



Chairwoman Speier and Ranking Member Kelly, thank you for the opportunity to appear before you on this vitally important topic for our nation's security. As a brief introduction, I retired after 23 years service as an Air Force JAG, and during that time, I served twice as a defense counsel, multiple times as a prosecutor, including as the chief prosecutor for Europe and Southwest Asia, and as the chief prosecutor for the Air Force. I have served as a trial judge and had been selected to serve as an appellate judge when I elected to retire. For the last four years I have served as the president of Protect Our Defenders, a human rights organization that fights for survivors of military sexual trauma. We provide attorneys free of charge, and I myself represent clients going through the often-hostile military justice process. During this time I have talked with hundreds of survivors including those from all of the service academies.

The report released 31 January 2019 concerning estimates of prevalence rates at the service academies is devastating. You have already heard the numbers: 747 sexual assaults and rapes. You have also heard the prevalence rates: almost 16% of women cadets and midshipmen and 2.4% of men. These are sobering estimates, especially compared to the active force. Women attending our service academies are approximately four times more likely to be sexually assaulted than those on active duty. Yet, accountability for perpetrators is almost nonexistent. Last year, only four offenders were convicted at a court-martial for their offenses, and a tiny handful were discharged.

This should be a wake-up call for academy leadership. The failure to weed out perpetrators means that hundreds of sex offenders are commissioned into the active force every year. This fact appears to have never been acknowledged by academy leadership or the active force. We can only imagine the impact this has on the military's ability to address sexual assault and harassment throughout the services.

A service academy commission undoubtedly gives an officer an advantage in the competition for promotions, command, and ultimately the attainment of general and flag rank. The last three Chiefs of Staff of the Air Force have been Air Force Academy graduates, as have five of the last seven. The current Chief of Naval Operations received his commission from the Naval Academy. The academies have an impact on the active force much greater than the actual numbers of their graduates. It is for this very reason Congress, the President, and the American people must demand more from the academies' leaders and their efforts to end this scourge. What does it say for the active force when far too many of its future leadership come from institutions with rampant epidemics of sexual harassment and assault?

I fear this reality has not been accepted by leadership. I also fear the leadership does not understand the level of distrust many survivors have of the chain of command. When I talk with academy survivors, the constant I hear is the fear of leadership –the fear leadership won't believe them, the fear leadership will not hold the offender accountable, and the fear that leadership will drive them from the academies if they report. Thirty one percent of the women at the Air Force Academy and 32% of the women at the Naval Academy do not believe senior leadership is making honest and reasonable efforts to stop sexual assault.

Is it any wonder when women are much more likely to be forced out of the academies than they are to see their perpetrator held accountable that reporting rates are so dismal. Despite sexual assaults being up 50% from two years ago and double from four years ago, report rates as a percentage have plummeted. Unrestricted reports have dropped to about 8% of total sexual assaults while restricted reports have increased. This cannot stand. If survivors do not have confidence to come forward, offenders will never be held accountable and will populate the leadership of each of our services.

Accountability is a key element in stopping sexual assault, yet it is rarely mentioned by leadership. Instead, it appears leadership believes it can train its way out of the crisis. This is demonstrably a false assumption. Training has been a constant over the last twenty years, yet sexual assault rates are skyrocketing. The other constants have been abysmal reporting, prosecution and conviction rates. For the rare conviction, sentences are typically very light. The bottom line is that offenders know the odds are exceedingly small they will ever be punished.

Leadership controls every aspect of the discipline process. They demand this control and resist all efforts to reform an archaic justice process. It is time for leadership to accept the reality that they have failed since 2003 to drive rates down. For decades, we have heard how the next program they have instituted will finally succeed. We are hearing it again. The time has come to demand more than empty promises that it will be better next time. The superintendents have almost unfettered control over the academies. What tool have they lacked these last two decades to fix this problem? All the past promises have failed. Until Congress starts demanding changes, we will continue the cycle of failure followed by promises to do better next time.

As in the broader military services, commanders have failed to lead the justice process. We should either empower military prosecutors to lead the process and decide whether to prosecute cases, or if necessary, turn over all academy cases to the relevant civilian justice systems.

I look forward to any questions you may have.