SEXUAL ASSAULT IN THE MILITARY

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY
AND FOREIGN AFFAIRS

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JULY 31, 2008

Serial No. 110–187

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.oversight.house.gov

U.S. GOVERNMENT PRINTING OFFICE

51–635 PDF WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HENRY A. WAXMAN, California, *Chairman*

EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
BRIAN HIGGINS, New York
JOHN A. YARMUTH, Kentucky
BRUCE L. BRALEY, Iowa
ELEANOR HOLMES NORTON, District of Columbia
BETTY McCOLLUM, Minnesota
JIM COOPER, Tennessee
CHRIS VAN HOLLEN, Maryland
PAUL W. HODES, New Hampshire
CHRISTOPHER S. MURPHY, Connecticut
JOHN P. SARBANES, Maryland
PETER WELCH, Vermont
JACKIE SPEIER, California

TOM DAVIS, Virginia
DAN BURTON, Indiana
CHRISTOPHER SHAYS, Connecticut
JOHN M. McHUGH, New York
JOHN L. MICA, Florida
MARK E. SOUDER, Indiana
TODD RUSSELL PLATTS, Pennsylvania
CHRIS CANNON, Utah
JOHN J. DUNCAN, Jr., Tennessee
MICHAEL R. TURNER, Ohio
DARRELL E. ISSA, California
KENNY MARCHANT, Texas
LYNN A. WESTMORELAND, Georgia
PATRICK T. McHENRY, North Carolina
VIRGINIA FOXX, North Carolina
BRIAN P. BILBRAY, California
BILL SALI, Idaho
JIM JORDAN, Ohio

PHIL BARNETT, *Staff Director*
EARLEY GREEN, *Chief Clerk*
LAWRENCE HALLORAN, *Minority Staff Director*

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

JOHN F. TIERNEY, Massachusetts, *Chairman*

CAROLYN B. MALONEY, New York
STEPHEN F. LYNCH, Massachusetts
BRIAN HIGGINS, New York
JOHN A. YARMUTH, Kentucky
BRUCE L. BRALEY, Iowa
BETTY McCOLLUM, Minnesota
JIM COOPER, Tennessee
CHRIS VAN HOLLEN, Maryland
PAUL W. HODES, New Hampshire
PETER WELCH, Vermont
JACKIE SPEIER, California

CHRISTOPHER SHAYS, Connecticut
DAN BURTON, Indiana
JOHN M. McHUGH, New York
TODD RUSSELL PLATTS, Pennsylvania
JOHN J. DUNCAN, Jr., Tennessee
MICHAEL R. TURNER, Ohio
KENNY MARCHANT, Texas
LYNN A. WESTMORELAND, Georgia
PATRICK T. McHENRY, North Carolina
VIRGINIA FOXX, North Carolina

DAVE TURK, *Staff Director*

CONTENTS

	Page
Hearing held on July 31, 2008	1
Statement of:	
Harman, Hon. Jane, a Representative in Congress from the State of California	18
Rochelle, Lieutenant General Michael D., Deputy Chief of Staff, G1, U.S. Army; and Brenda S. Farrell, Director, Defense Capabilities and Management, U.S. Government Accountability Office	91
Farrell, Brenda S.	98
Rochelle, Lieutenant General Michael D.	91
Slaughter, Hon. Louise M., a Representative in Congress from the State of New York	7
Torres, Ingrid S., MSW, CSW; and Mary Steiner Lauterbach, mother of Lance Corporal Maria Lauterbach	24
Lauterbach, Mary Steiner	45
Torres, Ingrid S.	24
Letters, statements, etc., submitted for the record by:	
Farrell, Brenda S., Director, Defense Capabilities and Management, U.S. Government Accountability Office, prepared statement of	100
Harman, Hon. Jane, a Representative in Congress from the State of California, prepared statement of	21
Lauterbach, Mary Steiner, mother of Lance Corporal Maria Lauterbach, prepared statement of	47
Rochelle, Lieutenant General Michael D., Deputy Chief of Staff, G1, U.S. Army, prepared statement of	93
Slaughter, Hon. Louise M., a Representative in Congress from the State of New York, prepared statement of	10
Tierney, Hon. John F., a Representative in Congress from the State of Massachusetts, prepared statement of	4
Torres, Ingrid S., MSW, CSW, prepared statement of	30

SEXUAL ASSAULT IN THE MILITARY

THURSDAY, JULY 31, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. John F. Tierney (chairman of the subcommittee) presiding.

Present: Representatives Tierney, Braley, McCollum, Cooper, Welch, Shays, Platts, Turner, and Waxman (ex officio).

