of Homeland Security.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided.

Mr. REID. I yield back the remainder of our time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Suzanne Eleanor Spaulding, of Virginia, to be Under Secretary, Department of Homeland Security?

The nomination was confirmed.

NOMINATION OF JOHN ROTH TO BE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY

The PRESIDING OFFICER. Under the previous order, the clerk will report the Roth nomination.

The bill clerk read the nomination of John Roth, of Michigan, to be Inspector General, Department of Homeland Security.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided.

Mr. REID. I yield back the remainder of our time.

The PRESIDING OFFICER. Without objection, there is no further debate.

The question is, Will the Senate advise and consent to the nomination of John Roth, of Michigan, to be Inspector General, Department of Homeland Security?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MILITARY JUSTICE IMPROVEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1752, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1752) to reform procedures for determinations to proceed to trial by court-martial for certain offenses of the Uniform Code of Military Justice, and for other purposes.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask unanimous consent that the order with respect to the consideration of S. 1752 and S. 1917 be modified so the debate time is equally divided between Senators McCaskill and Gillibrand or their designees, with all other provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1752, a bill to reform procedures for determinations to proceed to trial by court-martial for certain offenses under the Uniform Code of Military Justice, and for other purposes.

Harry Reid, Kirsten E. Gillibrand, Barbara Boxer, John D. Rockefeller IV, Tammy Baldwin, Benjamin L. Cardin, Patrick J. Leahy, Debbie Stabenow, Richard Blumenthal, Christopher A. Coons, Claire McCaskill, Jon Tester, Mark Begich, Barbara Mikulski, Maria Cantwell, Charles E. Schumer, Dianne Feinstein.

Mr. REID. Mr. President, when American men and women decide to defend our freedoms as members of the U.S. Armed Forces, they do so with full knowledge that they could make the ultimate sacrifice—the ultimate sacrifice—on behalf of our country. These are very courageous men and women. While we can't protect every member of our military from harm at the hands of America's enemies, we should at least guarantee them protection from harm at the hands of their fellow servicemembers.

The need to address the problem of sexual assault is not lost on the military officers and officials with whom I have met. They acknowledge there is a problem. I believe they are working in good faith to fix it.

The vast majority of U.S. military personnel are appalled by sexual assault in their ranks, as are their commanders. I applaud their dedication to this Nation and their fellow servicemembers. I applaud the action of those who have zero tolerance for these crimes, but I am convinced that Congress must act aggressively to eliminate a military culture that not only allows sexual assault to happen but too often punishes the victims when it does.

We have already taken some action to combat the sexual assault in the Defense authorization bill. I am pleased today we will vote on two proposals for further action.

Congress cannot stand idly by while the blight of sexual assault continues. Every military leader has the responsibility to take a stand with us for a zero

tolerance approach to military sexual assault, to stand by the victims of sexual assault, and to stand with the good men and women they command.

The PRESIDING OFFICER (Ms. Baldwin). The majority leader.

Mr. REID. We are going to have two votes at 2 o'clock. I ask unanimous consent that the additional time until 2 p.m. be equally divided and controlled.

The PRESIDING OFFICER. Without objection.

The Senator from New York.

Mrs. GILLIBRAND. I rise today to speak about the need to strengthen our military and stand by our brave men and women in uniform by passing the bipartisan Military Justice Improvement Act.

I start by thanking all of my colleagues on both sides of the aisle for the seriousness with which they have approached this issue and the effort they have put into looking at the solution survivors of sexual assault in the military are asking for. I specifically thank my friends from Missouri and New Hampshire for their determination and leadership in fighting for victims of sexual assaults in our military. I look forward to voting for their bill on the floor today.

I defer the colloquy to Senator Inhofe.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, when the majority leader said 1 minute ago that Congress cannot idly stand by and not do anything, I have to remind him that we have been doing so for quite some time. We have been working on the problem of sexual assault, and the reality is that Congress has been aggressive in instituting reforms to tackle sexual assault in the military since the fiscal year 2009 Defense Authorization Act. We have enacted 47 provisions, either directly addressing sexual assault or instituting reforms to the Uniform Code of Military Justice that will improve efforts to address allegations of misconduct.

These reforms have strengthened the protections and the care of the victims while preserving the rights of the accused. These historic reforms are vital to ensuring a sound, effective, and fair military justice system.

I look at the bill we are considering that will be coming up in a short while. The bill would modify the court-martial convening authority in a way that I believe creates very serious procedural problems.

In a January 28, 2014, letter to the Department, it cited—and I am going to cite some very technical problems:

Potentially irreconcilable and could result in long delays from bringing some cases to trial and, if a conviction ultimately results, could produce still more years of appellate litigation, perhaps ultimately culminating in the conviction's reversal.

To make matters even worse, the bill includes a requirement that the new military judge advocate billets re-

quired to perform these duties must be taken from existing billets. This is what we have been fighting and arguing about, the problems that we are having now in the overall military. No billet growth is authorized in this, so it will have to come from existing billets.

I received a personal letter from the Judge Advocate General of the Army, General Darpino.

He said:

The bill would not be cost neutral. According to initial estimates, the Army would require an additional 50 judge advocate colonels along with the increase of about 200 judge advocates of other ranks and about 150 legal support staff.

That is a quote. She went on to say:

... this is happening at a time when the services are attempting to reduce their personnel costs to accommodate shrinking budgets. And that is just the impact in the Army. On November 18, 2013, the Department of Defense provided an assessment of the devastating impact of the Gillibrand bill. The Defense office of Cost Assessment and Program Evaluation estimate a total cost of over \$113 million per year—

That is every year—

to implement her bill in the Army, Navy, Air Force and Marines. Not only is her bill not executable in a cost-neutral basis, it is not possible to grow the total inventory of nearly 600 judge advocate officers and legal assistants required by the bill within the 180 days of enactment. The decision we make today will have significant consequences for the future of our military. More specifically, the bill we are debating this week threatens to tear apart what I strongly believe is the fabric of our Armed Forces: the chain of command.

I can't find people I can confide in and talk to personally, who have been in the military, who don't agree with this. I was in the Uniform Code of Military Justice when I was in the U.S. Army—not at the level of some of the Senators who have been there more recently, such as Senator GRAHAM, for example, and at a higher level. I was an enlisted man. But I was a reporter, and a lot of times the reporters, the enlisted personnel, really know more about the situation than some of the bosses. I was firmly convinced that—granted, this was years ago—you can't mess with the chain of command.

When you stop and think about what a commander has to do—he is required to take care of the physical and medical condition of our troops. He is required to oversee their training. He is required to have medical care if they are wounded, and he has to make the decision of sending our troops into combat. It is inconceivable to me, with all of these responsibilities, that he be taken out of this chain.

It is not just me. Others agree with this. I had conversation with Col. Ana Smythe of the Marine Corps. She said at a press conference:

What you don't understand if you're not in the military is that the fabric and the essence of the military is built around the chain of command. ... If we dismantle or weaken the chain of command, we are lost.

The CMSgt Barbara Taylor said about the Gillibrand bill:

It would be devastating to the United States military. . . . A commander cannot be held responsible if he does not have the authority to act.

So I think those of us who have had military experience and who have been involved in the military understand the serious problems that would come from the adoption of this bill. I strongly recommend we defeat the Gillibrand bill.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

Mrs. GILLIBRAND. I yield 10 minutes to Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am relieved that legislation addressing the crisis of military assault has finally been brought to the Senate Floor, and I commend the Senator from New York, Mrs. GILLIBRAND, and the Senator from Missouri, Mrs. MCCASKILL, for their leadership in bringing this important issue to the forefront.

I also acknowledge the courage and conviction of Jennifer Norris and Ruth Moore—two Mainers who were sexually assaulted while serving our country. They have made it their mission to change the broken system that has not put victims first. Through their advocacy they have helped to shine a light on this crisis, and they deserve our gratitude.

In fact, as Senator GILLIBRAND and I were coming on to the floor, we were stopped by a reporter who asked us: What has made the difference? I said it had been the leadership of the Senator from New York and the Senator from Missouri, but I also pointed to the survivors of military sexual assault who have come forward and been willing to tell their stories, painful though those stories are.

Since 2004, I have been sounding the alarm over the military's ineffective response to the growing crisis of sexual assault in the military, including the need to ensure appropriate punishment for the perpetrators of these crimes, to provide adequate care for the survivor, and to change the culture across the military so that sexual assault is unthinkable.

It was 10 years ago, during an Armed Services Committee hearing, that I first brought up the alarming increase in the number of sexual assaults in the military. Back then the attitude of the witness, GEN George Casey, Jr., then Vice Chief of Staff of the Army, testifying at that hearing was completely dismissive, even though these are serious crimes that traumatize survivors and erode the trust and discipline fundamental to every military unit. I was appalled at the reaction.

While the attitude today among the most senior military leaders is markedly different than the one that I encountered a decade ago, the work of translating the military's stated policy

of zero tolerance into reality remains unfinished business. Fostering a culture of zero tolerance so that the number of assaults is greatly diminished remains a goal, not reality. Ensuring that survivors do not think twice about reporting an assault for fear of retaliation or damage to their careers is still not part of the military culture.

In 2011 I joined our former colleague, John Kerry, in introducing the Defense STRONG Act as an initial step to address this crisis. The provisions of that bill, which were signed into law as part of the fiscal year 2012 National Defense Authorization Act, provide survivors of sexual assault the assistance of advocates with genuine confidentiality, guaranteed access to an attorney, and expedited consideration for the victim to be transferred far away from the assailant.

These were helpful first steps. But more than anything, the victims of sexual assaults, the survivors, need to have the confidence the legal system in which they report a crime will produce a just and fair result. We need to encourage more reporting, and that is what Senator GILLIBRAND's bill will accomplish. This is a goal that I believe is shared by all Members of the Senate, despite our differing opinions on the best path forward for achieving these goals.

In the 113th Congress, a number of proposals have been introduced aimed at reducing the barriers to justice that many survivors of sexual assault face in our military. I have been pleased to work with both Senators GILLIBRAND and MCCASKILL toward this end. As a result of our efforts, as well as those of many others, including Chairman LEVIN and Ranking Member INHOFE, important provisions that all of us agree on have been signed into law as part of this past year's National Defense Authorization Act.

Among those provisions is legislation that I coauthored to extend the STRONG Act to the Coast Guard. In addition, Senator MCCASKILL and I wrote provisions mandating a dishonorable discharge or dismissal for any servicemember convicted of sexual assault. We also allowed a commander to relocate an alleged perpetrator of a sexual assault crime rather than the survivor. Why should it be the survivor who has to move?

