

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

SEXUAL ASSAULT IN THE MILITARY

Ms. KLOBUCHAR. Mr. President, I rise today to speak in regard to the National Defense Authorization Act, and in particular to certain sections of that bill which target a serious but often underaddressed problem facing the men and women of our Armed Services. This is the issue of sexual assault.

I introduced this legislation on this issue in the spring with Senator SUSAN COLLINS, and I remain deeply concerned about the subject.

Many of our colleagues are aware that sexual assault is a persistent problem within our Armed Forces. In fact, reports of trauma have risen in recent years.

In March, the Department of Defense put out its annual report on sexual assault in the military. According to the estimates, there were more than 3,000 reports of sexual assault in the military last year. That includes reports by both male and female victims, exposing attacks perpetrated both by and against members of our military. And those are just the reported attacks. Since the Department of Defense estimates that only 13 percent of victims actually come forward, we can assume the real number of sexual assaults is much higher—upwards of 19,000.

The Department of Veterans Affairs has reported similarly disturbing figures: More than 20 percent of female servicemembers seen at VA medical facilities say they were sexually assaulted or harassed during their service.

Let me make this clear. We know the vast majority of the men and women serving in our military would never be involved in a sexual assault. They have the toughest jobs out there. They are on the front lines every day. But when we have a problem, we cannot put our heads in the sand and pretend it is not happening.

In 2008 alone, VA medical personnel reported nearly half a million encounters with veterans that focused on sexual assault and harassment. Our servicemembers are already dealing with the stress of battle. They are fighting two wars, and they are responding to other conflicts and needs around the globe.

The idea that an American in uniform—who is out there on the front lines, serving our country—may also suffer the physical and emotional trauma of sexual assault is simply unacceptable. It is also unacceptable that the records of that assault would be destroyed.

According to the VA, women who experience sexual assault or sexual harassment in the military have a 59-percent higher risk of developing mental health injuries.

Sexual trauma does not just hurt the victims. It can also take a huge toll on

the soldiers who serve by their sides. It has been shown to severely undermine military cohesion, team morale, and overall force effectiveness.

The Department of Defense is well aware of this problem, and over the years it has taken some positive steps to address it.

For example, the Pentagon has created positions for personnel specially trained to handle reports of sexual trauma. It has improved counseling services for victims. And it has implemented new training procedures for commanders. But despite these important improvements, the Defense Department continues to fall short in one very key area: ensuring the lifelong preservation of victims' records from reports of sexual assault.

As a former prosecutor, I know firsthand how important it is to preserve the data connected to crimes like sexual assault. That is why I am so troubled by the gaps we have seen at the Defense Department.

As of now, there is no coordinated, cross-service policy for ensuring the preservation of medical records and other information that is related to sexual assault. In this day and age, it seems a little crazy. Some of the branches have 5 years; some of them have 10 years. There is no policy, and many of these records are destroyed. These are records of sexual assault.

Across the board, these policies—or lack thereof—are bleak. In a significant number of cases of sexual assault, the data is destroyed within 1 year. It is simply shredded.

The problems this can cause for servicemembers are extensive. Within 1 year, the servicemember loses the proof that he or she experienced a sexual assault connected to their military service.

As a prosecutor, if you have someone who is maybe accused of a crime—or maybe no one followed through on it, and then later they go on and they commit an actual crime and there is a trial—you want to be able to access the records from the past.

Also, for the individual victim, it means they no longer have access to the evidence necessary for pursuing criminal action against their perpetrator.

It also means if the victim experiences depression or any other ailment, either mental or physical, relating to the assault, they may not be able to prove it was caused during their service, meaning they will not be able to seek VA disability benefits.

There are far too many examples of this out there—of servicemembers being denied compensation from the VA for disabilities caused by military sexual assault. There are far too many examples of servicemembers who have been told to “find a witness.” And when there are no witnesses, they have been told to “get their attackers to attest to the assault.” This is not the way we should be treating our servicemembers.

This year, my office was contacted by a group of Minnesota women veterans—veterans of all ages—who have bonded together to share their stories of sexual assault and to advocate for stronger protections from the Department of Defense and the VA.

These women signed up to serve. They performed well and honorably. And if in the course of their service, they experience an assault—an assault that would not have been experienced if they had not volunteered—then we owe them the basic decency of keeping their records. That is all we are talking about here.

We have appreciated that the Department of Defense is open to it, that the leaders of this bill are working with us on this issue.

I originally introduced this bill with Senator COLLINS, Senator MURKOWSKI, and Senator MCCASKILL. We were able to get 23 cosponsors on this bill, including every single woman in the U.S. Senate.

The Support for Survivors Act also is endorsed by several key veterans service organizations, including the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Iraq and Afghanistan Veterans of America, as well as the Servicewomen's Action Network.

The Support for Survivors Act is straightforward. Quite simply, it requires the Department of Defense to ensure lifelong storage of all documents connected with reports of sexual assault and sexual harassment in the military, while also maintaining full privacy for those involved.

Likewise, the purpose and motivation of this legislation is also pretty simple. It is about supporting our veterans.

I have always believed that when we ask men and women to sacrifice for us in defense of our Nation, we make them a promise that we are going to give them the support when they come home. As Abraham Lincoln said: We need to care for those who have borne the battle.

Well, protecting our servicemembers' personal records, protecting their rights is just about that. This week, Senators are considering a critically important bill, the National Defense Authorization Act. I am happy to say this year the Defense authorization bill already includes a significant majority of the provisions of my Support for Survivors Act.

