

Feres Doctrine

On 30 April 2019, lawmakers and experts came together on Capitol Hill to unpack the Feres doctrine, a law that prevents service members and their families from seeking legal action against the military for injuries or other suffering caused by negligence. In the audience at the House Armed Service Committee hearing was Capt. Katie Blanchard, who wants people to know that Feres isn't only preventing medical malpractice lawsuits — it also blocks service members from holding accountable a chain of command who fails to protect them from preventable harm. “I just feel like nobody has really identified or talked about the scope of what Feres is and how it affects people.”

In September 2016, an Army civilian working under Blanchard at Fort Leavenworth, Kansas' Munson Army Health Center, doused her with a water bottle of gasoline and then lit a match. She had warned her chain of command for months before her attack that Clifford Currie was menacing her, and she believed he would try to kill her. Behind the scenes, according to a subsequent investigation, he accused her of racism and declared he would “take care of her” in front of another employee, who was encouraged to keep quiet about the threat. In the intervening years, Blanchard, 29, has had more than 100 surgeries, and Currie was sentenced to 20 years in prison by a federal court.

Last fall, Blanchard filed a claim against Leavenworth, asking for \$3.5 million, an estimate of what it would cost to cover expenses like childcare during medical procedures, and necessities like a special moisturizer to keep her extremely delicate grafted skin comfortable, over the rest of her lifetime. But she ran up against Feres. Undeterred, she got in touch with attorney Natalie Khawam, who specializes in Feres. “I don't think, as a whole, the American people know how broad — and the scope of it,” she said. “At the end of the day, what it boils down to is, our military has blanket immunity in all cases.”

Many of the headline-grabbing stories dealing with the law have included medical malpractice, like that of Sgt. 1st Class Richard Stayskal, who also testified on 30 April and is represented by Khawam. But the military is protected from legal action for anything involving service members and their families, from split-second battlefield decisions that result in deaths or dismemberment, up to and including workplace violence back home, either from fellow service members or other Defense Department employees. “All of us volunteer and we all really want to do this,” Blanchard said. “I signed the line knowing that I could go overseas and do all of these dangerous things, but I didn't sign up to be attacked in the office.”

Now part of the Warrior Transition Battalion at Joint Base Lewis-McChord, Washington, Blanchard wants to make a career as an Army civilian in patient safety. In preparation for that, she's been speaking around the Army about workplace violence, and the need for an organized, powerful policy that allows both service members and civilians to report harassment and have it dealt with. “Three years later, I don't want you to feel bad for me, and I don't want you to want to do something,” she said. “I want you to do something.”

As part of her trip to Washington, she spoke on 18 April at the Defense Health Agency's National Capital Region Workplace Violence Prevention Program Forum. "DHA doesn't have a workplace violence policy in place," she said. "I don't want, since they're taking over the military medical system, [it to be] piecemeal. It's not, if you're an Army person, you go here, if you're a Navy person you go here, if you're a civilian—good luck. Hopefully your union listens to you." The symposium was part of a pilot program, she said, and she hopes any enacted policy will look at the full scope of workplace violence — from harassment, sexual or otherwise, to assault. "Some policies call it disruptive behavior, harassment," she said. "It's workplace violence. Let's just call it what it is."