Senator GILLIBRAND and I authored a provision that eliminates the elements of the character of the accused from the factors a commander could consider, making it more like what would occur in the civilian system. Senator GILLIBRAND, Senator MCCASKILL, and I authored a provision that eliminates a commander's ability to overturn a conviction by a jury post trial for major offenses.

I mention these reforms because I am encouraged that we have taken these steps to address this vitally important issue. But more remains to be done. I remain cognizant of the fact there are strong views at the Pentagon and with-

in this body about how we should best move forward from here and what that may mean for the military's unique legal system. But one of the criticisms which I totally reject is that we should just wait a few more months for the result of a few more studies or wait a few more years to see if the recently enacted provisions have made a difference. I strongly disagree.

How many more victims are required to suffer before we act further? How many more lives must be ruined before we take additional steps that we know are required to solve this problem? Rather than waiting for the results of yet more studies, we must continue to enact real reforms to increase the confidence of survivors to come forward and report the crimes, to ensure that perpetrators will be dealt with appropriately, and to strengthen prevention efforts right now.

Senator GILLIBRAND's bill is a reasonable proposal designed to communicate to survivors and potential perpetrators alike that when survivors are subjected to these unacceptable, horrific crimes, they will have access to a legal system that fully protects their interests. Providing our troops with that basic confidence is the least we can do.

I believe there is no question of Congress' commitment to reducing the instances of sexual assault in the military and providing appropriate redress and care for survivors. While we debate various proposals, we are united by the need for serious reforms that will strengthen the military's response to sexual assaults. But for the leadership of Senator GILLIBRAND and Senator MCCASKILL, and the courage of those survivors who were finally willing to come forward and tell their stories and know that we would listen to them, believe them, and act, we would not be here today. I am certain that our work will reduce the unnecessary suffering and injustice felt by those who have survived these horrific crimes.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I yield time to the Senator from Iowa.

Mr. GRASSLEY. I thank the Senator from New York.

The Defense Department has been promising Congress and the American people for a long period of time that they are working on this problem of sexual assault, and we are still looking for results, and the statistics get worse. So I believe what Senator GILLIBRAND is saying with her legislation is enough is enough.

I am proud to be a partner in this effort. It fits into an overall principle of government that I have: Greater transparency brings accountability. And I believe this legislation will make this whole problem much more transparent and, with it, accountability to hopefully get the issue solved.

I appreciate the fact that a large number of commonsense reforms were included in the national defense authorization. These changes were long

overdue. However, we are past the point of tinkering with the current system and hoping that does the trick. We have had promises about tackling the problem of sexual assault within the current system for years and years, but the problem is still not any better and, statistics show, is getting worse. We don't have the luxury of time to try some new reforms of the current system and hope they have an impact. We have had those promises before.

What is more, the current system appears to be part of the problem. I will elaborate on that.

We know from the recent Defense Department report that 50 percent of female victims stated they did not report the crime because they believed nothing would be done as a result of their reporting; 74 percent of the females and 60 percent of the males perceived one or more barriers to reporting sexual assault; and 62 percent of the victims who reported sexual assault indicated they perceived some form of professional, social, and/or administrative retaliation.

We can talk about protecting victims, and we can enact more protections, as we did in the national defense authorization, but the fact remains that the current structure of the military justice system is having a deterrent effect on the reporting of these assaults. If sexual assault cases aren't reported, they can't be prosecuted. If sexual assault isn't prosecuted, predators will remain in the military, which results in the perception that sexual assault is tolerated in this culture. That destroys morale and it destroys lives. If an enemy tried to sow that kind of discord among our military, we wouldn't tolerate it, but we are doing it to ourselves.

The men and women who have volunteered to place their lives on the line deserve better, and our military readiness obviously demands it.

Taking prosecutions out of the hands of commanders and giving them to professional prosecutors who are independent of the chain of command will help ensure impartial justice for the men and women of our forces.

I know some Senators will be nervous about the fact that the military is lobbying against this legislation. I have the greatest respect for our military leaders, but Congress has given the military leadership more than enough time to fix this current system. We can't wait any longer. We should not be intimidated by people coming to the Hill because of their stars and ribbons. They deserve our respect but not deference to their opinion.

We also hear that this measure will affect the ability of commanders to retain "good order and discipline." Our legislation in no way takes away the ability of commanders to punish troops under their command for military infractions. Commanders also can and should be held accountable for the climate under their command. But the point here is that sexual assault is a

law enforcement matter, not a military one.

If anyone wants official assurances that we are on the right track, we can take confidence in the fact that an advisory committee appointed by the Secretary of Defense supports these reforms. There is an organization appointed by the Secretary of Defense which goes by the acronym DACOWITS—the Defense Advisory Committee on Women in the Services—which voted overwhelmingly in support of each and every one of the components of the Gillibrand bill.

DACOWITS was created back in 1951 under Defense Secretary Marshall. The committee is composed of civilian and retired military women and men appointed by the Secretary to provide advice and recommendations on matters and policies relating to the recruitment and retention, treatment, and well-being of our highly qualified professional women in the Armed Forces. Historically, the recommendations by DACOWITS have been instrumental in effecting changes to laws and policies pertaining to women in the military. This isn't an outside advocacy group or ad hoc panel; it is a longstanding advisory committee handpicked by the Secretary of Defense, and it supports the substance of this legislation.

It is easier to support incremental reform. In fact, it is also prudent to try small reforms before making bigger changes. I understand why some Senators are nervous about a total overhaul of the military justice system. It isn't something I approach lightly. However, we have waited for years as various initiatives to tackle this problem have been tried.

When we are talking about something as serious and life-altering as sexual assault, we cannot afford to wait any longer than we already have. The time has come to act decisively to change the military culture. We need a clean break from the system where sexual assault isn't reported because of a perception that justice won't be done. Our men and women serving this country deserve nothing less, and they deserve it now. They shouldn't have to wait any longer for justice.

For those reluctant to take this step, I would say that if the more modest reforms proposed by others prove insufficient and we have to come back and enact our reforms at a later time, how will you justify your vote today?

Now is the time for bold action, and I urge my colleagues to join in the effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I yield to the Senator from Montana, followed by the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Montana.

Mr. WALSH. Madam President, I thank Senators GILLIBRAND and MCCASKILL for their dedication and commitment to dealing with sexual as-

sault in the military and for bringing a serious problem to the forefront of Congress. Their work on the 2014 National Defense Authorization Act helped reform the Uniform Code of Military Justice. But I believe we must do more.

My perspective on prosecuting military sexual assault comes from my 33 years in the Montana National Guard. My view on this is simple: The current system is failing the men and women in uniform. And failure is unacceptable.

While no legislation is perfect, I believe we must fundamentally change how we deal with sexual assault in our military. While I support the reforms that passed last year, we have moved too slowly. Today's debate is about where we go from here.

In the Armed Forces today, a military commander is ultimately responsible for the prosecution of these crimes. In the Montana National Guard, except when federalized, we did things differently. If the unimaginable happened, the prosecution of sexual assault would occur outside the purview of a military commander. Senator GILLIBRAND's Military Justice Improvement Act removes prosecutions from the purview of military commanders—much like the Montana National Guard system.

One of the arguments I have heard against this bill is that if we shift the prosecution of sexual assault outside the chain of command, military leaders will somehow lose their authority on other matters. As a retired military commander, I am confident this is not the case. I have never found myself in a situation with the units I commanded where discipline and devotion to a mission was jeopardized by compliance with the civilian justice system. I am not talking hypotheticals. The chain of command's function is not a mystery to me. I lived it. And it is hard to convey how angry you feel when the system fails your fellow soldiers.

Today's debate is part of a broader effort to improve our military and the lives of those who have served—from the justice system, to the VA claims backlog, to ensuring that veterans find jobs when they complete their service. We have the opportunity to guarantee justice for the men and women within our military and to correct its failures. Now it is time to get it done.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. William Wilberforce wrote:

Having heard all this you can choose to look the other way, but you can never again say, "I did not know."

Having heard the stories of sexual assault in the military, we can look away, but we can never say that we have not heard of this problem, that we are going to ignore this problem. I don't think anybody in this body wants to, but the definition of "insanity" is doing the same thing over and over and

expecting a different result. We have known that sexual assault in the military has been a problem decade after decade. I think it is time we tried something new.

When I heard of a young military recruit from my State—a young woman who was raped, attacked, beaten to a pulp, three nerves pinched in her back, her legs and hips bruised such that she couldn't walk, and she considered suicide—when I heard her rape kit was lost and the case was dismissed, I was disheartened. Her assailant is still in the Navy. We have to do something different. We cannot ignore this problem.

To me it is as simple as this: Should you have to report your assault to your boss? This is what we are talking about. What if your boss goes drinking with the person who assaulted you, who is friends with them? Wouldn't we want the person you complained to completely outside the chain of command? Wouldn't we want to have lawyers involved whose specialty is this type of situation?

I am not saying it is easy. Guilt and justice are sometimes hard to find. But we have evidence that people don't trust the system. They say there are 26,000 episodes of unwanted sexual contact. They say 50 percent of the victims, though, go unreported. There are a lot of reasons for this. Even in the private world, people are afraid or ashamed or don't feel they can talk about this publicly. But we should do everything possible to make sure it is easy to report this because we don't want this to occur.

This doesn't mean, for our men and women who serve, it is a problem that overwhelms the military. It is still a small percentage. But for the 26,000 people having this happen to them, we need to come up with a solution.

What Senator GILLIBRAND has done is an idea whose time has come. It is about justice for victims, but it also is about finding due process. Getting this out of the arbitrary nature of a commander making a decision and into a court with judges where there will be arguments on both sides I think protects the innocent as well as finds justice for the accused.

I overwhelmingly support this bill and this crusade Senator GILLIBRAND has led. I suggest to the Senate that we understand the problem goes on, and tweaking this problem or nibbling around the edges and saying: Oh, we are just going to wait and see if what we are doing is better—we have been doing this for 20 years. I think the time is now to make the change.

I stand with Senator GILLIBRAND, and I wholeheartedly support her bill.

The PRESIDING OFFICER (Ms. HIRONO). The Senator from Missouri.

Mrs. MCCASKILL. I yield 8 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, there is no doubt that when a sexual assault

occurs in a military unit, when a servicemember is a victim or a perpetrator of sexual assault, then we all fail. It is not just the military chain of command; it is all of us. That is why the efforts of Senator MCCASKILL and Senator GILLIBRAND have been so critical and important. They have galvanized this debate. They have forced action where action needs to be taken. Now the question is, What is the pathway forward that will achieve what we all want—the reduction of sexual assault in the military forces?

