

Hegseth censured Sen. Mark Kelly for saying things he's said

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[Texas](#)

Pete Hegseth censured Sen. Mark Kelly for saying things he himself said

The defense secretary is going after the Arizona Democrat's Navy pension. He says Kelly undermined 'good order' by telling troops they can refuse illegal orders. Hegseth has said the same thing.

U.S. Sen. Mark Kelly, seen in the U.S. Capitol in October 2025, is a former Navy combat pilot and NASA astronaut. His videotaped statement that service members can reject unlawful orders triggered an angry response from President Donald Trump and Defense Secretary Pete Hegseth.

Tom Williams/CQ-Roll Call, Inc via Getty Imag



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He said the Pentagon was led by “political generals” who got ahead by embracing progressives’ pet causes: “social justice, gender, climate extremism crap.”

He castigated the secretary of defense and the chairman of the Joint Chiefs of Staff, both African Americans, as mediocrities who owed their positions to race, not merit.



Defense Secretary Pete Hegseth served in Iraq and Afghanistan as an Army National Guard officer.
Alex Brandon/Associated Press



Defense Secretary Pete Hegseth speaks during a ceremony at Camp Pendleton, Calif., in October 2025 marking the 250th anniversary of the Marine Corps.
Gregory Bull/Associated Press



Defense Secretary Pete Hegseth visits members of the 3rd Ranger Battalion at Fort Benning, Ga., in September 2025.
Spc. Luke Sullivan/75th Ranger Regiment



U.S. Sen. Mark Kelly, an Arizona Democrat, flew attack planes for the Navy and later took part in four space shuttle missions as a NASA astronaut.

Bill Clark/CQ-Roll Call, Inc via Getty Imag

He said the Defense Department had been hollowed out by “total institutional corruption.”

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[Pete Hegseth](#), a former infantry officer in the Army National Guard, faced no punishment for making these statements [on a podcast on Nov. 7, 2024](#), or for his even harsher criticisms of the military in a best-selling book the same year.

It was a different story, however, when [U.S. Sen. Mark Kelly](#), a retired Navy captain and harsh critic of the Trump administration, put out a video in November telling members of the military, “You can refuse illegal orders.”

Hegseth, now secretary of defense, called the former NASA astronaut’s comments “seditious,” slapped him with a formal letter of censure and directed the secretary of the Navy to review whether Kelly should be demoted and his pension slashed.

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Kelly's remark about illegal orders, which experts say simply restated military law, seems mild compared with Hegseth's own statements and writings. And Hegseth himself has said previously that troops should reject unlawful orders. So why is the senator facing disciplinary action and the defense secretary isn't?

That question has animated Trump administration critics and experts on military law, who see a double standard at work.

The disparate treatment is partly a matter of rules and hierarchy. Kelly, as a retired active-duty officer on a pension, remains subject to the Uniform Code of Military Justice and provisions that bar officers from disrespecting the chain of command or undermining "good order and discipline."

But the UCMJ does not apply to former members of the National Guard. As a result, Hegseth was free to disparage the Defense Department and uniformed leaders in his appearance on "The Shawn Ryan Show" podcast and in his 2024 book, "The War on Warriors: Behind the Betrayal of the Men Who Keep Us Free."

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"Hegseth said all those things as a pure civilian," said retired Air Force Lt. Col. [Rachel VanLandingham](#), a professor at Southwestern Law School in Los Angeles.

But that's only part of the explanation for why Kelly is in the hot seat and Hegseth isn't. The other part: Hegseth, who became defense secretary in January 2025, has the power to go after Kelly and is using it. It's of a piece with President Donald Trump's use of the Justice Department to initiate prosecutions of his political adversaries.

"It sends a chilling effect to service members — retired service members especially across the country, but anybody who served in the military and any U.S. citizen — that if you speak out against this president, they're going to come after you," Kelly told NPR's Morning Edition.