Also present: Representative Davis of California.

Staff present: Dave Turk, staff director; Andrew Su, professional staff member; Davis Hake, clerk; Andy Wright, counsel; Rebbeca Macke, graduate intern; A. Brooke Bennett, minority counsel; Todd Greenwood and John Ohly, minority professional staff members; Mark Lavin, minority Army fellow; and Nick Palarino, minority senior investigator and policy advisor.

Mr. TIERNEY. A quorum being present, the Subcommittee on National Security and Foreign Affairs hearing entitled, "Sexual Assault in the Military," will come to order.

I ask unanimous consent that only the chairman and ranking member of the subcommittee be allowed to make opening statements. And I ask unanimous consent that the following Members be allowed to participate in this hearing: Congresswoman Louise Slaughter from New York, Congresswoman Jane Harman from California, Congresswoman Susan Davis from California, Congresswoman Diane Watson from California and Congressman Elijah Cummings from Maryland.

Pursuant to the House Rules, these Members will be allowed to ask questions of our witnesses only after all members of the subcommittee have first had an opportunity to do so. Without objection, so ordered.

I ask unanimous consent that the hearing record be kept open for 5 business days so that all members of the subcommittee be allowed to submit a written statement for the record. Without objection, so ordered.

Good morning, and thank you all for being here. I particularly thank our fellow Members, our colleagues who are here. Ms. Slaughter, I understand that you have to leave to be on the floor of the House by 10:15. Mr. Shays has graciously indicated he will waive his opening statement until after you have testified. I will just open quickly and set some groundwork for the hearing.

We are conducting this hearing obviously for the oversight of sexual assault in the military. What is at stake here goes to the very core of the values of the military and of the Nation itself. When our sons and daughters put their lives on the line to defend the rest of us, the last thing they should fear is being attacked by one of our own.

We fundamentally have a duty to prevent sexual assaults in the military as much as humanly possible and to punish attackers quickly and severely. We also must empower victims so they feel comfortable coming forward to seek justice and to receive help to get their lives back on track and to restore their dignity.

Finally, we simply must ensure a climate in our military where sexual assault is in no way, either officially or unofficially, condoned, ignored or tolerated.

Sexual assault scandals have taken place in every administration and each and every military service, from Vietnam to the 1991 Tailhook scandal in the Navy, from the 1996 Aberdeen incidents in the Army to the Air Force Academy in 2003. After each scandal, we are told by Defense Department officials that they will crack down on violators and change the military culture so that those despicable crimes will never happen again.

We hear time and again that the military has a zero tolerance policy toward sexual assaults. Yet there sometimes appears to be a lack of urgency or leadership or resources to transform those statements into reality.

Since this subcommittee's 2006 hearing, I understand and appreciate that the Defense Department has taken some positive steps to improve training, education and care. Congress, too, has been active. We have demanded greater transparency and accountability. We have tasked the Pentagon with establishing comprehensive policies to prevent and respond to military sexual assault and to ensure access to trained personnel. We have required the Department to collect information and to report this data back to Congress.

Today the subcommittee will assess the military's efforts with a specific focus on exploring what more we can do to prevent sexual assaults from happening in the first place; to provide support, dignity and services to victims; and to quickly and vigorously punish those committing the heinous crimes.

We will first hear from top leaders in Congress, specifically from Louise Slaughter of New York and Jane Harman of California. These are representatives who have been instrumental in past legislative accomplishments and who have been advocating for further specific improvements.

We will then welcome Ingrid Torres and Mary Lauterbach. We are privileged to have you both testify before us today, so that all of us, Members of Congress, executive branch officials, and the American public can learn from your personal tragedies; so that lessons from your harrowing tales and your insights can spur action; so good can come from your tragedies. Your courage in being with us here is truly inspiring, and we thank you.

Finally, we will hear from a panel of Government officials. We have scheduled some key policymakers from the Defense Department as well as our military services, and we expect that they will

explain to us all of their current efforts. We will also hear from the Government Accountability Office on its 2-year independent investigation into efforts to prevent and respond to military sexual assaults. The Government Accountability Office will discuss both the progress that has been made as well as highlight remaining challenges and obstacles that need to be overcome.

I will waive the balance of my statement, and put it in the record with the assent of all the Members here. Hearing no objection, so ordered. We will move to Ms. Slaughter, who has a time constraint, and we really do want to hear what you want to say, particularly about the legislation that you filed.

[The prepared statement of Hon. John F. Tierney follows:]

Subcommittee on National Security and Foreign Affairs Hearing Entitled,

"Oversight Hearing on Sexual Assault in the Military"

Opening Statement of Chairman John F. Tierney

July 31, 2008

Good morning, and thank you all for being here.