I have expressed before concerns with the approach Senator GILLIBRAND has taken because I firmly believe, based on experience in the Active military, leadership has to be involved at every stage—recruitment, training, evaluation, promotion, and retention. When we take the commanders out of any of these steps, we diminish their effectiveness in every one of these steps. Removing the commander from these responsibilities, in my view, will weaken his or her effectiveness, and the test of that effectiveness is not in the courtroom, it is on the battlefield, and the consequences of such weakness could be significant to the forces of the United States. So we have to continue to maintain a system that recognizes the need for constant attention to this issue, constant leadership and command focus, on this issue.

We also have to recognize that the proposal we are putting forward today—and I think this is critical—is not just about sexual assault; it covers a wide range of offenses, offenses like larceny of personal equipment in the barracks. It covers a whole host of crimes that are not directly related to sexual assault.

As a result of this bifurcated system that would be created, some traditional charges, such as AWOL, have been reserved for the commander, but a significant amount of charges has been referred to this new process. This bifurcated system will cause practical problems that will undercut the effectiveness of units to perform their mission and to do what is necessary to protect their soldiers, sailors, airmen, and marines.

The service JAGs—very experienced legal officers who have served in the uniformed military justice system in the United States—have pointed out several defects.

First, the proposal fails to address the complexity of these cases. Some cases will be referred to the special prosecutor, while others will remain with the commander, creating a multiplicity of venues, multiplicity of investigations, and perhaps conflicting decisions; all of which not only impose significant costs, but I think interferes with the sense the soldiers should have that they know what the system is.

Second, this proposal takes away one of the most significant aspects of the military justice system; that is, nonjudicial punishment. For example, as I illustrated before in my remarks, you

could have a barracks thief who steals an iPhone and an iPad that accumulates to a certain amount to trigger a charge that has to be referred to a special prosecutor. If that special prosecutor declines to prosecute, then it goes back to the company commander. But the company or the battalion commander, given the level of jurisdiction, cannot now impose nonjudicial punishment for the simple fact that the accused has to accept the punishment, but if there is no way he or she can be court-martialed, that punishment will not be accepted.

For offenses that are properly tried or adjudicated through the Article 15 process, those offenses will literally not only go unpunished, but the whole climate of command could be significantly changed.

Third, there is a constitutional issue, which is that under this proposal, you have the creation of a single office—and again I will refer to it generically as special prosecutors—with the authority to appoint counsel—defense counsel—and members of courts-martial panels, and that raises constitutional problems.

Let me conclude by saying that we have had a vigorous debate, and it has been an important debate, but we have had the opportunity since that debate to get the results of the Role of the Commander Subcommittee from the Response Systems Panel. These are objective members—in fact, many of them have for years been in the forefront of urging sensible reforms in the military, of being the vanguard in protecting victims in many different forms. They have concluded that the commander should remain within the loop, should remain as Senator MCCASKILL, Senator AYOTTE, and Senator FISCHER proposed, with corrections and with improvements that I think are very appropriate.

I would urge that we support strongly the provisions Senators AYOTTE, MCCASKILL, and FISCHER have proposed. They strengthen the system. But I must say that to remove the commander as proposed would in the long run be detrimental not only to the effectiveness of the military forces but detrimental to our common goal, which is to reduce sexual assault in the military of the United States. If we do not, if we allow it to continue—it is a corrosive force that will undermine our forces more than anything else.

Committed to that goal, I think we should support Senator MCCASKILL, and I am pleased to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I yield time to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Madam President.

I thank Senator GILLIBRAND for her extraordinary leadership.

Today you will hear two things: One is to support both bills, which I believe

we should do, and one is an attack on the Gillibrand bill, which for the life of me I do not understand. I am not going to filibuster Senator McCASKILL's bill because I think it is important. I am not going to filibuster Senator GILLIBRAND's bill because it is the one opportunity to bring about the change that the survivors of rape and the survivors of sexual assault are pushing for.

I ask unanimous consent to have printed in the RECORD the names of 45 organizations that are supporting the Gillibrand bill.

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

**VETERAN & WOMEN'S GROUPS SUPPORTING THE MILITARY JUSTICE IMPROVEMENT ACT**

Numerous organizations support the Military Justice Improvement Act, including:

Iraq and Afghanistan Veterans of America (IAVA), Vietnam Veterans of America, Service Womens Action Network, Protect Our Defenders, National Women's Law Center, National Task Force to End Sexual and Domestic Violence Against Women, National Alliance to End Sexual Violence, National Research Center for Women & Families, Jacobs Institute of Women's Health, Our Bodies Ourselves, International Federation of Professional and Technical Engineers, Members of the National Alliance to End Sexual Violence, 9to5, Baha'is of the United States, Equal Rights Advocates, Evangelical Lutheran Church in America, Federally Employed Women, Feminist Majority, Futures Without Violence, General Federation of Women's Clubs, GetEqual, Girls, Inc.

Hindu American Seva Communities, Institute for Science and Human Values, Inc., Jewish Women International, Joyful Heart Foundation, National Capital Union Retirees, National Center on Domestic and Sexual Violence, National Coalition Against Domestic Violence, National Congress of Black Women, Inc, National Council of Churches, National Council of Jewish Women, National Council of Women's Organizations, National Organization for Women, National Women's Health Network, OWL-The Voice of Midlife and Older Women, Peaceful Families Project, Presbyterian Women in the Presbyterian Church (U.S.A.), Inc., Religious Coalition for Reproductive Choice, SPART\*A, an LGBT Military Organization, The National Congress of American Indians, United Church of Christ, Justice and Witness Ministries, V-Day, Woman's National Democratic Club, Women's Research & Education Institute, YWCA USA.

Mrs. BOXER. So when people stand here and start attacking that bill and saying how awful it is, I want them to remember just a few of the organizations that stand with Senator GILLIBRAND: the Iraq and Afghanistan Veterans of America—do you want to listen to the bureaucrats or do you want to listen to the people who know what is going on—the Vietnam Veterans of America; the Service Women's Action Network; the Evangelical Lutheran Church in America; the National Congress of Black Women, Inc.; the YWCA. There are 45 organizations.

I have a very strong message for colleagues: Do not filibuster justice. Do not filibuster the Gillibrand bill. Do not filibuster the McCaskill bill. My goodness, these women deserve an up-

or-down vote on their bills. And the only reason I think some are forcing a filibuster on the Gillibrand bill is they know we have a majority. Just how strong it is we will find out. But what a sad day, when 17 women in the Senate support both approaches—17 of the 20 women—that we are facing a filibuster on the Gillibrand bill. Do not filibuster justice. It is pretty simple. You are going to hear a lot of words from politicians like me. Fine. But I think it is important to listen to the words of the victims and find a little humility—stories of victims such as Amanda Javier, who served in the Marine Corps in 1993. He was brutally raped and physically assaulted by a group of fellow marines. Ashamed and fearing for his life, he kept his rape a secret for 15 years. Do you know what it is like to keep a secret such as that, to suffer the pain and humiliation for 15 years.

When he finally found the courage to share his story with a friend, he decided to write it down. I want you to listen to his words:

My experience left me torn apart physically, mentally and spiritually. I was dehumanized and treated with ultimate cruelty by my perpetrators. I was embarrassed. I was ashamed. I didn't know what to do. I was young at the time, and being part of an elite organization that valued brotherhood, integrity and faithfulness made it hard to come forward and reveal what happened.

Well, here we are two decades later and no one has been held accountable for that heinous crime. And it goes on. I appreciate Senator PAUL reading what happened to one of his constituents. But you will hear the voices of the status quo in this body, and let me tell you, they are in great company, the voices of the status quo, the ones who are filibustering the Gillibrand bill. Let me tell you some of the voices of the status quo—and notice this: They are Republicans and Democrats.

Dick Cheney said in 1992: "We've got a major effort underway to try and educate everybody . . . let them know that we've got a zero-tolerance policy."

Secretary Bill Perry: "For all these reasons, we have zero tolerance for sexual harassment."

This has been going on for 20 years, and that spirit is being continued right here today from those who want to filibuster the Gillibrand proposal.

Secretary Cohen: "I intend to enforce a strict policy of zero tolerance."

Secretary Rumsfeld: "Sexual assault will not be tolerated."

Secretary Gates: "I have zero tolerance."

Secretary Leon Panetta: "We have no tolerance for this."

Secretary Hagel: "These crimes have no place in the greatest military on earth."

Words are swell. Who can argue with these words? But let's look at where we are today in terms of what is actually happening on the ground. I say to the voices who are standing in the way of an up-or-down vote on KIRSTEN GILLIBRAND's bill: Look at these facts. There

were 26,000 cases of sexual assault in the military in 2012, and 1.2 percent of them have been prosecuted. This white circle represents the 26,000 cases. This thin sliver in green that you can barely see represents the amount that was prosecuted. Do you know what happens to these folks who get out? They continue their activities either in the military or on the streets of our cities, our counties, and our States. Yet these voices of the status quo in this Senate will tell you "oh my goodness, we cannot make this change" even though 45 organizations, including the Iraq and Afghanistan fighters, are telling us to do so.

Here is the deal. This is another way to look at it. There were 26,000 estimated sexual assaults in 2012. We have a 90-percent problem—90 percent of these cases go unreported. Guess what, folks. Are you surprised they are afraid to go to their commander, those of you who are supporting this status quo? Just ask them. Do not listen to Senator GILLIBRAND or to me. We are not in the military. The people who are in the military are telling us, begging us, along with every organization that stands for the survivors: Please change it.

Now I ask you, if there was a rape in your office in the Senate and somebody upstairs yelled and screamed and you went up there as a Senator, what would you do? Would you decide whether the case ought to be prosecuted or would you call the police? Would you call the experts?

I do not think CEOs ought to determine whether a case of rape should be prosecuted. Do you? I don't think so. Yet that is what you are supporting here with the commander who knows all the players. Suppose he goes out to drink with the perp, knows him well, thinks he is a great fighter. I know Senator McCASKILL is trying to fix these problems around the edges—fine—but let's get to the heart of the matter.

In summation, we can continue the 20 years of baloney and not make the change that needs to be made under the important Gillibrand bill. What we do is we say we are keeping this in the military, but we are allowing the experts to make the decision. That is fair to the accuser, and that is fair to the accused. As a matter of fact, we have people supporting us because they believe it is fair to both sides, not just the accuser.