Kelly has filed suit in federal court to block Hegseth's move to reduce his rank and pension.

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"It appears that never in our nation's history has the executive branch imposed military sanctions on a member of Congress for engaging in disfavored political speech," Kelly's lawyers said in a court filing. "Allowing that unprecedented step here would invert the constitutional structure by subordinating the legislative branch to executive discipline and chilling congressional oversight of the armed forces."

'Our laws are clear'

The controversy stems from [a Nov. 18, 2025, video](#) featuring Kelly and five other Democratic senators and House members who served in the armed forces or in intelligence agencies.

The six elected officials were concerned by Trump's deployment of National Guard units to Democrat-led cities, the president's threat to use active-duty troops to quell protests and a string of military attacks on boats in the Caribbean allegedly used by drug traffickers. The strikes have killed more than 100 people, and some legal experts have said they likely are in violation of the laws of war.

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In the video, titled "Don't Give Up the Ship," the six Democrats appeal to military members to honor the public's trust in them and remember the oath they took to uphold the constitution.

Kelly then says, "Our laws are clear — you can refuse illegal orders," a statement echoed by the five others.

Troops are told the same thing in basic training.

"They were restating the law accurately," [Eugene Fidell, a Coast Guard veteran and senior research scholar at Yale Law School](#), said of the six officials.

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Hegseth, however, said Kelly's conduct was "prejudicial to good order and discipline" and could "undermine the chain of command." President Donald Trump went further, calling Kelly and the other Democrats "traitors" whose statements could be "punishable by death."

Hegseth's letter censuring Kelly said the video was part of "a sustained pattern of public statements" by the senator that warranted punishment. He cited statements in which Kelly defended the video, asserted that he would not be intimidated by Hegseth or Trump, and criticized the defense secretary for firing of dozens of admirals and generals over the last year and replacing them with "yes men."

"When viewed in totality, your pattern of conduct demonstrates specific intent to counsel service members to refuse lawful orders," Hegseth wrote.

'Highly improper'

The defense secretary initially threatened to recall Kelly to active duty to face a court-martial for conduct unbecoming an officer. Hegseth later reconsidered and opted instead for a letter of censure and administrative action targeting Kelly's rank and retirement pay. Kelly retired from the Navy in 2011 as a captain, the sixth-highest of 10 officer grades, just below rear admiral.

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[Geoffrey Corn](#), a law professor and former Army officer, said it appears Hegseth backed down from a court-martial because he realized his case against Kelly was weak.

All the same, Corn said Hegseth exceeded his authority in directing Navy Secretary John Phelan to initiate a grade determination proceeding to review Kelly's rank and retirement pay.

"Under the statute ... it is the secretary of the Navy and not the secretary of defense that is vested with the authority to initiate a retirement grade reduction procedure," said Corn, the George R. Killam Jr. chair of criminal law and director of the Center for Military Law and Policy at Texas Tech University School of Law. "I think the statute is clear that (Hegseth) does not have the authority to direct that process."

Fidell said it's doubtful Hegseth had legal authority even to censure the senator.

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He said that under the UCMJ, commanding officers and service secretaries can impose administrative punishments such as letters of censure or reprimand — but the secretary of defense, he said, lacks authority to do so.

"He is therefore operating outside the statutory framework, even though the letter he issued effectively convicts Sen. Kelly of offenses under the UCMJ," Fidell said.

"Hegseth is arrogating that power to himself," Fidell said. He called it "highly improper."

Kelly, 61, a New Jersey native whose mother and father were police officers, graduated from the U.S. Merchant Marine Academy and became a naval aviator, flying the A-6E Intruder attack plane. He [flew 39 combat missions](#) during the first Iraq War in 1990-91.

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In 1996, he became a NASA astronaut — technically on loan from the Navy — and made four space shuttle flights to the International Space Station, two of them as mission commander. He was awarded two Distinguished Flying Crosses, among other honors.