Today, this Subcommittee conducts oversight of sexual assault in our military. What is at stake here goes to the very core values of our military and of our nation itself. When our sons and daughters put their lives on the line to defend the rest of us, the last thing they should fear is being attacked by one of our own.

We fundamentally have a duty to prevent sexual assaults in the military as much as humanly possible and to punish attackers quickly and severely. We also must empower victims – so they feel comfortable coming forward to seek justice and to receive help to get their lives back on track and to restore their dignity. Finally, we simply must ensure a climate in our military where sexual assault is in no way – either officially or unofficially – condoned, ignored, or tolerated.

Sexual assault scandals have taken place in every administration and in each and every military service, from Vietnam to the 1991 Tailhook scandal in the Navy; from the 1996 Aberdeen incidents in the Army to the Air Force Academy in 2003.

After each scandal, we are told by Defense Department officials that they will crack down on violators and change the military culture so that these despicable crimes will never happen again. We hear time and again that the military has a "zero tolerance" policy towards sexual assaults. Yet, there sometimes appears a lack of urgency, leadership, and resources to transform these statements into reality.

Since this Subcommittee's 2006 hearing, I understand and appreciate the Defense Department has taken some positive steps to improve training, education, and care.

Congress too has been very active. We have demanded greater transparency and accountability. We have tasked the Pentagon with establishing comprehensive policies to prevent and respond to military sexual assault and to ensure access to trained personnel. And we have required the Department to collect information and to report this data back to Congress.

Today, the Subcommittee will assess the military's efforts, with a specific focus on exploring what more we can do to prevent sexual assaults from happening in the first

place; to provide support, dignity, and services to victims; and to quickly and vigorously punish those committing these heinous crimes.

We'll first hear from top leaders in Congress – specifically from Louise Slaughter of New York and Jane Harman of California. These are Representatives who have been instrumental in past legislative accomplishments and who have been advocating for further specific improvements.

We will then welcome Ingrid Torres and Mary Lauterbach. We are privileged to have you both testify before us today so that all of us – Members of Congress, executive branch officials, and the American public – can learn from your personal tragedies; so that lessons from your harrowing tales and your insights can spur action; so good can come from your tragedies. Your courage in being with us today is truly inspiring.

Finally, we will hear from our panel of government officials. We have key policymakers from our Defense Department as well as from our military services who will explain to all of us their current efforts.

We will also hear from the Government Accountability Office on its two-year independent investigation into efforts to prevent and respond to military sexual assaults. GAO will discuss both the progress that has been made as well as highlight remaining challenges and obstacles that need to be overcome.

I want to now briefly flag a few issues that I hope get ample discussion today:

First, we know we have a big problem in the under-reporting of sexual assaults in the military, whether from fear of ostracism or career repercussions or a myriad of other reasons. It is particularly disheartening to hear about tales of women who regret bringing forward their rape charges because of how they have been treated poorly throughout the process and because of the repercussions that have flowed their way as a result of reporting a crime.

Second, even when sexual assaults are reported, some have expressed concern that punishments do not reflect the severity or seriousness of the acts committed. In 2007, for example, out of 2,212 persons investigated for sexual assault in the military – 1,259 of which involved rape charges – only 181 people were referred to courts-martial.

Third, through the GAO's extensive, on-the-ground investigation, which involved visiting 15 different military facilities, there appears to be great differences from facility-to-facility in terms of the seriousness to which sexual assault is accorded. For example, GAO found and I quote, "at three of the installations program managers told us of meeting with resistance from commanders when attempting to place, in barracks and work areas, posters or other material advertising the programs or the options for reporting a sexual assault." This begs the questions: what proactive oversight is the Defense Department undertaking to ferret out those commanders and those facilities that are

nowhere near where we need to be?; and do we need greater consistency in sexual assault prevention and response training?

While progress had been made in recent years – and many in this room, both Members of Congress and key officials in the Defense Department are responsible – I don't think any of us can say our work is complete.

That is why I called this hearing – in the spirit of constructive oversight – for us to all work together and to focus on what still needs to be fixed and to go about it with vigor and urgency. Our sons and daughters who put their lives on the line on our behalf deserve nothing less.

I now yield to our Ranking Member, Mr. Shays, for your opening statement. Thank you for your leadership and for you and your staff working together with us on a bipartisan basis in preparation for this hearing.

STATEMENT OF HON. LOUISE M. SLAUGHTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. SLAUGHTER. Thank you for your great kindness in foregoing your opening statements. I have the convergence of facts that falls on us every morning here, and I have to be on the floor very shortly.

