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CHAIRMAN OF THE JOINT CHIEFS OF STAFF

WASHINGTON, D.C. 20318-9999



19 MAY 2021

The Honorable James M. Inhofe
United States Senate
Washington, DC 20515/20510

Dear Senator Inhofe:

Thank you for your continued support and sincere interest in assessing the impact of proposed legislation on the Armed Forces. As I understand the scope of the "Military Justice Improvement and Increasing Prevention Act of 2021," the draft bill would remove the commander from decisions for all non-military offenses and felony cases punishable by one year or more, including the following: prohibited activities with military recruits or trainees by a person in position of special trust; wrongful broadcast or distribution of intimate visual images; murder; manslaughter; death or injury of an unborn child; child endangerment; rape and sexual assault; mails: deposit of obscene matter; rape and sexual assault of a child; other sexual misconduct; larceny and wrongful appropriation; fraudulent use of credit cards, debit cards, and other access devices; false pretenses to obtain services; robbery; frauds against the United States; bribery; graft; kidnapping; arson, burning property with intent to defraud; extortion; aggravated assault; assault with intent to commit murder, voluntary manslaughter, rape, sexual assault, rape of a child, sexual assault of a child, robbery, arson, burglary, or kidnapping; maiming; domestic violence; stalking; perjury; subordination of perjury; obstructing justice; misprision of serious offense; wrongful refusal to testify; prevention of authorized seizure of property; noncompliance with procedural rules; wrongful interference with adverse administrative proceeding; and retaliation.

The Uniform Code of Military Justice exists to provide justice and to maintain good order and discipline, both of which directly contribute to unit cohesion and U.S. military effectiveness in combat. The military is unique in that commanders must maintain good order and discipline in order to successfully perform on the battlefield under the most intense of circumstances. Commanders' orders must have the force of law, and all within his or her unit must acknowledge this authority. With this responsibility to enforce the rule of law comes accountability.

It is my professional opinion that removing commanders from prosecution decisions, process, and accountability may have an adverse effect on readiness, mission accomplishment, good order and discipline, justice, unit cohesion, trust, and loyalty between commanders and those they lead. However, in the specific and limited circumstance of sexual assault, I remain open-minded to all solutions. This is a complex and difficult issue. I urge caution to ensure any changes to commander authority to enforce discipline be rigorously analyzed, evidence-based, and narrow in scope, limited only to sexual assault and related offenses.

As I am sure you are aware, the Secretary of Defense established the Independent Review Commission on Sexual Assault in the Military on February 26, 2021, chartered to address the multiple aspects and factors of this issue. It is my belief we have not made sufficient progress in

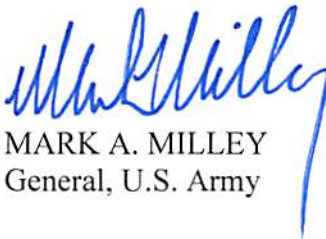
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recent years to eliminate sexual assault, and we have consequently lost the trust and confidence of many Soldiers, Sailors, Airmen, Marines, and Guardians in the chain of command's ability to adjudicate these serious crimes. I intend to reserve judgement until I have an opportunity to review the final recommendations of the Independent Review Commission to determine the merits of any such recommendations vis-à-vis proposed legislation currently in the Senate and House of Representatives.

I remain committed to providing you my candid personal views and will do so after I have reviewed the recommendations of the Commission. I look forward to providing you my personal assessment on this matter in the near future.

Sincerely,



MARK A. MILLEY
General, U.S. Army