

Fact Sheet: Protecting Servicemembers Online Act of 2017

Sponsored by Senators Elizabeth Warren and Dan Sullivan

Sexual harassment remains a challenge for our military. In FY 2016, The Department of Defense reported more than 6,000 reports of sexual assault, a 1.5 percent increase from the previous year, and over 600 sexual harassment complaints.¹ And sexual harassment is correlated with the experience of sexual assault – in fact, a May 2017 DOD Report to Congress on sexual assault in the military cited a strong correlation between sexual harassment and sexual assault for both active duty women and men.²

The Pentagon has identified incidences of “revenge porn” as a new area of concern.

Nonconsensual sharing of intimate photographs, or “revenge porn,” has appeared on sites like Marines United – a Facebook page on which nude photos and personal information about female Marines and veterans were allegedly shared.³ Acts that harass fellow servicemembers undermine unit cohesion and readiness and should not be tolerated.

Senior military leaders have publically condemned this behavior. To their credit, senior military leaders have been outspoken in their condemnation of this toxic behavior. Secretary of Defense James Mattis said, “We will not excuse or tolerate such behavior if we are to uphold our values and maintain our ability to defeat the enemy on the battlefield.”⁴ In his message to the fleet, Chief of Naval Operations Admiral John Richardson said, “There is no room in our Navy for toxic behavior. It makes us weaker, and cedes advantage to the enemy.”⁵ Chief of Staff of the Army Mark Milley has said that sexual harassment “rip[s] apart unit trust, discipline and cohesion.”⁶ And Commandant of the Marine Corps General Robert Neller said that making revenge pornography a criminal offense under the UCMJ would be “helpful in the accountability process.”⁷

Many states already prohibit revenge porn. 38 states and the District of Columbia currently have laws that prohibit revenge porn,⁸ and many also have laws that cover cyber harassment.

The UCMJ does not explicitly prohibit nonconsensual photo sharing. Commanders always have the ability to prosecute disorderly conduct. But while the UCMJ currently prohibits taking a photo of another individual’s “private area” without that person’s consent, it does not currently prohibit broadcasting such a photo without consent if the original image was provided consensually.

Protecting Servicemembers Online Act of 2017

Making it unlawful under the Uniform Code of Military Justice (UCMJ) for military personnel to share private, intimate images without the consent of the individual depicted.

Closes the UCMJ’s “revenge porn loophole.” Amends Article 120c of the UCMJ to prohibit the nonconsensual distribution of photographs, even if originally taken consensually.

Cracks down on harassment. Addresses cyberstalking by adding a new punitive article to the UCMJ that prohibits harassing communication in person and online.

Balances privacy protections and survivors’ rights. Requires evidence of harm and intent, strengthening the tools available to military prosecutors while protecting individuals’ rights.

This bill is supported by the Service Women's Action Network (SWAN) and Protect Our Defenders.

¹ “Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year 2016.” May 2017. (http://sapr.mil/public/docs/reports/FY16_Annual/FY16_SAPRO_Annual_Report.pdf.) See Appendices B and H.

² “Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year 2016.” May 2017. (http://sapr.mil/public/docs/reports/FY16_Annual/FY16_SAPRO_Annual_Report.pdf.) p. 16.

³ Brennan, Thomas James. “Hundreds of Marines investigated for sharing photos of naked colleagues.” March 4, 2017. (<https://www.revealnews.org/blog/hundreds-of-marines-investigated-for-sharing-photos-of-naked-colleagues>.) Brennan reported, “Since Jan. 30, more than two dozen women – many on active duty, including officers and enlisted service members – have been identified by their full name, rank and military duty station in photographs posted and linked to from a private Facebook page.”

⁴ Department of Defense. “Statement by Secretary of Defense Jim Mattis on Purported Actions Detrimental to Good Order and Discipline.” Release No. NR-091-17. March 10, 2017.

⁵ Admiral John Richardson. “No Bystanders.” March 14, 2017. (<http://navylive.dodlive.mil/2017/03/14/no-bystanders>)

⁶ Vergun, David. “Three ways to derail sexual assault, harassment, according to General Milley.” December 12, 2016. https://www.army.mil/article/179413/three_ways_to_derail_sexual_assault_harassment_according_to_gen_milley

⁷ Senate Armed Services Committee. Hearing on “Information Surrounding the Marines United Website.” March 14, 2017.

⁸ As of June 5, 2017, according to the Cyber Civil Rights Initiative, a 501(c)(3) that fights online abuse. (<https://www.cybercivilrights.org>.)