This is a terribly important issue to us. I thank you for the interest that both of you have shown in this, and the support you have given.

I want to express this gratitude, because not only are you worried about it, and it has been a continuing oversight on your part to address this problem of sexual assault in the military. It is an ongoing problem. It has gone on for far too long. And I appreciate your efforts to hold the Department of Defense accountable for implementing the programs to prevent and prosecute sexual assault and to care for its victims.

Incidents of sexual assault and sexual harassment in the military undermine the solidarity and trust essential to the success of military operations. The very nature of military operations exposes our service men and women to dangers that most of us could never imagine. Those who enlist to serve expect to sacrifice their safety to protect Americans from foreign enemies. But they do not and should not expect to have to defend themselves from their fellow service members. Unfortunately, women have suffered in silence for decades, but as the result of courageous women sharing their stories of being sexually assaulted, we decided to act.

In March 2004, as co-chair of the Congressional Caucus on Women's Issues, I held a hearing on this issue. I will never forget one of the witnesses who talked about her horror of having to salute her rapist every day. She finally left the military. In fact, many women who tried to report sexual assault were told, you don't want to ruin that young man's career, dear. There was absolutely nothing done for them, it was classic blame the victim. And most of them failed to be at all supported and lost their own military careers because of it.

But following that hearing, the House unanimously adopted a amendment to the fiscal year 2005 Defense Authorization bill, requiring the Pentagon to develop a comprehensive and uniform policy to prevent and to respond to the sexual assault of women in the military. And every year since, we keep chipping away at the problem, and there is still, I am sorry to say, a way to go.

Beginning in 2006, DOD allowed victims of sexual assault options in reporting. The unrestricted reporting triggers the chain of command, making health care information and other details part of a record available to the military law enforcement. While restricted reporting enables the victim to get the counseling and health care services they need, DOD needs to expand this protection to allow victims to come forward and seek justice throughout the legal system without compromising the confidentiality of their private health care system. Many women have had to go off base, seeking out rape crisis systems to get any kind of relief at all.

This March, the Department of Defense fourth annual report states that 2,688 results were reported last year by people in uniform. It was down about 9 percent from the year before. But the

decline follows a change in reporting methods in 2 years of marked increases in reports of sexual assault. The reports jumped by about 24 percent in 2006 and nearly 40 percent in 2005. Given the increase in reports of sexual assault documented in two previous reports and possible discrepancies arising out of the change in the reporting methods, it is hard to conclusively determine that the decline in reports of sexual assault reflects an actual decline in that behavior.

Failure to uniformly gather and report information related to the investigation and disposition of sexual assault claims complicates our policy-based efforts to address sexual assault in the military and frustrates the purpose of the Department of Defense's existing programs. Moreover, failure to use common terminology in reporting among the services prevents Congress and DOD from having a complete understanding of the problem.

Additionally, the holes in information and the understanding left open by a lack of cohesive reporting practices are made worse by an overall lack of coordination among the services. Piecemeal solutions will not solve a pervasive problem. We need a comprehensive approach to addressing sexual assault and harassment. So I have reintroduced the Military Domestic and Sexual Violence Response Act. I think this is an important piece of legislation that will ensure greater protections for service members and their families should they become victims of violence. It will also strengthen programs to prevent violence against fellow soldiers and military families.

The Military Domestic and Sexual Violence Response Act will bring the military up to par with civilian laws. Specifically, it will establish the Office of Victims Advocate within the DOD to bring the Family Advocacy Program under the Office of Victims Advocate, and create a director of the Office of Victims Advocates to oversee and to coordinate, to prevent and respond to cases of domestic violence and sexual assault. That is done rarely, too seldom. It will codify the rights and the restitution policies, the treatment and other services for victims within UCMJ, including creating comprehensive confidentiality protocols to protect the rights of victims. I cannot stress enough that in these cases the victims have almost no rights at all. It will strengthen policies for reporting prosecution and certainly going after the perpetrators of violence.

Now, in addition to protecting our service members from sexual assault and harassment, we have a new duty we have to perform, and that is to protect individuals who work in foreign countries as contractors working overseas. Earlier this year, I was troubled to hear the story of Jamie Leigh Jones, an American citizen who alleged that she was gang raped by fellow employees while employed in Baghdad by KBR in 2005. After the alleged attack, Army doctors did perform a medical examination on Ms. Jones and found evidence of vaginal and anal rape.

For reasons beyond my comprehension, the results of the rape kit were turned over to KBR. According to Ms. Jones, she was held captive in a shipping crate under armed guard and deprived of food and water for 24 hours by KBR security.

