



NATIONAL GUARD BUREAU

1636 DEFENSE PENTAGON
WASHINGTON DC 20301-1636

MAY 18 2021

The Honorable James M. Inhofe
United States Senate
205 Russell Senate Office Building
Washington, DC 20510-0001

Dear Senator Inhofe:

Thank you for your letter of April 30, 2021, in reference to S.1520, the Military Justice Improvement and Increasing Prevention Act of 2021 (MJIIPA). The issue of comprehensively addressing sexual assault/harassment in the National Guard is very important to me, and I appreciate the opportunity to provide you my personal views on this proposed legislation's potential impact on the National Guard.

As Chief of the National Guard Bureau, it is my responsibility to work collaboratively with the Adjutants General to provide leadership in eliminating sexual harassment/assault in the National Guard and we have been working very diligently to that end. Although we continue to improve our prevention efforts and processes, I fully recognize the need to be open and receptive to new and additional ways to help eliminate sexual assault/harassment in the National Guard and to restore National Guard members' confidence in our processes. I welcome the discussion of initiatives of this nature.

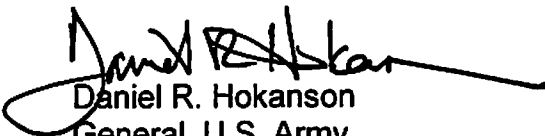
In response to your questions, any approach or change to the federal military justice system should consider the impact these changes would have on the non-federalized National Guard due to our unique operating environment and authority structure. State National Guards operate 95% of the time in a non-federalized status and most States rely on civilian law enforcement and local civilian prosecutorial offices to investigate and address issues of serious misconduct, such as sexual assault, occurring in a non-federalized status.

Our National Guard commanders and judge advocates must be knowledgeable and proficient in both the non-federalized military justice processes and the Uniform Code of Military Justice (UCMJ). It appears to me that these proposed legislative changes to the UCMJ would make the federal military justice practice more complex and specialized, further increasing the distinctions between the federalized and non-federalized processes. This will also increase training requirements for our commanders and judge advocates to ensure their readiness to conduct military justice when mobilized for federal duties.

As a Nation, we place a large amount of responsibility in the hands of our military commanders. We entrust them to administer military justice in a manner that ensures good order and discipline, enhances combat readiness, and is perceived by all to be fair and equitable. This responsibility is an essential element of command authority and serves to distinguish military command from civilian employment/managerial authority. I am concerned that the scope of the proposed changes in the legislation goes beyond the military commander's authority to address military sexual assaults to a much broader set of offenses. Such a significant change in scale could have serious adverse impacts on a commander's authority to execute the military justice responsibilities inherent in military command.

I believe any changes to the military justice system that help build trust between commanders and victims, and increase reporting, will continue to advance the Department's efforts towards eradicating sexual assault/harassment in the ranks.

Sincerely,



Daniel R. Hokanson
General, U.S. Army
Chief, National Guard Bureau

Enclosure:
As stated