This summer, the Senate Armed Services Committee saw fit to address the issue of military sexual assault during its markup of the bill. I am grateful for the time and effort my colleagues have invested in reviewing this issue. Already, the National Defense Authorization Act requires the Department of Defense to collaborate with the Department of Veterans Affairs in developing a comprehensive policy for ensuring retention and access to sexual assault records.

Importantly, the bill ensures protection of the privacy of the records. It

also calls on the Defense Department and the VA to address access to the records not only for victims but also to the VA, law enforcement, and other entities that may need to access them. The bill also seeks to make the policy uniform across all service branches so members of the Air Force, the Army, the Navy, and the Marines are given fair treatment.

Why would you have records destroyed of sexual assault in one branch after a year and another branch after 5 years and another after 10 years? It is my position they should not be destroyed at all. The one provision which was not included in the Defense Authorization Act, which I believe is vitally important, was the requirement that records be stored throughout the life of the victim. Storing records for a person's lifetime is, in my mind, common sense. All other critical records, such as our health records, insurance records, banking records are stored throughout our lives. So I believe the case should be the same here. Unfortunately, the Defense Authorization Act does not require lifelong storage. Instead it put this question entirely in the hands of the Defense Department, requiring only that the records be stored for 5 years and otherwise allowing the agency to determine its own timing.

Five years is not enough. Yes, it is five times the length of time the records are currently stored, and in that respect it is a good step. But it is not enough, not in a modern day where we store records and we have ways of storing records in a way—and certainly the Defense Department knows how to store these records—that is private.

That is why I have filed an amendment that would ensure that almost all sexual assault records are stored for an estimated 50 years. This solution is one that I have discussed personally with Senator LEVIN. It is also something my office has worked on closely with the Department of Defense. Although 50 years is not necessarily the life of the victim, it gets us a long way and is certainly better than what we have now.

I thank Chairman LEVIN for his willingness to work with me on this important issue and for his efforts to include this amendment in the overall bill. I also thank the Republicans, the other side of the aisle, for working with us and the fact that this was a bipartisan amendment from the beginning. Again, the sponsorship on the underlying bill included the sponsorship of all women Senators in the Senate.

I urge my colleagues to support this amendment as well as the strong provisions in this bill that address sexual assault protections for military members. The problems with sexual trauma within the military are broad. But the provisions included in the bill, including my amendment, are important advancements. I intend to monitor the Defense Department's implementation of these provisions. Although I was not able to secure the full lifelong record

preservation, I am going to keep fighting this fight. But 50 years for most of the records is a pretty good result given what we have in place right now.

This year, the Department of Defense has finally placed a military officer in charge of its Sexual Assault Protection and Responsive Office, GEN Mary Kay Hertog. I believe she has not only a good grasp on the importance of preserving records but also the rank and weight necessary to forge real change in the Department's policy.

I intend to continue my communication with General Hertog, and I look forward to finding a policy that ensures that victims have lifelong access to their personal records. When our men and women signed up to serve there was not a line, and there should not be a line when they get back—not for jobs, not for education, and not to receive the medical benefits or health protection they have earned.

I see my colleagues, the leaders on this bill, Senator LEVIN and Senator MCCAIN, are here. I again thank them for working with me on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Minnesota for her strong efforts on behalf of the men and women in the military and their welfare and benefits. She is an advocate and a person who is committed to making sure that not only those who are now serving but those who have are cared for by our society and by our military and our veterans facilities.

So I thank the Senator. I appreciate the very eloquent statement she just made.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT OF 2012—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1867.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, while the Senator from Minnesota is here, let me add my voice of thanks and appreciation for what she continually is fighting for in the area of sexual assault. Her amendment makes great sense. We have cleared it on our side. We hope it gets cleared so that we can get this into a package—and we hope we can get a package that is adopted.

But I want to just commend the Senator for her intrepid effort that is awe inspiring on behalf of people who need all of the fight and all of the protection that we can give them, those are people who have been assaulted sexually. I commend the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1246, AS MODIFIED

Mr. MCCAIN. I send an amendment to the desk, as modified, No. 1246, and ask for its consideration.

The PRESIDING OFFICER. The amendment is already pending.

Mr. MCCAIN. Mr. President, the amendment is to require the Secretary of Defense to consult with the Armed Services Committee in commissioning an independent assessment of U.S. security interests in East Asia and in the Pacific region. It has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

Mr. LEVIN. Before the amendment is adopted, I just wanted to indicate our support of the amendment. It is in a very significant area which has to do with our force structure in the Pacific. Senator MCCAIN has been very active wanting to look at that because we have to look at it in depth. He has agreed that this study, which will be done in consultation with people who have knowledge, can be done independently and in a prompt way with an independent study.

I think he has reached that conclusion. I think he is right. I believe Senator WEBB, if he were here, would want to indicate his strong support because the three of us have worked together for this kind of an effort.

With that, I would indicate my strong support.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1246), as modified, was agreed to, as follows:

On page 439, line 18, insert “, in consultation with the Chairman and Ranking Members of the Committees on Armed Services of the Senate and the House of Representatives,” after “Secretary of Defense”.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I would ask my friend, the chairman, if perhaps we could give our colleagues a brief update on where we are. There are not that many amendments remaining. There are a couple of rather serious amendments concerning detainees that are still outstanding. But overall I think we can tell our colleagues that we are pretty well moving along.

We still have a pending package of amendments that have been agreed to by both sides that, unfortunately, we are unable to move forward. But, hopefully, we will be able to do that.

Mr. LEVIN. Mr. President, we indeed have been making progress, No. 1. We made significant progress today both on the pending amendments that needed to be addressed by the full Senate, as well as a major package of amendments which has been cleared on both sides.

There is another package of amendments to which there has been no—they have been cleared, which means they are available to everybody, and