The State Department and U.S. Embassy in Baghdad did facilitate Ms. Jones' release, and thanks to Congressman Poe for helping

with that. All the portions of the kit have mysteriously disappeared. Over 2½ years later, her assailants have yet to be indicted and she has yet to receive justice. Mr. Chairman, she is only one of many cases.

The affidavits filed in the case of Jamie Leigh Jones show an alarming pattern of widespread sexual assault and harassment among Government contract employees in environments that condone and support such behavior, and retaliation against victims who come forward regarding these crimes. Now, I understand that DOD has a protocol for dealing with assault claims raised by contractors. But these harrowing experiences prompt us to pose serious questions regarding the DOD's overall efforts to address crimes against individuals in similar situations.

The question basically is, do we have any responsibility over the American contractors? I know that from time to time, we have wavered a lot in the answer for that. DOD must do more to ensure that American civilians serving abroad receive the same protections as our service members. Any incident of sexual assault is one too many. The military should be at the forefront of prosecuting assailants and setting high standards for treatment for service men and women and the civilians with whom they work.

We will lose valuable soldiers if our armed forces cannot guarantee the most basic protections to ensure that the victims receive necessary counseling and treatment.

Mr. Chairman, in my own district, I know of a young woman in the intelligence services in the Air Force who was based in Alaska and was a victim of the great macho Air Force, we are the big men who fly, sort of the same thing that happened with Tailhook. This brilliant young woman with a brilliant future ahead of her, in her 20's, was so broken by what had happened to her that she had to give up any opportunity for promotion or even to serve the country that she loved just as much as anyone else in the service.

We have had this go on far too long. I appreciate the complexity of it and the laying of responsibility. But at the very least, we should change our attitude and determine that the victim deserves the best that we can give her. And if it requires separating the person she has accused until it can be adjudicated, I frankly would like to see that happen. I don't want any more women ever coming to work in the morning saluting the man who may have raped her the night before.

Thank you very much for your courtesy; I appreciate it.

[The prepared statement of Hon. Louise M. Slaughter follows:]

TESTIMONY BY THE HONORABLE LOUISE M. SLAUGHTER

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

OVERSIGHT HEARING ON SEXUAL ASSAULT IN THE MILITARY

THURSDAY, JULY 31, 2008

Thank you Chairman Tierney and Ranking Member Shays for inviting me to testify before your panel today. I would like to express my sincere and genuine gratitude to this subcommittee for its continued oversight activities aimed at addressing the problem of sexual assault in the military. It is an ongoing problem that has continued for too long, and I am appreciative of this subcommittee's efforts to hold the Department of Defense accountable for implementing programs to prevent and prosecute sexual assault and care for victims.

Incidents of sexual assault and sexual harassment in the military undermine the solidarity and trust essential to the success of our military operations. The very nature of military engagements exposes our brave service women and men to dangers most of us could never imagine. But those who enlist to serve expect to sacrifice their safety to protect Americans from foreign enemies, they do not—and should not—expect to have to defend themselves from their fellow service-members.

I did not realize how serious the problem of sexual assault and harassment in the military had become until 2003 when I read a horrifying expose in the *Denver Post* that chronicled the experiences of women who had been sexually assaulted while serving. The sheer number of incidents was disturbing. More than that, however, the military's responses to victims who came forward were antiquated, often punishing the victim rather than the perpetrator. It was shameful.

Around the time the *Post* series broke, women returning home from Iraq and Afghanistan began to come forward to say they had been sexually assaulted while serving overseas. Given the professional risks associated with publicly sharing such incidents and the inherent stress of returning home from a war zone, these women should be commended for their courage and their role in bringing this issue to the forefront.

As a result of these brave women speaking out, as well as numerous others who had endured years of abuse at the Air Force Academy, I and my fellow female colleagues decided to act. In March 2004, as Co-Chair of the Congressional Caucus on Women's Issues, I held a hearing on this issue. I will never forget when one of the witnesses spoke about having to salute her rapist every day after the assault. She finally left the military.

Stories like hers served as a wake-up call to Congress and the Department of Defense. We cannot afford to lose talented, effective military personnel to internal threats to individual safety and security.

Following the hearing, the House unanimously adopted an amendment I offered to the FY05 Defense Authorization bill that required the Pentagon to develop a comprehensive and uniform policy to prevent and respond to sexual assault of women in the military. Every year since, Congress has been chipping away at the problem.

During consideration of the FY06 Defense Authorization bill, Congress directed the Secretary of Defense to assess the availability and accessibility within assigned or deployed units of trained personnel, rape evidence kits, testing supplies for pregnancies

and STIs, as well as other critical resources. It also required the Secretary of Defense to develop a plan to enhance accessibility of supplies, trained personnel, and transportation resources in response to sexual assaults occurring in deployed units. The following year, Congress directed the Department of Defense to include the results of disciplinary action, including Article 15s and court-martial convictions, as part of the annual report on sexual assault in the military.