So let's not filibuster justice. Do not stand here and say how you care about this and then filibuster the Gillibrand bill because you will be judged on that vote. If you have problems with the details of the bill, vote against the bill but do not filibuster justice.

This is a chance we have, an opportunity we have. Yes, it will be revisited over and over because these problems, if we do not make these changes, are going to continue. Today is an amazing moment in time that we could come together and allow an up-or-down vote on



the Gillibrand proposal. We wouldn't be filibustering justice, and I think we would bring some needed change—needed change, Madam President, that all the leading named organizations I have put in the RECORD endorse. I hope we will stand with those victims, stand with those providers, and stand with those advocacy groups and be humble and not say we know better than they.

Thank you very much, and I thank Senator GILLIBRAND.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. I yield 10 minutes to the Senator from Michigan, the chairman of the Senate Armed Services Committee, Mr. LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first let me thank Senator MCCASKILL for her terrific leadership on this matter and Senator AYOTTE and others on our committee who worked so hard to strengthen our laws against sexual assault and strengthen the ability of our commanders to act, as we did in our defense authorization bill and in the second bill we will be voting on today.

We will be voting today on two bills regarding sexual assault in our military, and I believe the strongest, most effective approach we can take to reduce sexual assault is to hold commanders accountable for establishing and maintaining a command climate that does not tolerate sexual assault. In order to do that, we must maintain the important authority to prosecute sexual assaults that our military commanders now have, and we must add greater accountability for those commanders.

The evidence shows that removing this authority from our commanders would weaken, not strengthen, our response to this urgent problem. That is why I believe the bill offered by Senator GILLIBRAND and others, though offered in the hope that it would strengthen our efforts against sexual assault, will in fact have the opposite effect.

In the last year we have learned that in scores of cases during the period study, commanders prosecuted sexual assault cases that civilian attorneys had declined to prosecute. We have learned our military allies, whose policies have been cited in support of removing commanders' authority, generally made their changes to protect the rights of the accused, not the victim. We have learned there is no evidence that their changes resulted in any increase in reporting of assaults. So when the allies made the change—not to protect victims but to increase the rights of the accused—it did not lead to any increase in the reporting of assaults.

On January 29, we received the conclusions of a report from the Response Systems to Adult Sexual Assault Crimes Panel—an independent panel of legal and military experts of diverse backgrounds that was established by

Congress to advise us on how to respond to this issue. A subcommittee of the panel addressed the role of commanders in prosecuting sexual assaults, the very issue we will be voting on today.

Here is what that subcommittee concluded:

There is no evidentiary basis at this time supporting a conclusion that removing senior commanders as convening authority will reduce the incidence of sexual assault or increase sexual assault reporting.

The subcommittee reached that conclusion, despite the fact that many members began the process sympathetic—if not outright supportive—of the notion that we should remove the commanders' authority.

Here is what one member of the subcommittee, former Congresswoman Elizabeth Holtzman, said:

I've changed my mind, because I was just listening to what we heard. I started out . . . thinking, why not change it and now I am saying, why change it. . . . Just turning it over to prosecutors doesn't mean you are going to get the results you are looking for.

Congresswoman Holtzman authored the Federal rape shield law when she was a Member of Congress.

Another member of the subcommittee, former Federal Judge Barbara Jones, said that if you remove this authority from commanders "there is no empirical evidence that reporting is going to increase. . . . If I were persuaded that removing the convening authority would encourage victims to report then this would be a different story. But I am not persuaded of that."

Listen to Mai Fernandez, the executive director of the National Center for Victims of Crime. She was a member of the panel, and this is what she said about the proposal to remove commanders' authority to prosecute:

When you hear it at first blush, you go, "Yeah, I want to go with that." But when you hear the facts, like you would in a case, it just doesn't hold up.

The women making those statements had no stars on their shoulders; they are not Pentagon insiders. They are members of the independent panel that we in Congress tasked with reporting to us on these issues.

Underlying the crisis of sexual assault in our military is a problem of culture, a culture that has been too permissive of sexual misconduct, too unaware that a person who is successful in his professional life may also be a sexual predator. It is a culture too prone to ostracize or even act against those who report sexual assaults.

The military has unique tools to address those problems. Foremost among those tools is the authority of the commander to establish a command climate by giving orders and enforcing discipline. At every time in our history when our military has faced such cultural challenges—such as the challenge of ending racial discrimination in the 1940s and 1950s or the challenge of end-

ing don't ask, don't tell in our time—commanders with the authority to initiate courts-martial have been essential in achieving change.

But we are not going to achieve change if—at the same time we demand of our commanders that they change the military culture to take on the sexual assault problem—we remove their most powerful tool to achieve that change.

Senator GILLIBRAND's bill creates a new, separate disposition authority to deal with the sexual assault and other serious crimes. Our focus throughout this debate has been, rightly, on how to improve our approach to sexual assault. As a matter of fact, sexual assault would make up just a fraction of the cases this new disposition authority would deal with.

In a letter to me, Under Secretary of Defense for Personnel and Readiness Jessica Wright recently reported in fiscal year 2012, the Department of Defense estimates it handled more than 5,600 cases that would be referred to this new disposition authority if it were created, but two-thirds of those cases did not involve sexual assault. The Gillibrand bill would shift dozens of our top military lawyers to a new authority that would spend only one-third of its time dealing with the problem we are trying to solve, the problem of sexual assault.

The National Defense Authorization Act, which we enacted just a few months ago, provides our commanders with additional tools to meet this challenge and important new protections for victims. It provides victims of sexual assault with their own legal counsel specially trained to assist them. It makes retaliation a crime when that retaliation is against victims who report a sexual assault. It requires that the inspector general investigate all complaints of retaliation. It requires that any decision by a commander not to prosecute a sexual assault complaint will have an automatic review by a higher command authority—in nearly all cases by a general or flag officer and in certain cases by the service Secretary, the highest civilian authority in each service.

The second bill we are going to vote on today—offered by Senators MCCASKILL, AYOTTE, and others—provides additional protections to those we just added in the National Defense Authorization Act. The McCaskill-Ayotte bill ensures victims have a voice in deciding whether their cases will be prosecuted in the military or civilian justice system. Indeed, it requires that special victims' counsel established by the National Defense Authorization Act advise victims on the pros and cons of those two approaches. It requires that commanding officers be graded on their success or failure in creating a climate in which there is no tolerance for sexual misconduct and in which victims can come forward without fear.

These additional protections in the McCaskill-Ayotte bill help us answer

the key question of how can we best strengthen our protections against military sexual assault. I believe we do so by empowering victims and by holding our commanders accountable, but we threaten to weaken those protections if we undermine the authority of the very commanders who must be at the heart of the solution. Powerful evidence should lead us to the conclusion that we should not remove the authority of commanders to prosecute these cases.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I yield my time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I rise in strong support of Senator GILLIBRAND's Military Justice Improvement Act. I wish to recognize her and all of the Senators who have worked so hard on this legislation and all of the groups who have been involved.

I was very proud to be an original cosponsor of the legislation, and after more than 1 year of meeting with military sexual assault survivors and bringing attention to this ongoing crisis, I am encouraged by the historic opportunity we have today.

As Senator LEVIN said, this is an important debate for us to be having. I certainly applaud Senators MCCASKILL and AYOTTE and everyone who has been involved in this effort because I think it sends a very important message to our leaders in the military and to those who would perpetrate crimes of sexual violence.

Today we not only have the opportunity to make meaningful, commonsense reforms to our military criminal justice system but we also have a chance to send a very powerful message to the tens of thousands of victims—many of whom have been suffering quietly for decades—that what happened to them is not acceptable; it is criminal, and it will no longer be tolerated.

Let's be clear: Sexual assault is a crime. It is not an accident. It is not a mistake. It is a violent criminal act often perpetrated by serial offenders. We can't allow sexual assault perpetrators to escape justice in any setting but particularly when these assaults occur within our Nation's military.

Unfortunately, it has been 23 years since the Tailhook scandal, and despite the repeated assurances that the chain of command is committed to addressing this issue, we are no closer to a solution. How long will we wait? How many tens of thousands of our sons and daughters will be victims? How many will be victims without reliable access to justice?

Today we have a rare opportunity to end one of the fundamental structural biases that persists in our military criminal justice system. This is not about undermining battlefield com-

mand or good order and discipline. No one wants to do that. This is about access to justice.

Survivors overwhelmingly tell us that the reason they don't come forward is because they don't trust that chain of command. They don't trust that the chain of command will handle their case objectively, a fact that has been repeatedly acknowledged by military leaders during Armed Services Committee hearings. Placing the decision on whether to go to trial in the hands of experienced military prosecutors is a commonsense reform that will go a long way toward promoting transparency and accountability within our system.

Our military's tradition of honor and respect is too important to continue to be plagued by the status quo. We strengthen our military when victims of sexual assault have the confidence to come forward and report crimes and we remove fear and stigma from the process. We strengthen our military when we are able to deliver fair and impartial justice on behalf of victims.

Victims' eyes are on us today. There is strong bipartisan support behind the Gillibrand bill. It is on full display. I certainly urge all of my colleagues to support this measure, and let's make meaningful reform to what has happened for too long to victims of sexual assault in the military.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Madam President, I rise, together with my colleagues Senator GRAHAM and Senator AYOTTE, and ask that the Chair advise when we have used 20 minutes of time. We are going to engage in a colloquy about this important decision that is in front of the Senate.

It is, in fact, with great humility that I come to this policy debate. I don't think anyone in the Senate has spent more time in a courtroom putting perpetrators in prison who have committed sexual crimes. I don't think anybody has spent more time with victims of sexual assault. There is an incredible amount of pressure that you feel when you walk into a courtroom knowing that victim has placed trust in you to bring the evidence forward, and I am forever marked by that experience. It is with that experience that I have become convinced that the policy changes that are being advocated will not work for victims.

In fact, it is clear that when these changes have been enacted other places, reporting has not increased. It is clear that right now we have more cases going to court-martial over the objections of prosecutors than the objections of commanders. Today there is a court-martial ongoing where a prosecutor walked away from the serious charges and the commander said go forward. There have been almost 100 cases over the last 2 years where prosecutors said this case is too tough and

the commanders have said, no, we have to get to the bottom of it. We can't let the commanders walk away. We cannot let the commanders walk away.

There is nothing in the Gillibrand proposal that provides additional protection from retaliation.

