

# SAVE OUR HEROES<sup>®</sup>

ADVOCATING FOR MILITARY JUSTICE REFORM AND EQUAL JUSTICE FOR ALL

## Sent Via Electronic Mail:

4 March 2019

Senate Armed Services Committee  
Sub-Committee on Personnel  
Attn: Stephanie Barna, General Counsel  
Russell Senate Building, Room 228  
Washington, D.C. 20510-6050

### **Statement of Doug James, President, Save Our Heroes', provided to the Senate Armed Services Sub-Committee Meeting on 6 March 2019**

Good Afternoon Senators, it is an honor to be with you today at this very important Senate Armed Service Committee hearing discussing the military judicial system. My name is Doug James. I am a retired Air Force Colonel, a fighter pilot by trade - I flew the A-10 & F-15C. I now fly for a major airline, I run my own consulting business, but most importantly I'm honored to be the President of a non-profit dedicated to supporting innocent service members.

Since our inception in 2015, Save Our Heroes' has received approximately 300 cases; a large number involve an allegation of sexual misconduct. Most of those have been vetted and unfortunately reveal a staggering level of false allegations. The false allegation cases all have similar motives; contentious divorce proceedings, break-up of a relationship, or something as simple as a desire to obtain a Permanent Change of Station (PCS).

I am here today to offer testimony as President of Save Our Heroes, specifically our non-profit's views of the military justice system. Let me state unequivocally that our organization, Save Our Heroes' deplors any form of sexual harassment and assault, and when facts and evidence are present, those found to be responsible should and **must be** held to account in accordance with the rule of law.

With that said, our organization **strongly believes the Uniform Code of Military Justice (UCMJ) has become a threat to National Security.** Our experience reveals there exists an epidemic of military law enforcement misconduct, prosecutorial misconduct, and Unlawful Command Influence. The common thread of career killing, family destruction, and the lack of holding false accusers accountable, has turned the military judicial system into a silent killer and threat to National Security. Please know, **I do not say that statement lightly and I understand the danger of sensationalism.**

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The way the military currently addresses allegations of sexual misconduct; everything from the initial investigation, through the prosecutorial and administrative stages is not working. Unfortunately, there is not one silver bullet that can fix the problem, but interestingly there is some agreement amongst this panel on how to start. All of us sitting here understand the system is not working and we all seek justice.

We share the understanding the military system is not built, nor designed for justice. It is designed to maintain good order and discipline. **Justice is different.** Justice expects those falsely accused to receive a vigorous investigation in which the truth comes to light; where the innocent are not forced to a Court-Martial out of fear and to protect a career. Justice **also** expects the same vigorous investigation when an assault **has** occurred.

The Uniform Code of Military Justice is really just a code. **Leave justice out of it.** It is a system built on a Commander's discretion. If the Commander believes a case should move forward regardless of the innocence of the accused; it happens. If the Commander believes a case should not move forward because it will not serve him, or her, in pursuit of good order and discipline, well that arbitrary decision is allowed too. The military system is designed to handle military issues. **Non-military issues,** such as sexual assault, are best left up to civilian authorities.

**That is why** Save Our Heroes believes Congressional pressure has been ineffective. Congressional pressure, whether direct or indirect, has pushed innocent service members to Court Martials with no legal basis and has not served the needs of real victims. I'm sure it was not your intent, but we have found Congressional pressure has exacerbated the weaknesses of the system. Commanders are not interested in the truth, but more interested in appeasing Congress. We see Commander's doing everything possible to convict someone for something they didn't do just to protect their career.

At SOH, in reference to the UCMJ we say, "guilty, until proven guilty." Some investigators use underhanded tactics with the goal of disregarding the truth, and at a minimum convict the accused for some sort of derivative collateral charge. Why? A conviction for a collateral charge allows the government to statistically show a sexual assault conviction.

Most recently, we see the Services shifting to Non-Judicial punishment, because they know a baseless allegation would not be validated in a Court Martial. The military's illogical solution to use Non-Judicial punishment, is almost impossible to defend. Most shockingly, we have seen Commanders willing to falsify facts to justify their decisions with NJP. Again, the Services can show Congress they are "handling the problem" in an attempt to maintain their Convening Authority control.

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Through FOIA requests, we've seen Generals say, "let's just send it to a Court Martial and see what happens", or a One Star who said, "It was just bad timing", when discussing pushing a case forward when he believed in the innocence of the accused. How about an E-mail to a Service Secretary, knowing the innocence of the accused, which said, "a case was dropped two weeks before a Court Martial because a TV show wasn't on?" These should be shocking to any American who believes in our Constitution, let alone the complete waste of American tax payer funds. **None of this helps a real victim get justice!** Something needs to be done!

Your statistics, and this Hearing, show Congressional pressure is not doing what was intended. This can't be a Band-Aid fix. A shock to the system is required to change a culture of legal corruption which has permeated the military Chain of Command.

I know there is some discussion about removing the Convening Authority, but I caution you. In five years, Congress may feel the military has a problem with some other crime, 'Spousal Abuse' as an example. Are we going to make similar changes then? The changes must be able to stand the test of time.

Most importantly remember **justice is supposed to be blind!** The UCMJ system was designed to be battle field efficient, with a speedy result. Sexual Assault cases deserve thorough investigations to ensure justice for both the alleged victim and the accused. SOH has been on the Hill for two years offering solutions and we will continue to do so for everyone involved.

In conclusion, I understand the politics associated with this issue, but I stand by my strong statement. This is a threat to National Security, and something needs to be done as soon as possible. When I took the oath, I pledged to defend the Constitution against all enemies foreign and domestic. **The UCMJ in its current state is a domestic threat to National Security.** Thank you again. It was an honor to be here, and I am prepared to answer your questions.

**Sincerely & Respectfully.**



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

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cc: SOH Board of Directors, Advisors & Volunteers