Undeniably, the Department of Defense has come a long way in acknowledging and addressing sexual assault and harassment. Establishing the Sexual Assault Prevention and Response Office as a "single point of accountability" marks an important step forward in providing a uniform approach to addressing sexual assault among the armed services. Moreover, DoD has required every major defense installation to appoint a Sexual Assault Response Coordinator (SARC) to coordinate care for victims of sexual assault and organize prevention, education, and outreach campaigns. Though I am concerned that the SARCs lack adequate resources and time, I am encouraged that there is an effort to centralize and provide uniformity to sexual assault responses.

Beginning in 2006, DoD allowed victims of sexual assault options in reporting. Unrestricted reporting triggers the chain of command, making health care information and other details part of a record available to military law enforcement. Restricted reporting enables a victim to get the counseling and health care services they need to recover from sexual assault without alerting the chain of command. This option gives victims of sexual assault the ability to get the care they need. However, the DoD needs to expand this protection to allow victims to come forward and seek justice through the legal system without compromising the confidentiality of their private health care treatment.

I was pleased to learn that the Pentagon welcomed and concurred with many of the Government Accountability Office's recommendations for improving its efforts to address sexual assault. Continued and increased cooperation between the Pentagon and Congress is key to effective policy making.

Despite the progress the Department of Defense has made, much more needs to be done. In March, the Department of Defense's fourth annual report on sexual assault military stated that 2,688 sexual assaults reported last year by people in uniform. That was down about 9 percent from the 2,947 reported the year before. However, the decline follows a change from calendar-year to fiscal year reporting methods and two years of marked increases in reports of sexual assault. Reports of sexual assault jumped by about 24 percent in 2006 and nearly 40 percent in 2005. Given the increase in reports of sexual assault documented in two previous reports and possible discrepancies arising out of the change in reporting methods, it is hard to conclusively determine that the decline in reports of sexual assault reflects an actual decline in such behavior.

Failure to uniformly gather and report information related to the investigation and disposition of sexual assault claims complicates Congressional policy-based efforts to address sexual assault in the military and frustrates the purpose of the Department of

Defense's existing programs. For example, while the Pentagon includes in its annual report to Congress the number of complaints resulting in Court Martial, it does not include the conviction rate. Moreover, failure to use common terminology in reporting among the services prevents Congress and DoD from having a complete understanding of the problem.

Additionally, the holes in information and understanding left open by a lack of cohesive reporting practices are made worse by an overall lack of coordination among the services. For example, while SAPRO sets policies that require the services to establish a Sexual Assault Prevention Program, each service implements their own program. While it is appropriate for the services to have input as to how programs pertaining to sexual assault would best be implemented, lack of uniformity among the services could result in a varying quality of prevention and response programming among the services, could produce unclear analysis regarding which policies most efficiently address the problem, and could inhibit SAPRO's ability to effectively oversee and develop policy.

Together, Congress and the Department of Defense have made strides in ensuring that the individuals serving in our military are protected from unwanted sexual advances. However, these piecemeal solutions will not solve a pervasive problem. We need a comprehensive approach to addressing sexual assault and harassment in the military. That is why I have reintroduced the *Military Domestic and Sexual Violence Response Act*. This important piece of legislation will ensure greater protections for service members and their families if they become victims of violence. It also will strengthen programs to prevent violence against fellow soldiers and military families.

The *Military Domestic and Sexual Violence Response Act* will bring military law up to par with civilian laws. Specifically, this bill will:

- Establish an Office of Victims Advocate (OVA) within DoD, bring the Family Advocacy Program under OVA, and create a Director of OVA to oversee and coordinate efforts to prevent and respond to cases of family violence, domestic violence, sexual assault, and stalking within the military and among military families;

- Codify rights, restitution policies, treatment and other services for victims within the UCMJ, including creating comprehensive confidentiality protocols to protect the rights of victims within military law;

- Strengthen policies for reporting, prosecuting and treating perpetrators of violence; and

- Create counseling and treatment programs through the Department of Veterans Affairs.