I ask Senator GRAHAM: If someone walks back into their unit after being victimized and the unit knows the commander has said this case is going forward, how would that contrast to walking back into his or her unit when the unit knows some lawyer in Fort Belvoir—hundreds of miles away—has said whether this case should go forward? I am trying to figure out how removing the commander provides any additional protection from retaliation to that victim.

Mr. GRAHAM. That is a very good question. The commander in the military is just not somebody. The man or woman in charge of that unit is the person to whom we give the ultimate authority to decide life-and-death decisions for that unit. So if we deal the commander out, we have a rape in the barracks. The worst thing that could happen in a unit is for the commander to say, This is no longer my problem. It is the commander's problem. Every commander I have met wants it to continue to be their problem, because when we have one member of a unit assaulting the other, it affects everybody in that unit. And the person we as a nation choose to run the finest military in the world—the commander—has the absolute authority to maintain that unit for readiness. If we don't give that commander the tools and hold them accountable, that unit will fall apart right in front of our eyes, because some lawyer somewhere is no substitute for the commander who is there every day.

Mrs. MCCASKILL. I would say to Senator AYOTTE, I am also struggling with some of the practical problems in this policy, and one of the things I can't figure out is why the amendment limits the ability to add any additional resources. It strictly prohibits the military from bringing additional resources to bear on this problem, which is counterintuitive to me. If the goal here is to do our very best job to protect victims, and the practical problem is we do not have enough of the level of JAG officers right now to set up these offices on a global basis, which means things are going to slow down because we don't have enough—I know the Senator from New Hampshire has been a prosecutor. Certainly there is nothing harder for a victim than justice delayed.

So in addition to it not increasing reporting, in addition to it not protecting from retaliation, in addition to removing commanders from their accountability, we also have some real practical implications.

Ms. AYOTTE. I thank the Senator from Missouri for her leadership. She is correct. She has prosecuted more of these cases than I think anyone in this body, so I appreciate her leadership.



Under the system that is put forward under the Gillibrand proposal—let me thank her for her passion about this issue as well—we know it prohibits funding and personnel. How does that work when we are going to set up a whole new system? I worry about the deployability of this system. When someone is in Iraq or Afghanistan and they are a victim, where are these JAG lawyers going to be? Will they be in Washington making these decisions? But we won't be able to put any additional resources toward it. So is this system still deployable?

There are other problems with implementation. There are big concerns about the right to a speedy trial. If that happens, as we know, then the defendant can't be prosecuted.

Eliminating the ability to plea bargain—we heard Senator REID speak about that, because this proposal eliminates two-thirds of the crimes from the UCMJ out of the authority of the commander, well beyond this issue of sexual assault, which we are committed to addressing. It also creates serious due process concerns. So there are serious implementation questions about this.

I wish to raise a question that keeps coming up: We need to hold the commanders more accountable. I agree with the Senator from Missouri. We cannot allow them off the hook. If we take them out of this equation, then there will be less accountability. Our proposal actually has it as part of how a commander is going to be judged, how the commanders handle these cases. That is not the status quo, because we want the chain of command to be more accountable. But we keep hearing we want victims to come forward, and the Senator from Missouri knows that from her experience as a prosecutor.

I would say this: Does the evidence support that more victims will come forward if we actually pass the Gillibrand proposal? Because why are we here. We want more victims to come forward. Will more victims see justice if this proposal is passed? Because this is ultimately what we are trying to get at.

Mrs. MCCASKILL. We have hard data on that. In fact, I think that is one of the reasons, if we look at this quote:

I went into this thinking Senator Gillibrand's legislation made sense, but when you hear the facts, it doesn't hold up.

That is an important quote, but even more important when we realize who said it. This is the woman who runs the National Center for Victims of Crime for our entire Nation. She heard 150 witnesses, representing many of the groups that have been referenced in this debate. She realized that when they looked at the data, our allies have done this, and not in one nation, after years of experience with changing the system, has the reporting increased.

The way we increase reporting is to give the victim a safe harbor, which we have done, to report outside the chain

of command, and to have their own lawyer, and to make sure they have power and deference in the process, which we have done, along with the reforms, on which I am very proud to have worked with Senator GILLIBRAND.

Mr. GRAHAM. Madam President, if we wanted to find the definition of leadership in 2014: MCCASKILL, AYOTTE, and the great Senator from Nebraska, three women taking on an issue head on. To those of my Democratic colleagues who are going to stick with making reforms without destroying a commander's role in the military: You deserve a lot of credit because people have been on your butt in the donor community to vote the other way.

To these ladies—and there have been plenty of people helping—they don't know how much it will be appreciated in the military. This is not a legal debate here. How many of my colleagues have done courts-martial? How many of my colleagues have court-martialed anybody in the military? I have done hundreds, as a prosecutor and as a defense attorney. This is not some casual event to me.

What Senator GILLIBRAND is doing is way off base. It will not get us to the promised land of having a more victim-friendly system to report sexual assaults. That is being accomplished because of the people I have just named: Senators FISCHER, AYOTTE, MCCASKILL, and Senator LEVIN. They have brought about reforms in terms of how a case is reported in the military, allowing a lawyer to be assigned to every victim. I cannot tell my colleagues how proud I am of what they have been able to accomplish. The U.S. military is going to have the most victim-friendly system of every jurisdiction in the land, including New York and South Carolina.

But this is about the commander. How many of my colleagues believe we have the finest military in the entire world? Every Member of this body would raise their hand. The question is why. Because we have the best lawyers in the world? No. Because we have the best commanders—men and women who are given the responsibility to defend this Nation and have power and responsibility that most of my colleagues could never envision. And if this is about sexual assault, why the hell are we taking barracks theft out of the commander's purview?

This is about liberal people wanting to gut the military justice system—social engineering run amok. I want to help victims, but I also want a fair trial. But the one thing I will not say to our commanders who exist in 2014: You are fired, because you are morally bankrupt. You don't have the ability to render justice in your unit because there is something wrong with you; your sense of justice is askew, so we are going to fire you and take away an authority you have had traditionally to make sure that your unit is ready to go to war, because we feel as though you are morally bankrupt. What other conclusion can we come to?

The next time we see somebody in the military who is a senior member of the 3 percent that Senator GILLIBRAND speaks about—it is only 3 percent who make these decisions. Who are these 3 percent? They are our wing commanders, our squadron commanders, our fleet commanders, our brigade commanders—the people we entrust and hold accountable for fighting and winning the war.

I say to my colleagues, if we care about what military lawyers think, every judge advocate general is begging us not to do this. The people we are going to give the power to don't want it because they understand that the commander is different than the lawyer. The first female judge advocate general of the Army has made an impassioned plea: Do not do this.

This is not a legal issue alone; this is about how to maintain the best military in the world.

I would conclude that if we want to create confusion in the ranks and if we want to tell every enlisted person who has to—should be—looking up to the commander, the Senate just fired your boss when it comes to these kinds of matters, but you should still respect him, that is a very confusing message.

I wish to end my speech with this: We have had some bad commanders. However, to those who command the military, I have confidence in you. You will take this system to a new level. You have to up your game, but I am not going to fire you. Thank you for commanding the finest military in the world. I will do nothing to say you are morally bankrupt, because I don't believe that.

Mrs. MCCASKILL. I have great respect for the Senator's time and for working in the trenches as a military prosecutor in the JAG corps. I will tell my colleagues honestly, I am less concerned about the commanders than I am the victims. The Senator and I maybe don't see it exactly the same way in that regard. I believe there are commanders who deserve to be held accountable for their failure to act, for their want to sweep this crime under the rug throughout history, but I think we are handing the broom to the prosecutors at this point based on the data we have.

One of the things I wanted to go over and mention to Senator AYOTTE is the systems response panel. I think it is important to understand—the DACOWITS panel was mentioned. I want everybody to understand the difference between the DACOWITS panel and the systems response panel. The DACOWITS panel has been in place for years, and they took up this matter and heard no witnesses from the JAG corps. In fact, I think they heard two witnesses or three witnesses and two of them were me and KIRSTEN GILLIBRAND. They took no time to really go deeply into this very complex subject.

The systems response panel was created by Congress, and it was for the purpose of giving us their clear eye of

advice on the best way to deal with this problem in the military.

This is a majority of civilians and a majority of women who made up this panel. They heard 150 witnesses over months. They heard from all of the people who are advocating for the Gillibrand proposal. They heard from the JAGs. They heard from victim organizations. They came out overwhelmingly rejecting this proposal.

One of the most interesting members—and I will be honest; when I went to testify in front of this response panel, I was very worried that Elizabeth Holtzman maybe would not agree with me. She has a long history in Congress. She wrote the Federal rape shield statute. I assumed she would begin this process assuming that in the simple equation of victims versus commanders, I take victims. If only it were that simple. What the response panel figured out is that it is not that simple.

Judge Holtzman, the judge who wrote the decision overturning DOMA, said:

Just turning it over to prosecutors doesn't mean you are going to get the results you are looking for.

And Elizabeth—this is what Elizabeth Holtzman said: “Just turning it over to prosecutors doesn't mean you are going to get the results you are looking for.” That is what Holtzman said.

Judge Jones: “There is no evidence that removing the convening authority is going to improve any of the parts of the system.”

That is startling, this response, from a panel that looked at it over months, 150 witnesses, majority civilians, majority women. This is not a bumper sticker. It is not as simple as it sounds. I would never oppose anything that I thought was going to help victims or put more perpetrators in prison—ever. This will have the opposite impact that many of the advocates are indicating that it will.

Ms. AYOTTE. Let me just say, this panel took on the key question. That is why we are doing this. I am doing this because I believe victims will get justice and there will be more accountability. I want to hold commanders more accountable for not only how they handle these crimes but also for that zero tolerance policy within their unit. That is why we want them judged on this basis.

That panel has looked at this issue of reporting and found that there is no evidentiary basis at this time to support a conclusion that removing senior commanders as the convening authority will reduce the incidence of sexual assault—which we want them to establish that climate within their unit to do so—or increase reporting of sexual assaults.

I would also say, if we want justice for victims, what about those 93 victims where the commander said: Bring the case forward, even though the JAG lawyer said no? They would not have gotten justice. So the evidence is the

opposite. What would we say to those victims? The evidence shows that actually commanders are bringing cases more frequently than their JAG's lawyers and over their objections.

The panel also found that none of the military justice systems of our allies was changed or set up to deal with the problem of sexual assault. So for those allies who have taken it out of the chain of command, this panel said that none of them can attribute any changes in the reporting of sexual assault to changing the role of the commander.

We were told from the beginning of this argument that our allies changed this so that more people would come forward. Well, they have not. In fact, what we learned is many of our allies changed it to protect defendants.

