

# Let's Hear From the Experts.

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For the first time, an independent panel of policy experts—majority-civilians, and majority-women—undertook an objective analysis of Senator Gillibrand's proposal to strip commanders of the ability to launch courts-martial.

**January 30: the Response Systems Panel votes 7-2 to reject the Gillibrand proposal.**

**Here's what they had to say...**

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Click [HERE](#) for video.

*Former U.S. Representative Elizabeth Holtzman, author of the federal Rape Shield law:*

- "... if I heard compelling arguments, I would have a different point of view... change for change's sake is not something that grabs me... And I haven't heard the arguments for making this change that are coherent to me..."
- "I have spent a good deal of my professional life involved in fighting sexual assault, as a member of Congress, as a district attorney... I started out with the view that Senator Gillibrand is a very bright and intelligent and committed person for whom I have great amount of respect, and I thought her proposal sounded right. **I've changed my mind, because I was just listening to what we heard. I started out... thinking, why not change it and now I am saying, why change it... Just turning it over to prosecutors doesn't mean you are going to get the results you are looking for...**"

*Mai Fernandez, Executive Director of the National Center for Victims of Crime:*

- "... I went into this thinking [Senator Gillibrand's legislation] made sense... But when you hear the facts, it doesn't hold up... And if the facts do not show that moving the commanders' authority is going to do anything I think that it is our job to illuminate those facts... and say... we looked at the proposal, but the evidence just doesn't hold up... Problems are solved with facts... I went into this thinking, you know, it makes sense... **I was a former prosecutor, I like the independence of a prosecutor. When you hear it at first blush, you go, yeah I want to go with that, but when you hear the facts, like you would in a case, it just doesn't hold up. If there is evidence out there I would like to see it...**"

*Former Federal District Judge Barbara Jones, author of a judicial opinion striking down DOMA:*

- "This is a Response Systems Panel that is charged with looking for positive responses that will be effective to reducing sexual assault in the military **and I have not been persuaded that the removal of a commander as the convening authority is going to have a positive impact. There is no empirical evidence that reporting is going to increase. There is no empirical evidence that prosecutions will be better handled, that investigations even before prosecutions will be better handled. . . . There is no evidence that removing the convening authority is going to improve any of those parts of the system as they exist now.** If I were persuaded that removing the convening authority would encourage victims to report then this would be a different story, but I am not persuaded of that"

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*Full findings of the independent Response Systems Panel Subcommittee on Role of the Commander (online [HERE](#)):*

- "... a strong majority of Subcommittee members agrees the evidence does not support a conclusion that removing authority to convene courts-martial from senior commanders will reduce the incidence of sexual assault or increase reporting of sexual assaults in the Armed Forces. Nor does the evidence indicate it will improve the quality of investigations and prosecutions or increase the conviction rate in these cases. Further, the evidence does not support a conclusion that removing such authority will increase confidence among victims of sexual assault about the fairness of the military justice system or reduce their concerns about possible reprisal for making reports of sexual assault..."

## **Who is the Response Systems Panel?**

***An independent panel of policy experts, majority-civilian, majority-women  
Established in law by Congress, whose proceedings were televised on C-SPAN***

**Honorable Barbara Jones-** Recently gaining notoriety for striking down the *Defense of Marriage Act* as unconstitutional, Judge Jones is a partner at Zuckerman Spaeder, LLP (law firm). She served as a judge in the U.S. District Court for the Southern District of New York for 16 years, and heard a wide range of cases relating to accounting and securities fraud, antitrust, fraud and corruption involving city contracts and federal loan programs, labor racketeering and terrorism. In addition to her judicial service, she spent more than two decades as a prosecutor. Judge Jones was a special attorney of the United States Department of Justice (DOJ) Organized Crime & Racketeering, Criminal Division and the Manhattan Strike Force Against Organized Crime and Racketeering. Previously, Judge Jones served as an assistant U.S. Attorney, as chief of the General Crimes Unit and chief of the Organized Crime Unit in the Southern District of New York.

**Honorable Elizabeth Holtzman-** Author of the federal Rape Shield law, Rep. Holtzman is counsel with Herrick Feinstein, LLP, (law firm). Rep. Holtzman served for eight years as a U.S. Congresswoman (D-NY, 1973-81) and while in office she authored the Rape Privacy Act. She subsequently served for eight years as the Kings County, New York (Brooklyn) District Attorney (the 4th largest DA's office in the country) from 1981-89, where she helped change rape laws, improved standards and methods for prosecution, and developed programs to train police and medical personnel. Rep. Holtzman was also elected Comptroller of New York City, the only woman to be elected to this position. Rep. Holtzman graduated from Radcliffe College, magna cum laude, and received her law degree from Harvard Law School.

**Vice Admiral (Retired) James Houck-** Vice Admiral (Retired) Houck joined the Penn State University Dickinson School of Law faculty as Distinguished Scholar in Residence after retiring as the 41st Judge Advocate General (JAG) of the U.S. Navy. As the Judge Advocate General, Admiral Houck served as the principal military legal counsel to the Secretary of the Navy and Chief of Naval Operations and led more than 2,000 attorneys, enlisted legal staff, and civilian employees of the worldwide Navy JAG Corps. He also oversaw the Department of the Navy's military justice system.