In January 2011, his wife, then-U.S. Rep. Gabby Giffords, an Arizona Democrat, was shot in the head and severely wounded in a mass shooting in Tucson. Kelly retired from the Navy and NASA to help her with her recovery. Giffords resigned from Congress in 2012, and the couple co-wrote two books and campaigned for gun safety laws.



Former U.S. Rep. Gabby Giffords visits a memorial in Uvalde to victims of the 2022 Robb Elementary School shooting. Gifford herself was seriously wounded in a 2011 mass shooting in Tucson, Ariz. She is the wife of U.S. Sen. Mark Kelly.

Sam Owens/San Antonio Express-News

Kelly was elected to the Senate in 2020 in a special election to fill the seat left vacant by the death of Republican John McCain. Kelly was reelected in 2022. He said recently that he [is considering running for president](#) in 2028.

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'God wills it'

Hegseth, 45, grew up in Minnesota and went to Princeton University, where he published a conservative student paper, the Princeton Tory. After graduating in 2003, he was commissioned as a second lieutenant in the Army National Guard.

He served as a guard at the U.S. terrorist detention camp at Guantanamo Bay, Cuba, and later deployed to Iraq and Afghanistan. He was an infantry platoon leader in Baghdad, and in Afghanistan, as he wrote later, he "pulled bodies out of burning vehicles." Hegseth was awarded two Bronze Star Medals.

After leaving the military, he led a veterans' organization, Vets for Freedom, and launched a short-lived campaign for a Minnesota U.S. Senate seat in 2012. In 2014, he became a Fox News contributor and later a host for Fox & Friends Weekend and Fox Nation. He gained prominence as a conservative voice on military affairs and wrote five books.

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He also remained active in the National Guard, and in January 2021 he was expecting to be among Guard troops providing security for the inauguration of President-elect Joe Biden. But a fellow service member identified Hegseth to higher-ups as a possible "insider threat" because of [a tattoo on his right bicep](#) that said "Deus Vult," Latin for "God wills it." The motto, once a Crusader battle cry, is commonly used by Catholics and conservative Christians but has also been adopted by some white supremacist groups.

By Hegseth's account, it was a tattoo of a Jerusalem Cross, a medieval symbol associated with the Crusades, that brought him under suspicion. Either way, he was barred from working the inauguration, and he resigned from the military, embittered.

"Twenty years ... and the military I loved, I fought for, I revered ... spit me out," he wrote later. "I separated from an Army that didn't want me anymore. The feeling was mutual."

Hegseth and Trump had developed a rapport years earlier, and in November 2024, a week after Hegseth's appearance on "The Shawn Ryan Show," the president-elect nominated him to be secretary of defense. Hegseth was confirmed by the Senate in a 51-50 vote, with Vice President J.D. Vance casting the tie-breaking vote.

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Air Force Gen. Charles Q. Brown Jr., center, a San Antonio native and former F-16 fighter pilot, was just the second African American to serve as chairman of the Joint Chiefs Staff. Defense Secretary Pete Hegseth, right, fired Brown without explanation in early 2025.
Chip Somodevilla/Getty Images

'Cowards with stars'

Hegseth's effort to punish Kelly for things he said has raised eyebrows because of Hegseth's own history of freewheeling, often caustic rhetoric directed at the military.

In "The War on Warriors," he questioned how Air Force Gen. Charles Q. "C.Q." Brown Jr., an African American, came to be named chairman of the Joint Chiefs of Staff.

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"Was it because of his skin color? Or his skill?" Hegseth wrote of Brown, a four-star general, former F-16 fighter pilot and San Antonio native. "We'll never know, but always doubt — which on its face seems unfair to C.Q. But since he has made the race card one of his biggest calling cards, it doesn't much matter."

Shortly after becoming defense secretary, Hegseth fired Brown without stating a reason.