Mrs. MCCASKILL. Isn't it true that, in fact, our reporting is up?

Ms. AYOTTE. Our reporting has actually—since 2013, in the Marine Corps it is up 80 percent and in the Army it is up 50 percent. That is even before the legislation that we have all worked on to have special victims counsels for every single victim that we have already passed in this body.

Mr. GRAHAM. Will the Senator yield for just a second?

Ms. AYOTTE. Yes, I will.

Mr. GRAHAM. Why is it nobody seems to think taking the commander out of the loop is going to help the problem? Because you cannot solve the problem in the military unless the commander buys in. I cannot think of any change in the military that is major and substantial that can happen without the chain of command being held accountable and buying in.

I would like to say this. To those who believe our military is set up where a victim's case is never heard because you have some distant figure called the commander and they just put this stuff under the rug, O-6 commanders—the O-6 level are special court-martial convening authorities. General court-martial convening authorities are flag officers.

It is not rampant in the military, folks, where a JAG will go in to the commander and say: This is a case that needs to be prosecuted, sir, madam; and the commander says: I don't want to fool with this.

The opposite is true, where the JAG will say: Tough; and the commander says: Move forward.

Well, what have we done here. We have said to the command that if your judge advocate recommends prosecution in the four areas in question—sexual assault—and the commander refuses to prosecute, that decision is appealed to the Secretary of the service.

So if you are wondering about rogue commanders—and there are bad commanders—you are indicting the whole chain of command here, folks. That is why I am so emotional about this. You are indicting a class of Americans who deserve praise and a chance to get their act together where they failed.

But the bottom line is, if a commander refuses to—I ask unanimous consent for 1 minute—2 minutes.

Mrs. MCCASKILL. One minute.

Mr. GRAHAM. OK.

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

Mr. GRAHAM. If the commander refuses the JAG's recommendation, it goes to the Secretary of the service. If the JAG and the commander both say this is not a case we want to prosecute, when it is in the area of sexual assault, it goes to the commander's commander. So there are built-in checks and balances.

The key to fixing this problem is the commander. The key to maintaining a well-run military is the commander. The key to fighting and winning wars is the commander. The key to bringing justice to victims is the court-martial panel, the lawyers, the judge and the juries, and the commander. But the key to American military success over time has been the commander.

Madam President, 800 trials in Iraq and Afghanistan since 9/11. This is a nondeployable military justice system that Senator GILLIBRAND is trying to create. Please do not change the structure of the military because of this issue. Fix this issue. Preserve the structure of the military that has served us so well, and keep reforming.

To the Senators I have named, you have done those in the military—victims—a great service. For God's sake, Members of the Senate, do not change the structure of the military at a time we need it the most. Hold it more accountable, not less.

Mrs. MCCASKILL. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Madam President, I yield my time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Madam President, I first would like to thank Senators GILLIBRAND, MCCASKILL, AYOTTE, and FISCHER for their hard work on this issue, and my friend from South Carolina, who has worked passionately hard on this issue also.

As someone who strongly believes in bipartisanship, I am glad to see the Senate moving forward today on debating and voting on this particular issue.

While we may not all agree on how to best solve this particular issue, we can all agree that it is too important not to debate and ultimately vote on ways to address it.

Our military is the greatest fighting force the world has ever known. The freedoms we enjoy as Americans are because men and women continue to volunteer to serve and to protect our Nation.

The vast majority of these men and women serve with honor and integrity. However, there are a few bad actors in our military who commit crimes against their fellow servicemembers.

The question the Senate faces is whether or not the military justice system is equipped to properly handle sexual assault within the ranks.

After careful consideration, weighing all the facts, I feel the military today is not equipped, and that is why I support Senator GILLIBRAND's approach.

Like everyone else in this Chamber, I am disappointed we ever got to this point. No soldier should have their service degraded due to dishonorable conduct in the ranks. But there have been ample opportunities for the military to address this issue within its own ranks, and too much time has passed without this problem being resolved.

It is Congress's responsibility now to step in to protect the best America has to offer. Congress needs to address what is currently lacking for victims. Victims need to feel confident in reporting crimes of sexual assault. Victims must be protected from retaliation, and victims must be confident that justice will be served.

Senator GILLIBRAND's legislation will accomplish these goals.

If the Senate passes this bill today, loopholes in the military structure will no longer be an option to protect sexual assailants. These changes are long overdue and will hold the military to the highest standards that they strive towards.

I encourage the rest of my colleagues to join me in supporting her efforts and keeping our commitment to protect the men and women who are honorably serving our Nation.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Madam President, I yield Senator MCCASKILL's time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mrs. FISCHER. Madam President, I rise to speak in full support of the McCaskill-Ayotte-Fischer proposal that is before us today. It will only strengthen the historic reforms that have already been passed by this body to combat sexual assault in the military.

I also rise to express concerns with the Gillibrand proposal to remove commanders from this process because I believe that is going to undermine credibility and accountability.

I am glad we are having this debate on the floor because every Member of this Senate agrees that this is a problem that needs to be addressed.

Over the past year the members of the Armed Services Committee have focused on this issue. It cuts across ideology, across gender, and across regions. It also cuts across party lines.

I was happy to work across the aisle with Senator SHAHEEN on improving the standards for personnel responsible for sexual assault prevention. I was pleased to join with Senator BLUMENTHAL to ensure that victims' rights are protected under the Uniform Code of Military Justice.

I would argue that our efforts to fight sexual assault show Congress at its best. It is how we are supposed to work. So although we may disagree, we do share the same goals.

Senator MCCASKILL and Senator GILLIBRAND have both been real leaders in the Senate Armed Services Committee, which held that landmark hearing with our top commanders to explore the problem of sexual violence in the ranks last June.

The committee received input from all sides, and we, along with our House colleagues, passed a series of very meaningful reforms when we passed the National Defense Authorization Act. Those are reforms of which we can all be proud.

We stripped commanders of the ability to overturn jury convictions. We made retaliation against victims a crime. We required dishonorable discharge or dismissal for those convicted of sexual assault.

Now we are trying to strengthen that. We are trying to strengthen those great reforms with the McCaskill-Ayotte-Fischer legislation. I believe our proposal will do more to strengthen the rights of victims, and it will enhance the tools to prosecute the criminals.

Specifically, our bill extends the current protections to service academies. That is so important. That is in our bill. It boosts the evaluation standards for commanders—also important. It allows the victims increased input—extremely important. So rather than revamping the entire military justice system, which I believe carries massive risk, our proposal improves and updates the current system.

Unfortunately, the Gillibrand proposal, I believe, takes radical steps, and it undermines the commander's responsibility for his or her troops. Under that proposal, almost all crimes—from forgery to sexual violence—are removed from a commander's purview. It does not bring that focus to the challenge we are facing. Our proposal does.

The other proposal detaches the commander from his or her unit, and it removes all responsibility. I do not want to remove the responsibility from a commander. We trust these people to watch our best and our brightest, our children and our grandchildren, as they go into battle. We need to trust them in this as well.

Senator MCCASKILL brings a wealth of experience to bear on this topic from her days as a prosecutor, and I believe we should all be listening to her. She mentioned in November that the other proposal was "seductively simple." I agree. I agree that its simplicity cloaks a host of very complex policy problems. She has invested a lot of time on this issue. She has explained the technical problems, and I echo her concerns.

But I would like to underline one critical point to my colleagues. Many of our problems with the other proposal might appear to be minor proce-

dural details. However, experience tells us that it is exactly these sorts of problems that can grind a justice system to a halt, and they can damage a legal system.

That was the case in 2007, when Congress, armed with the best of intentions, modified the rape statute. Those hasty changes disrupted the judicial process and compelled Congress to rewrite the language. Do you know what happened? It delayed justice.

So I urge my colleagues and anyone interested in completely revamping that military justice system, you need to be certain that all the questions are resolved and you need to be certain that the implementation will be bullet-proof because anything less means delayed justice or no justice at all for the victims.

I can go on and talk about the commission that brought forth their recommendations that the justice remain with the commanders. They did not say take it away from the commanders. And the makeup of that commission? Mostly civilian and mostly female.

I hope my colleagues will remember these things, look at the facts, look at how we truly can address the needs of the victims, truly find them justice. Support the McCaskill-Ayotte-Fischer proposal, and I would ask that you not support the Gillibrand proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Madam President, I yield 5 minutes to my friend from Arizona, Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from Missouri. I want to profusely thank her and Senator AYOTTE and Senator FISCHER for their leadership on this very difficult and emotional issue which obviously is very unpleasant and very controversial and understandably so. We are talking about the livelihood, the right to function as members of the military, of women in the military.

It is a vital issue because there should be no organization that is at the level of the United States military for providing an equal opportunity and equal protection under the law than the United States military. When these young men and women join the military, they do something very unique; that is, they are willing to put their lives on the line for the defense of this country.

Therefore, because of this unique aspect of their lives, that they are willing to serve for the benefit of the rest of us, there is also the responsibility of those who command them. That is unique as well. Those who command in the military may have to make the toughest decision of all and to send these young people into harm's way. No other—no other—person in American society, outside of the President of the United States, has that responsibility.

So what we are really talking about today here is, will we hold those commanders responsible for anything that

happens within their command or will we take that responsibility and shift it over to a lawyer? That is what this is really all about. Right now we have units operating in Afghanistan.

Frankly, according to the Gillibrand proposal, if there was a charge, we may have to try to find some way to fly a lawyer in. I do not think that is either likely or agreeable. But the major point here is that we hold commanders responsible for what happens under their command. If they do not carry out those duties, then we relieve them of that command. If they are responsible for egregious conduct, we prosecute them.

I have had the great honor of command. I have had the great honor of commanding, at that time, the largest squadron in the U.S. Navy, some 1,000 people. There were a large number of women in that organization, even then, because it was a shore-based squadron. Now we have women throughout—I am happy to say—throughout the military, including combat roles.

I can tell you that in those days we had severe racial problems in the United States military. We had race riots on aircraft carriers. We held commanders responsible. We punished those who practiced discrimination. We had people in our chain of command that alerted and were responsible for the indoctrination and the good conduct of people who in any way showed a taint of discrimination. I am happy to say that I believe that the greatest equal opportunity organization in America today is the United States military.

We can do that with this severe and difficult and emotional issue of sexual assaults in the military. The exact wrong way to do that is to make the commanding officer less responsible because if you take the responsibility from that commanding officer, then you are eroding his ability to lead and, I would argue, their ability to fight.