**Professor Elizabeth Hillman-** Elizabeth Hillman is Professor of Law, University of California Hastings College of the Law. Her current research concerns the law and politics of aerial bombing and military sexual violence. Professor Hillman has published two books, *Military Justice Cases and Materials* (2d ed. 2012, LexisNexis, with Eugene R. Fidell and Dwight H. Sullivan) and *Defending America: Military Culture and the Cold War Court-Martial* (Princeton University Press, 2005), and many articles, including "Sexual Violence in State Militaries" in *Prosecuting International Sex Crimes* (Forum for International Criminal and Humanitarian Law, 2012). She has testified before Congress, served as an expert at trial, and commented frequently in the media about military law, history, and culture. Professor Hillman is president of the National Institute for Military Justice, a non-profit dedicated to promoting fairness in and public understanding of military justice worldwide. Professor Hillman attended Duke University on an Air Force ROTC scholarship, earned a degree in electrical engineering, and served as a space operations officer and orbital analyst in Cheyenne Mountain Air Force Base, Colorado Springs.

**Ms. Mai Fernandez-** Mai Fernandez has been executive director of the National Center for Victims of Crime since June 2010. Ms. Fernandez has had a distinguished 25-year career in the criminal justice, nonprofit, and policy arenas. She has served as the acting executive director of the Latin American Youth Center, a DC-based nonprofit organization that provides multicultural underserved youth with education, social, and job training services, and Ms. Fernandez has spent the last 13 years managing programs that serve

victims of child abuse, sex trafficking, and gang violence. Before joining the Latin American Youth Center, Fernandez served as Assistant District Attorney for New York County, helping victims navigate the criminal justice system and pleading their cases before the court. She also developed policy for victims of domestic and youth violence at the U.S. Department of Justice, Office of Justice Programs, and served as a Congressional aide to U.S. Representatives Mickey Leland and Jim Florio.

**Mr. Harvey Bryant-** For almost 14 years Harvey Bryant led a 90 member office prosecuting approximately 16,000 criminal charges per year in Virginia's largest city. He retired at the end of 2013. Since elected Commonwealth's Attorney in Virginia Beach he has served as Virginia Association of Commonwealth's Attorneys' president, Commonwealth's Attorneys' Services Council chairman, and served on the board of directors of both organizations for 13 years, representing the Second Congressional District. He has served as chairman of the Criminal Law Section of the Virginia State Bar Association and represented Virginia on the National District Attorneys' Association board of directors. He is a gubernatorial appointee to Virginia's Criminal Sentencing Commission and serves on the board of directors for the Virginia Criminal Justice Foundation. He served as chairman of the Governor's task force on asset forfeiture in 2012 and on Virginia's Attorney General's advisory committee on restoration of civil rights in 2013. He was awarded the Human Rights Award for Achievement in Government by the Virginia Beach Human Rights Commission in 2013. From 1987-2000 he was a supervisor in the Criminal Division of the U.S. Attorney's Office, Eastern District of Virginia, Norfolk and Newport News Divisions, which duties included supervising Special Assistant United States Attorneys from every branch of the service. After graduating from the College of William and Mary, he served in the U.S. Army for three years followed by five years in the Army Reserves. He graduated from the University Of Richmond School Of Law, was in private practice for nine years and was a prosecutor for over 30 years.

**COL(R) Holly Cook-** Colonel (Retired) Holly Cook is Principal Deputy Director, Governmental Affairs Office, American Bar Association, Washington, D.C. Previously, COL Cook served 23 years in the U.S. Army as a judge advocate, including assignments as Chief of the Administrative Law Division in the Office of the Judge Advocate General, Chief, Investigations and Legislative Division, Staff Judge Advocate to the 1st Cavalry Division, Deputy Staff Judge Advocate to Multinational Division North, Bosnia, Chief, Criminal Law Division, U.S. Forces Korea, and as Trial Counsel at the U.S. Army Garrison, Fort Huachuca, Arizona.

**BG(R) Malinda Dunn-** Brigadier General (Retired) Malinda Dunn is executive director of the American Inns of Court. Previously, BG Dunn served 28 years in the U.S. Army as a judge advocate, including assignments as Assistant Judge Advocate General for Military Law and Operations, Commander of the U.S. Army Legal Services Agency, and Chief Judge of the Army Court of Criminal Appeals. While serving as Staff Judge Advocate of XVIII Airborne Corps, she served tours of duty in both Afghanistan and Iraq. During her career with the Army, BG Dunn performed some groundbreaking assignments. She was the first female staff judge advocate of the 82nd Airborne Division, with which she did two tours. She was also the first female chief of personnel for the Army JAG Corps, the first female staff judge advocate of the XVIII Airborne Corps, and the first woman selected as a general officer in the active duty Army Judge Advocate General's Corps.

**BG(R) Colleen McGuire-** Brigadier General (Retired) Colleen McGuire is the 7th Executive Director of Delta Gamma Fraternity. In August 2012, BG McGuire retired from the United States Army after having served over 32 years, including deployments to Somalia and Iraq. She last served at the Pentagon as Director of Manpower and Personnel on The Joint Staff. As a military police officer, BG McGuire is the first woman in the history of the U.S. Army to hold the highest law enforcement office, Provost Marshal General of the Army; first woman to command the U.S. Army's premier felony investigative organization, Criminal Investigations Command; and the first woman to command the Department of Defense all-male maximum security prison at Fort Leavenworth, Kansas. BG McGuire also served as the director of the Army's Suicide Prevention Task Force.