

Hearing Opening Remarks

Dr. Ellen Haring, CEO

Service Women's Action Network

Thank you for allowing me to make remarks today on this important topic. I'm the CEO of the Service Women's Action Network. I retired from the Army in 2014 after 30 years of service. I'm a West Point Graduate and I have a master's degree in public policy and a PhD in conflict analysis and resolution from George Mason University. I have taught at the Army's Command and General Staff College, the Army War College and Georgetown University. My research and work focus on women and gender in the military.

I commanded 2 Army units during my military career. During my very first Army assignment one of my soldiers was murdered and I closely watched as the criminal investigation and subsequent conviction unfolded but at the unit level, we had no involvement in the investigation. Later, one of my soldiers was charged with selling drugs in the barracks. He was immediately locked up in pre-trial confinement and the only thing we did was make health and welfare visits to ensure he was being treated properly. Years later, in 1997, when I was a major stationed in Hawaii I was assigned as the investigating officer in 3 rape cases. I am not an MP/CID or a JAG and I have no training in how to investigate a sex crime. Although I found the 3 Soldiers who had been raped to be credible victims the perpetrator, an NCO, was eventually reassigned to another unit. I juxtapose these experiences to illustrate the very different ways the military has approached how felony crimes have been handled over the years. Sex crimes against women have never been treated with the same level of outrage or professionalism as other serious crimes. Fortunately, and to the credit of members of Congress, the Army is no longer allows an untrained officer to investigate cases of rape but other problems persist.

First, while military officers and those selected for command receive a great deal of training, they receive little legal training. Having taught at two of the Army's premier service colleges I can tell you that their legal training is superficial at best and only senior level commanders have JAG officers assigned to their staffs to advise them and these JAG officers are generalists, not prosecutors. Furthermore, the JAG officers assigned to senior leaders are always junior and subordinate to

the Commanders that they advise. This means that they are evaluated and rated by their bosses and are therefore subject to command influence. They are not independent nor are they experts in sex crimes.

Second, at SWAN we hear from and work with survivors on a daily basis. Their stories are always similar. If they decide to come forward and report they are generally not believed, they are seen as creating a problem where none existed before and they almost always suffer retaliation. They consistently tell us that their commanders failed them in profound ways. As a former Commander I can tell you that I would not want to have to decide if or when to move forward with the investigation of a sex crime because I know that I my knowledge and expertise is limited. Furthermore, there are simply too many possible conflicts of interest for Commanders to be the best decision makers in sex crime cases not to mention that fact that there are Commanders themselves who have been perpetrators.

Finally, the next panel is going to sit here and say that Commanders must stay in the decision-making process in order to maintain “good order and discipline” a nebulous concept that they won’t first define. However, all of our European allies have removed their Commander’s from the decision-making process but “good order and discipline” has not melted away in their military organizations. The panel will likely tell you that the US military is exceptional and cannot be compared to our allies. If we are so exceptional then why must our Commanders have a degree of authority over their subordinates that our allies don’t need in order to maintain the same level of good order and discipline.

At SWAN we support removing Commanders from the decision-making process because doing so will send a signal that there are certain crimes for which they are not qualified to make decisions on. Culture is ultimately at the root of our sexual assault problem in the military. Sexual assault is simply not seen as a serious crime. Until it’s viewed as a serious crime and treated as a felony it will continue to pervade our culture. Removing Commander’s from the decision-making process sends the signal that there are some crimes that are so severe that Commanders have no place in deciding if, when or how they are prosecuted. I believe that it will fundamentally shift how we view sexual assault and ultimately impact our culture in a way that says this behavior is absolutely unacceptable.

I look forward to your questions.

