

SAVE OUR HEROES[®]

ADVOCATING FOR MILITARY JUSTICE REFORM AND EQUAL JUSTICE FOR ALL

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**General Counsel, Department of Defense
Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault
in the Armed Forces**

Re: Public Commentary

Pursuant to 41 CFR 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, Save Our Heroes' Project (SOH) respectfully requests this public commentary to be considered for the meeting scheduled 7 September 2018. Due to the late notice contained in Document Number 2018-18888 and due to unforeseen circumstances, the required 15-day notice was not feasible and made available to the public, SOH respectfully requests that we are afforded similar considerations.

Save Our Heroes' Project (SOH) is a 501(c)(3) non-profit organization based in the State of Texas, advocating for U.S. service members who have faced wrongful military justice prosecutions, or who have been wrongfully convicted or incarcerated. SOH Officers, Board Members, and Advisors are men and women, retired and former service members, business, government and legal professionals, and retired law enforcement personnel. You can learn more about our activities and objectives by visiting our website at www.saveourheroesproject.com.

While this organization deplors any type of sexual misconduct in the military, we are also aware that the current political and social climate have fostered and enabled a plethora of injustices.

There is significant pressure placed on the military by the legislature and special interest groups regarding allegations of sexual misconduct. The manner in which these types of allegations are handled, combined with the military's efforts to eliminate sexual misconduct has spawned a plethora of military justice abuses that include prosecutorial misconduct, unlawful command influence, and has facilitated false allegations with impunity and with virtually no accountability.

This has been noticed by many news media outlets, various advocacy groups as well as the various military appellate courts, that are reversing wrongful convictions in staggering numbers. Recently, the Judge Advocate General of the Navy was censured for Unlawful Command Influence in a Dubay hearing, that sent an innocent man to prison.

In less than three years of operation, SOH has received nearly 300 cases involving some type of military injustice. A majority of these involve some type of sexual misconduct. A majority of these have been carefully investigated which has revealed a staggering number of false allegations, wrongful prosecutions, convictions, and incarcerations.

Our advocacy efforts have revealed that a great many of the injustices involving sexual misconduct prosecutions, convictions and incarcerations, involve contentious family law proceedings, relationship maladjustments, and alcohol consumption in which only one gender is held responsible. Official misconduct is another prominent reason.

Currently, there are no mechanisms in place to determine the percentage of false allegations involving some type of sexual misconduct, nor any mechanisms in place to determine the percentage of cases that involve some form of official misconduct.

Despite requests from those victimized by false allegations or official misconduct, and advocacy groups, the Department of Defense has made no effort to attempt to compile this information. In comparison, the professional sport of baseball maintains the most innocuous statistics of virtually every conceivable category of the sport, so developing a reasonable method of determining factual numbers is not that difficult.

This organization does not condone any form of sexual misconduct within the ranks of the military, however the processes currently in place, are rife with abuses, a pandemic of official misconduct, and wrongful convictions that affect those wrongfully charged or convicted for their entire lives.

The problem is so significant, that some who have been falsely accused or wrongfully convicted have taken their own lives. The current climate is a threat to national security.

There is also a significant fiscal issue to consider. Recently, SOH conducted an investigation where a service member falsely accused another service member of sexual assault. After an exhaustive investigation, the facts revealed, through official documents, that the accuser manufactured the entire incident.

Official records revealed that more than three dozen various professionals were involved in some form in this investigation. Considering the number of labor hours expended, SOH opines that this entirely manufactured investigation defrauded the taxpayers out of more than two million dollars.

The false accuser fraudulently applied for and is currently receiving V.A. benefits. SOH has filed an official complaint with the V.A. Office of Inspector General, as well as the Federal Bureau of Investigation for an audit, investigation and prosecution of the false accuser. It has been more than a year and SOH has no knowledge of the current status of any inquiry.

Besides the tremendous injustices those who have fallen victim to the current climate involving military sexual misconduct, SOH opines that hundreds of millions of dollars are wasted annually.

SOH is a firm believer that those who commit these types of violations must be held to account, provided the basic Tennent's of the presumption of innocence, due process and the constitution are adhered to.

Just as we have seen with our nation's college campuses, universities, and the #MeToo Movement, there has been a steady erosion of due process and constitution protections, and various changes to the Uniform Code of Military Justice has made it very difficult for an accused to offer a viable defense.

There are a number of things that could readily be established so as to punish the guilty and to exonerate the innocent.

There should be the establishment of a conviction integrity unit, as is being done in many civilian jurisdictions across the country, to ensure that those who have been found guilty in a court of law are actually guilty. Due to the pandemic of false allegations, those making such allegations must be held accountable when facts and evidence are present.

Legislative reform is necessary to restore the basic concepts of the presumption of innocence, and the restoration of due process and constitutional protections.

Respectfully,



**Doug James, COL. (Ret.), USAF
President & Chairman of the Board of Directors
Save Our Heroes' Project
San Antonio, Texas**

DJ/mc