We have the finest commanders in our military. We have the finest men and women who are serving in the military. We are the best military in the world. There is a reason for it. As we bring people up the ladder of promotion to positions of command, they are tested time after time. I trust these commanders. I trust them.

With the provisions in the McCaskill bill as we have today, we will preserve that command authority, but we will also have significant increases in oversight and accountability. But to take away that responsibility from the men and women who command these people, these outstanding men and women, and give to it a lawyer is not the way to go.

I hope my colleagues understand it. I also would ask one other thing before this vote. If any of my colleagues knows a member of the military whom they respect, call them. Call them and ask them whether they would think this proposal of the Senator from New York is in any way helpful to the good functioning of the military and the

elimination of sexual assaults. We share the same goal. There are vastly different ways to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I yield 5 minutes to the Senator from Hawaii.

(Mrs. GILLIBRAND assumed the Chair.)

Ms. HIRONO. Madam President, I rise today in support of the Military Justice Improvement Act. I commend Senator GILLIBRAND for her outstanding work on this effort and all the survivors of sexual assault in the military who have courageously worked with us on this bill.

I also appreciate the bipartisan effort to stop military sexual assaults from happening. While we all do not agree on how to get there, I know that all of us want to stop this terrible scourge in our military.

Every few years, when interest in this topic picks up, it stays relevant for a while, the military leadership promises to stamp out sexual assault in the military, and says that zero tolerance is the policy in place. Unfortunately, despite all of the good faith actions taken by the department as well as Congress, we are still at 26,000 incidents of rape, sexual assault, and unwanted sexual contact in the military.

This bill has nothing to do with telling commanders they are fired or that they are morally bankrupt. They should continue to be held accountable for creating a command climate where sexual assaults do not occur or certainly not occur by the tens of thousands.

This bill is focused on the victims, the survivors of these crimes. When we listen to them, they are in support of the Gillibrand bill. 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.

Again, commanders must create an environment where sexual crimes do not occur. Our proposed changes to the military justice system do not absolve a commander of these responsibilities. It is still their job to prevent these crimes. It is still their job to maintain good order and discipline.

I have heard opponents of this legislation say that good order and discipline would be lost if the commander no longer has the court martial disposition authority. I disagree. This is similar to saying, a corporal, a sergeant or a junior officer in a unit would not act in a professional and orderly manner with respect to their O-6 commander, because the commander could no longer decide whether to proceed to trial for a rape or other felony-level offense. That does not make sense. The commander is still responsible for doling out punishment for insubordination or other negative behavior. The commander is still responsible for maintaining the kind of good order

and discipline and a command climate where these crimes not occur in the first place. Historically, when changes to the status quo are proposed—these include the integration of military units, opening military specialties to women, and allowing gays and lesbians to serve openly—a familiar refrain from senior military leadership to block such changes was to claim that the proposed changes would destroy good order and discipline.

By all accounts, I would say that these successful changes to military policies do not destroy good order and discipline. When these crimes do occur, survivors deserve the ability to seek justice. They deserve a chain of command that will take their claims seriously and take appropriate action. We have data that show that many victims do not come forward because they do not trust that the chain of command within the current system will act impartially.

They feel that they might suffer retaliatory actions and ultimately do not report the crime. This allows the perpetrator to go free and commit additional crimes. The Gillibrand bill will increase trust and confidence in the system and help the survivors seek justice. It is time to make fundamental changes to how sexual assault cases are handled in the military.

Senator GILLIBRAND's bill 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 traditional process by increasing transparency, by increasing trust. It would also eliminate potential bias and conflicts of interest because unlike the commanding officer, the military lawyer would be unconnected to either the survivor or the accused.

I commend our colleagues once again, Senator GILLIBRAND and Senator MCCASKILL, for their tireless efforts to help survivors of sexual assault in the military. I would also commend Senator LEVIN, my Armed Services Committee colleagues, and many other Senators for working so hard on this difficult, painful issue.

We have instituted many positive changes in this area, but I urge my colleagues to take the next step and support the Gillibrand Military Justice Improvement Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Madam President, I join my colleagues today in a discussion about an issue that I think we all would agree is an issue that really tears at the heart, causes great anguish, as we think that those who have volunteered to serve our great Nation, who have agreed to put themselves on the front lines, would be in a situation where they would be made a victim—made a victim of military sexual assault and be put into a situation where

they do not know where to turn, they do not know if it is safe to speak up, and they do not know how to respond.

Our military men and women, we are proud to say, are the most professional, the most highly trained and skilled and qualified. We will match them against any. Yet, when we face these very troubling and difficult issues of military sexual assault, it is an underside of the military culture that we have not been able to sufficiently address and eradicate.

The most recent report of the Defense Department Sexual Assault Prevention and Response Office, which covers 2012, speaks to the statistics. These statistics have been reported so frequently on the floor of the Senate. We know them. We share them. We really agonize over them. An estimated 26,000 cases of unwanted sexual contact and sexual assault occurred in fiscal year 2012, a 37 percent increase from fiscal year 2011.

Some 25 percent of women and 27 percent of men who received unwanted sexual contact indicated that the offender was someone within their military chain of command. Then, the statistics that really just go to the heart of what we are talking about here today: Across the services, 74 percent of females and 60 percent of males perceived one or more barriers to reporting the sexual assault; 50 percent of male victims stated that they did not report the crime because they believed nothing would be done.

They have been victimized once, and now they do not believe that anything will happen if they speak. They do not believe that anything will be done with their report. Some 62 percent of victims who reported a sexual assault indicated that they perceived some form of professional, social or administrative retaliation, retaliation from the system that they have been trained to trust, to be there for one another, and yet now fear retaliation.

This report was such an eye-opener for many of us. It certainly has galvanized the issue to address where we are today, to truly put on the front burner of this body, the issue of what has happened with military sexual assaults and what we can do to address it. It has remained on the front burner, thanks to the persistent efforts of the Senator from New York to keep it there. She has relentlessly pursued the vote that we will take today.

Regardless of the outcome, I think that she should take pride, I think we should all take pride in what we have collectively accomplished.

I also note the very fine work of my colleague from Missouri, Senator McCASKILL, and her efforts, along with Senator AYOTTE, Senator FISCHER, and the Presiding Officer, to bring this issue to a level where we have seen changes made already, but the question that remains is, is there more that can be done.

This Congress has significantly improved the system through amend-

ments to the military justice system that were included in the National Defense Authorization Act. The services have also done their part to improve ways to improve their sexual assault and prevention programs, such as making sure that a Naval Academy midshipman need not be driven across the State of Maryland searching for a hospital that has a sexual assault nurse examiner on duty.

In my State of Alaska, the headlines over the past year, as they related to military sexual assault within the ranks of our National Guard units, stunned us all. I recently received a further briefing from our adjutant general and folks within the Alaska National Guard in terms of what they too are doing to address, within their own system, the changes that are absolutely necessary.

But the question is whether these changes will move the needle on these statistics we have just recited. In my view, it remains to be seen. Will they give the victims more confidence in the system? Will they deter offenders by increasing the certainty that there is going to be accountability if these acts are taken?

Today the Senate considers the Military Justice Improvement Act, a measure that provides victims with the certainty they need to have confidence in the system. If they don't believe the system is going to be there for them, if they don't believe it is going to work for them, they are not going to report it. They will not expose themselves again.

As I said on the Senate floor before, this is strong medicine. It is very strong medicine to any offender who believes that the "good old boys" system will permit him to escape the consequence of his actions. In my judgment, enactment of the Military Justice Improvement Act will lead to greater consistency in charging decisions. This, again, is a very important aspect. It will ensure that those decisions are based on the facts, the law, and not any external factor. That too offers an increment of protection to victims as well as to the offenders.

The current system of military judgment relies upon the individual decisions of commanders as to whether an offense is to be punished and which charges are to be brought. We recognize we have a complex military and there are many commanders. While our code of military justice may be uniform, recent history suggests that its implementation is, unfortunately, anything but uniform.

Some have called the Gillibrand proposal a radical solution and one that will make it impossible to maintain good order and discipline in the military. I don't buy that. These were some of the statements that were made several years back when we were considering don't ask, don't tell about 3 years ago.

The military is proving it is resilient enough to implement culture change—

and that is what this will take, is culture change. I believe they are resilient enough to implement a change of this magnitude, and it will be resilient enough to implement the Military Justice Improvement Act.

It is not a radical and novel solution to a difficult problem. In fact, many of our allied modern militaries have moved the decision on whether to prosecute sexual assault outside of the chain of command. They have done it. I believe it is high time we do as well.

Again, I commend those who have led so nobly on this effort to make sure that when those fine men and women stand to serve our country, there is ensured a level of justice, a level of uniformity of justice, and that we no longer see the devastating statistics we have, unfortunately, been faced with for far too long.

I yield the floor.

The PRESIDING OFFICER (Ms. HIRONO). The Senator from New York.

Mrs. GILLIBRAND. I ask that I be notified when 7 minutes remains.

The PRESIDING OFFICER. The Senator will be notified. The Senator has 4½ minutes remaining.

Mrs. GILLIBRAND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. I ask to be notified when there is 2 minutes remaining.

All of the arguments we have heard today are technical arguments, arguments about why we can't possibly do this. But the victims and the survivors of sexual assault have been walking this Congress for more than 1 year, asking that we do something to protect them, to give them a hope for justice.

It is not whether anyone in this Chamber trusts the chain of command. The people who do not trust the chain of command are the victims. Even General Amos has admitted that. He said the reason why a female marine does not come forward is because she does not trust the chain of command, that breach of trust. That fundamental breach of trust has been broken for victims of sexual assault.

Listen to the victims. Retired Marine LCpl Jeremiah Arbogast was drugged. He was raped. He got his perpetrator to tell what happened on tape and went through trial. His perpetrator got no jail time. He saw no justice.

He said: "I joined the Marines in order to serve my country as an honorable man, instead I was thrown away like a piece of garbage."

He attempted suicide, severed his spine, and now advocates for this measure from a wheelchair.

Those are the stories we are hearing from victims over and over.

Sarah Plummer, U.S. Marine Corps, said having someone within your direct

chain of command handling this case doesn't make sense and is like "getting raped by your brother and having your father decide the case."

That is the view and the perception of the survivors.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mrs. GILLIBRAND. I defer my remaining 2 minutes until after the Senator from Missouri.