In his book, Hegseth also took potshots at his own predecessor, Lloyd J. Austin 3d, and Mark A. Milley, a former chairman of the Joint Chiefs. By his account, the two four-star Army generals allowed racial preferences and “woke” ideology to undermine military morale and combat readiness. Hegseth called them “cowards with stars, complicit as they laud the enemy within.”

He also attacked the judge advocate general corps, the military lawyers who advise on the permissible use of force in combat. Hegseth maintained that JAG officers went to such extremes in trying to prevent combat operations from harming civilians that they put U.S. troops in danger. In his book, he refers to JAG officers as “jag-offs.”

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In his two-hour, 27-minute appearance on “The Shawn Ryan Show,” hosted by a retired Navy SEAL, Hegseth ridiculed the Defense Department’s DEI programs, saying, “The dumbest phrase on planet Earth in the military is, ‘Our diversity is our strength.’”



Army Gen. Mark A. Milley, right, then chairman of the Joint Chiefs of Staff, with President Donald Trump during a meeting with senior military leaders in the White House Cabinet Room in 2019.

BRENDAN SMIALOWSKI/AFP via Getty Images

He declared, “I’m straight up just saying we should not have women in combat roles. It hasn’t made us more effective, hasn’t made us more lethal, has made fighting more complicated.”

When Ryan asked how the military's problems could be fixed, Hegseth replied: "Any general, admiral, whatever, that was involved in any of the DEI woke (expletive) has got to go."

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At the same time, Hegseth has consistently endorsed the principle that soldiers should not carry out unlawful orders.

In [a 2016 appearance](#) before the Conservative Forum of Silicon Valley, he tempered his criticism of judge advocates general by asserting that U.S. troops are bound by "a standard, an ethos," and that "abject war crimes" merit punishment.

"That's why the military said it won't follow unlawful orders from their commander in chief," Hegseth said. CNN was first to unearth and report on the decade-old video.

In [an appearance on Fox & Friends the same year](#), Hegseth said, "You're not just going to follow that order if it's unlawful." He was responding to a controversy over then-candidate Trump's suggestion that the military should kill terrorists and also their children and other family members.

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Hegseth underscored his stance while appearing on a [Fox Business roundtable, also in 2016](#): "The military's not going to follow illegal orders."

'Command influence'

The proceeding over whether Kelly's rank and pension should be reduced will be heard by a grade determination board made up of active-duty Navy officers whose ranks are higher than Kelly's. Kelly will have an opportunity to submit a rebuttal, and a majority vote will determine the outcome.

If the board rules against Kelly, he would be able to appeal to the Board for Correction of Naval Records. Depending on the result, Kelly could take the matter to federal court.

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Among the defenses available to Kelly is the Speech and Debate clause of the U.S. Constitution, which is generally understood to grant members of Congress legal immunity for their legislative actions and political expression.

Legal experts say Hegseth may have inadvertently helped Kelly's cause with a Jan. 5 post [on X](#) in which he appeared to prejudge the case, referring to "Captain (for Now) Kelly's reckless misconduct."

"It's just like command influence," Corn said, referring to instances in which a senior officer's opinions undermine the impartiality of a court-martial or other proceeding. "He doesn't have a chance at a fair process because the secretary has decided the outcome."

Sig Christenson is a senior reporter for the Express-News covering the military and has been with the news organization since 1997. He can be reached at sigc@express-news.net.

He embedded with the 3rd Infantry Division during the Iraq invasion, and reported from Baghdad and Afghanistan seven times since. A University of Houston graduate, he covered the Branch Davidian siege, the 2003 space shuttle breakup, the 2009 Fort Hood shooting and its subsequent legal proceedings, as well as hurricanes, tropical storms and floods.

He's won awards from Hearst Newspapers and the Associated Press, was named "Reporter of the Year" by his peers in 2004 and is a co-founder and former president and board member of Military Reporters & Editors, established in 2002.