In addition to protecting our service-members from sexual assault and harassment, we have a duty to ensure that individuals working as contractors overseas are safe. Earlier

this year, I was troubled to hear the story of Jamie Leigh Jones, an American citizen, who alleged that she was assaulted and gang raped by fellow employees while employed in Baghdad by KBR, a former subsidiary of Halliburton, in 2005. After the alleged attack, Army doctors performed a medical examination on Ms. Jones and found evidence of vaginal and anal rape. For reasons beyond my comprehension, the results of the rape kit were turned over to KBR, Ms. Jones' employer. According to Ms. Jones, she was then held captive under armed guard and deprived of food and water for 24 hours by KBR security to whom she was released by the Army. Though State Department agents in the US Embassy at Baghdad facilitated Ms. Jones' release, she would later discover that portions of that kit had mysteriously disappeared. Over two and a half years later, Jamie's assailants have yet to be indicted, and she has yet to receive justice.

We would like to believe this is a single isolated horrifying incident. But Jamie Leigh is far from alone.

The affidavits filed in the case of Jamie Leigh Jones show an alarming pattern of widespread sexual assault and harassment among government contracted employees, environments that condone and support such behavior, and retaliation against victims who come forward regarding these crimes. Indeed it seems contractors prefer to sweep allegations under the rug and out of the public view because billions of dollars, taxpayer dollars, are at stake.

In April, *The Nation* published the harrowing story of "Lisa Smith" another KBR contracted employee raped while working in Iraq. KBR discouraged Lisa repeatedly from reporting her assault, warning that doing so would put her in danger.

In another case, American citizen Tracy Barker, while employed by KBR, alleged that she was sexually assaulted by a State Department employee. Her alleged assaulter continues to work for the State Department today.

Unfortunately, these are not isolated incidents. Many other women have reported sexual assault and harassment while working for government contractors. I understand that DoD has a protocol for dealing with sexual assault claims raised by contractors, but Ms. Jones', Ms. Smith's, and Ms. Baker's harrowing experiences prompt us to pose serious questions regarding the DoD's overall efforts to address crimes against individuals in similar situations. DoD must do more ensure that American civilians serving in Iraq and Afghanistan receive the same protections as our service members. An essential part of any policy to eliminate incidents of sexual assault is creating an atmosphere in which sexual assault is not tolerated and is punished justly and swiftly regardless of the offender or victim.

Any incident of sexual assault is one too many. The military should be at the forefront of prosecuting assailants and setting the highest standards for treatment of service men and women, or military family members, victimized by sexual assault and domestic violence. Our Armed Forces must be able to guarantee the most basic protections to ensure these victims can receive necessary counseling, treatment, and justice. If a victim cannot access essential care for fear of stigma, public embarrassment, threats to their career, or

because they just do not know what resources are available, the military will continue to lose valuable female and male soldiers.

Our service members put themselves in harm's way to protect us and our nation from threats at home and abroad. They should not be given lesser rights and protections than the civilians whose freedoms they protect.

The *Military Domestic and Sexual Violence Response Act* ensures that service members and their families are adequately protected when dealing with the horrible tragedy of sexual assault or domestic violence by implementing comprehensive, cohesive approach to preventing, responding, and reporting such incidents. I urge my colleagues here today to continue the important oversight efforts that I hope will bring the military in line with the protections afforded civilian victims of domestic and sexual violence.

Thank you.

Mr. TIERNEY. Thank you, Ms. Slaughter. We appreciate your testimony and your leadership on this issue and also the fact that you have to remove now to the floor where you are doing a rule, I believe, on that.

Ms. SLAUGHTER. I can't thank you all enough for giving up your time. You are most generous.

Mr. TIERNEY. We appreciate it. Thank you.

Ms. Harman, with your consent, we are going to go to the chairman's opening statement. We are pleased to have with us the chairman of the full committee to make an opening statement, then Mr. Shays, then we will have the testimony of Ms. Harman.

Mr. Waxman, you are recognized.

Mr. WAXMAN. Thank you very much, Mr. Chairman. I appreciate the indulgence of our colleague, Jane Harman. And I thank her and Louise Slaughter for their leadership on this issue and their speaking out about this problem.

Mr. Chairman, I appreciate you and Mr. Shays holding this hearing. Yesterday, we held a hearing about the accidental electrocutions of military people in their barracks, even in their showers. And it showed that the Defense Department has failed the test of providing our soldiers with a safe living environment. Today we are going to examine another area where the Department has failed the test of basic protections for our soldiers, sexual assault.

Sexual assaults have occurred in every branch of the military. It is a longstanding problem and the refusal of the military to fix this problem is embarrassing and tragic. As the Government Accountability Office is going to report today, it is difficult to get the Department of Defense to take basic steps, such as standardizing definitions of sexual assault and harassment, collecting data and hiring victim advocates and social workers.