Mrs. MCCASKILL. I yield 3 minutes to the Senator from New Hampshire, Senator AYOTTE.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. I thank the Senator from Missouri, and I thank the Senator from New York for her passionate and important debate. Let's not forget the work we have already done in the Defense authorization, ensuring that every victim will have his or her own attorney to represent their interests, taking commanders out of overturning verdicts, and making retaliation a crime. So we have done very important work.

But why are we here today? The issue is will more cases be prosecuted if we take it out of the chain of command?

Actually, no. There would be 93 cases under the current situation that wouldn't have been brought where commanders actually made a different decision than their military lawyer. What about those victims and those victims having their day in court? I want more victims to have their day in court.

As we think about it, why are we doing this? Some of our allies did it. We looked at that issue. Our allies haven't seen any greater reporting, so there is no evidence that we are going to have reporting. Many of them did it to protect defendants. We are here to protect victims today. We certainly want a system with due process, but this is about having more victims coming forward.

I also want to make sure people understand that under the system now they do not have to report to their commander. We had people come to the floor and say they shouldn't have to go to their boss. They can go to a sexual assault response coordinator, clergy, minister, civilian medical personnel. Already they can come forward if they don't feel comfortable coming forward to the commander.

No evidence has been presented that we are going to help victims more or that more cases will be prosecuted or more will come forward if we take it out of the chain of command. That is why I want to hold commanders more accountable, not less. That is what Senator MCCASKILL, Senator FISCHER, and I do in our proposal. We want to make sure they are not let off the hook. We want to make sure the victims can get not only justice but make sure they get swift justice. This proposal risks delaying that justice in the system.

I ask my colleagues to vote against Senator GILLIBRAND's proposal. I ask

my colleagues to say what will hold commanders more accountable. That is our proposal. I ask them to say where is the evidence that more evidence will be pursued or more cases will come forward. There is no evidence. Our proposal is based on the evidence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Madam President, I will take a couple of moments at the close of this very difficult debate to express my deep respect to the Senator from New York, Mrs. GILLIBRAND.

While many aspects of this debate have been hard, perhaps the hardest part of this debate has been that this disagreement on policy has overshadowed the amazing work so many have done this year to enact a different day in the U.S. military when it comes to sexual assault and victims of sexual assault.

When the Sun sets today, this body will have passed 35 major reforms in less than 1 year, making the military the most friendly victims organization in the world, giving victims more power, more leverage, holding commanders accountable, and holding perpetrators accountable. It will eliminate the ridiculous notion that how well one flies a plane should have anything to do with whether they committed a crime, professionalizing the process so that victims no longer endure a ridiculous amount of inappropriate questioning at what should be something like a preliminary hearing to establish probable cause, as opposed to some kind of rendering of questioning, torture to a victim who has come out of the shadows and is willing to go forward.

I know I can speak with confidence for Senator GILLIBRAND that she and I have walked lockstep on those 35 reforms. We have disagreed on one. I know in the future she and I will work very hard together to make sure our military does the right thing by victims and puts perpetrators where they belong—in prison—and out of the ranks of the military where they stain the good name of the bravest men and women in the world.

I thank all of my colleagues for their patience during this debate. I know this has been tough for everyone. But I stand with years of experience, holding the hands and crying with victims, with many victims, who have spoken to me and other organizations, knowing that what we have done is right for victims and right to hold perpetrators accountable.

I respectfully request that people support our amendment today and reject the one area of policy on which the great Senator from New York and I disagree.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. I want the focus where it needs to be. This is not an opportunity to congratulate ourselves on

the great reforms we have done. All of the reforms we have passed today are meaningful and useful, but this problem isn't even close to being solved. Under the best-case scenario, 2 out of 10 case are being reported today.

Let's refocus on what is actually happening in our military today. Let's focus on what U.S. Air Force veteran Amn Jessica Hinvies said:

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

She was speechless. She had been promised a court hearing, and she was told 2 days before the commander had stopped it.

Trina McDonald, U.S. Navy veteran, said:

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

She did not report these attacks.

Continuing:

The people that were involved in my assaults were police personnel, security personnel, higher-ranking officers, the people that I would have to go and report.

Last but not least is Lt. Ariana Klay, U.S. Marine Corps. Her home was broken into by two colleagues and she was raped brutally. She ultimately reported the crime and attempted suicide. Her perpetrator was convicted—and convicted of what? Not breaking and entering, not rape—calling her a slut.

The thing that makes me most angry is not even the rape itself; it's the commanders that were complicit in covering up everything that happened.

CLOTURE MOTION

The PRESIDING OFFICER. All time for debate has expired.

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1752, a bill to reform procedures for determinations to proceed to trial by court-martial for certain offenses under the Uniform Code of Military Justice, and for other purposes.

Harry Reid, Kirsten E. Gillibrand, Barbara Boxer, John D. Rockefeller IV, Tammy Baldwin, Benjamin L. Cardin, Patrick J. Leahy, Debbie Stabenow, Richard Blumenthal, Christopher A. Coons, Claire McCaskill, Jon Tester, Mark Begich, Barbara Mikulski, Maria Cantwell, Charles E. Schumer, Dianne Feinstein.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 1752, a bill to reform procedures for determinations to proceed to trial by court-martial for certain offenses under the Uniform



Code of Military Justice, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 59 Leg.]

#### YEAS—55

Baldwin	Grassley	Murphy
Begich	Hagan	Murray
Bennet	Harkin	Paul
Blumenthal	Heinrich	Pryor
Booker	Heitkamp	Reid
Boxer	Heller	Rockefeller
Brown	Hirono	Sanders
Cantwell	Johanns	Schatz
Cardin	Johnson (SD)	Schumer
Casey	Klobuchar	Shaheen
Collins	Landrieu	Stabenow
Coons	Leahy	Udall (CO)
Cruz	Markey	Udall (NM)
Donnelly	McConnell	Vitter
Durbin	Menendez	Walsh
Enzi	Merkley	Warren
Feinstein	Mikulski	Wyden
Franken	Moran	
Gillibrand	Murkowski	

#### NAYS—45

Alexander	Flake	Nelson
Ayotte	Graham	Portman
Barrasso	Hatch	Reed
Blunt	Hoeven	Risch
Boozman	Inhofe	Roberts
Burr	Isakson	Rubio
Carper	Johnson (WI)	Scott
Chambliss	Kaine	Sessions
Coats	King	Shelby
Coburn	Kirk	Tester
Cochran	Lee	Thune
Corker	Levin	Toomey
Cornyn	Manchin	Warner
Crapo	McCain	Whitehouse
Fischer	McCaskill	Wicker

The PRESIDING OFFICER. On this vote the ayes are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The bill is returned to the calendar.

#### VICTIMS PROTECTION ACT OF 2014

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1917.

The bill clerk read as follows:

A bill (S. 1917) to provide for additional enhancements of the sexual assault prevention and response activities of the Armed Forces.

The PRESIDING OFFICER. The majority leader.

#### CLOTURE MOTION

Mr. REID. Madam President, I have a cloture motion which has been filed at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1917, a bill to provide for additional enhancements of the sexual assault prevention and response activities of the Armed Services.

Harry Reid, Claire McCaskill, Kirsten E. Gillibrand, Tammy Baldwin, John D. Rockefeller IV, Benjamin L. Cardin, Patrick J. Leahy, Debbie Stabenow,

Richard Blumenthal, Christopher A. Coons, Barbara Mikulski, Barbara Boxer, Jon Tester, Mark Begich, Maria Cantwell, Charles E. Schumer, Dianne Feinstein.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we expect this next vote will be the last rollcall vote until Monday.

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1917, a bill to provide for additional enhancements of the sexual assault prevention and response activities of the Armed Services.

Harry Reid, Claire McCaskill, Kirsten E. Gillibrand, Tammy Baldwin, John D. Rockefeller IV, Benjamin L. Cardin, Patrick J. Leahy, Debbie Stabenow, Richard Blumenthal, Christopher A. Coons, Barbara Mikulski, Barbara Boxer, Jon Tester, Mark Begich, Maria Cantwell, Charles E. Schumer, Dianne Feinstein.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 1917, a bill to provide for additional enhancements of the sexual assault prevention and response activities of the Armed Forces, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 60 Leg.]

#### YEAS—100

Alexander	Gillibrand	Murphy
Ayotte	Graham	Murray
Baldwin	Grassley	Nelson
Barrasso	Hagan	Paul
Begich	Harkin	Portman
Bennet	Hatch	Pryor
Blumenthal	Heinrich	Reed
Blunt	Heitkamp	Reid
Booker	Heller	Risch
Boozman	Hirono	Roberts
Boxer	Hoeven	Rockefeller
Brown	Inhofe	Rubio
Burr	Isakson	Sanders
Cantwell	Johanns	Schatz
Cardin	Johnson (SD)	Schumer
Carper	Johnson (WI)	Scott
Casey	Kaine	Sessions
Chambliss	King	Shaheen
Coats	Kirk	Shelby
Coburn	Klobuchar	Stabenow
Cochran	Landrieu	Tester
Collins	Leahy	Thune
Coons	Lee	Toomey
Corker	Levin	Udall (CO)
Cornyn	Manchin	Udall (NM)
Crapo	Markey	Vitter
Cruz	McCain	Walsh
Donnelly	McCaskill	Warner
Durbin	McConnell	Warren
Enzi	Menendez	Whitehouse
Feinstein	Merkley	Wicker
Fischer	Mikulski	Wyden
Flake	Moran	
Franken	Murkowski	

The PRESIDING OFFICER (Ms. WARREN). On this vote the yeas are 100, the nays are 0. Three-fifths of the Senators

duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the previous order, the Senate vote on passage of S. 1917 at 5:30 p.m. on Monday, March 10, with all other provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### EXECUTIVE SESSION

Mr. REID. Madam President, I now ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 504, 513, 640, and 547, as provided under a previous order entered by this body.

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

#### NOMINATION OF KATHRYN D. SULLIVAN TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE

#### NOMINATION OF RHONDA K. SCHMIDTLEIN TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION

#### NOMINATION OF R. GIL KERLIKOWSKIE TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY

#### NOMINATION OF MICHAEL A. HAMMER TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of Kathryn D. Sullivan, of Ohio, to be Under Secretary of Commerce for Oceans and Atmosphere; Rhonda K. Schmidlein, of Missouri, to be Member of the United States International Trade Commission; R. Gil Kerlikowske, of the District of Columbia, to be Commissioner of Customs, Department of Homeland Security; Michael A. Hammer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

#### VOTE ON SULLIVAN NOMINATION

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided in the usual form prior to a vote on the Sullivan nomination.

Mr. REID. Madam President, I yield back any time that is available.