It appears that commanders at Military installations are given far too much latitude and discretion in deciding the outcome of reported assaults. Often offenders simply get a slap on the wrist. This hearing and Congress must send a message that sexual assault and harassment will not be tolerated anywhere in the military and there will be a clear and harsh punishment for violators.

Mr. Chairman, I am concerned that given our Nation's increasing reliance on contractors, they should be neither immune from prosecution nor left without medical and legal recourse when they are the victims of sexual assaults. Our troops make enormous sacrifices to protect our Nation. We need to protect them from being victimized by their fellow soldiers and commanding officers.

I thank you for this opportunity to make a statement. I have a longer one I wish to put into the record.

Mr. TIERNEY. Without objection, it will be put into the record and thank you very much, Mr. Chairman.

Mr. Shays, you are recognized.

Mr. SHAYS. Thank you, Chairman Tierney, for scheduling this hearing and continuing to apply needed pressure on the Department of Defense, DOD, regarding sexual assault in our military. As the former chairman of the subcommittee, I held a hearing on this issue and commissioned a report from the Government Accountability Office [GAO], in 2006, focusing on sexual assault in two of our Nation's military academies. This subcommittee heard from

Ms. Beth Davis, a former U.S. Air Force Academy cadet who detailed a horrific experience of rape in a culture that fostered this destructive behavior. She testified, "I was raped and assaulted repeatedly, and they instructed us that if we were attacked, to not report it to the authorities, because it would effectively destroy our careers."

Her ordeal triggered a 2005 Defense Task Force on sexual harassment and violence at the military service academies. Understanding that this problem was more systematic, the 2005 National Defense Authorization Act required DOD to establish a second task force to evaluate sexual assault in the military. That was in 2005.

At the time of our June 2006 hearing, this task force still needed the appointment of several more members. DOD offered no sound reasons for dragging its feet other than the members were being strategically selected. The task force is intended to provide the military with feedback on its programs and evaluate them across the DOD. The task force was chartered so best practices could then be incorporated and sound policy implemented.

One key development to support the work of this task force was the creation of a data base that accurately records incidents of sexual assault across the military. This information will be used to evaluate programs and better protect our service members who fall victim to sexual assault. So the questions I have are simple. Where are we today? And how far has the program developed in 2 years?

Well, let's look at the facts. Programs have been implemented by the services. However, DOD has still not created a data base to accurately record incidents of sexual assault. DOD is limited in its ability to conduct comprehensive analysis of sexual assault incidents because the services are not providing the installation data.

Therefore, DOD lacks the information to try to evaluate its programs, apply lessons on a macro level or target its resources to fix problems. Additionally, as one brave young lady will describe today, there exists a large gap between the level of care and services available to both civil servants and civilian dependents who are subject to this criminal behavior. These challenges in program limitations could have been addressed and potentially remedied by the Defense Task Force nearly 2 years ago and certainly by now.

However, this group has never met. We have just recently been informed that they will meet for the first time next month, in 2008, while it was supposed to be established in 2005. At the June 2006 hearing, the DOD told this subcommittee that the task force and the data base were days away from being fully operational. That was in 2006. Here we are in 2008. And again being told that they are days away from being fully operational. Years of inaction at the DOD continue to speak volumes about the senior leadership commitment, or more appropriately stated, lack of commitment, to our service members and civil servants. Our military's greatest challenge should be on the battlefield, not protecting its members from sexual assault.

Thankfully, this subcommittee had the foresight to keep GAO studying and auditing DOD to document its lack of commitment to battling sexual assault. Testimony today will show that at the department level, little progress has been made. I look to the GAO today to help us sort out this colossal mess. The subcommittee un-

derstands that sexual assault is a problem within DOD and within our society. This should not be an excuse for DOD, but a reason for extra effort. The culture in the military has changed somewhat from the days of the Tailhook incident. But it is pathetic to think that DOD cares so little about the safety of its female employees and the conduct of its male employees.

I appreciate Congresswoman Slaughter and Congresswoman Harman for testifying today. I want to assure them, we will do everything we have to on a bipartisan basis to make sure DOD wakes up to the victimization of the women who serve our country. The DOD has run out of excuses. When it comes to sexual assault in the military, DOD has no credibility, absolutely none, zero, zip.

Mr. TIERNEY. Thank you, Mr. Shays, and thank you for your leadership on this. I think it is important to note that these hearings were actually commenced when you were chair of the subcommittee, and we continue on with that work because of its importance.

The Honorable Jane S. Harman has joined us here this morning. Congresswoman Harman has represented California's 36th District since 1992. She currently serves as the Chair of the Homeland Security Subcommittee on Intelligence and Terrorism Risk Assessment and is also a member of the Energy and Commerce Committee. Most recently, she has introduced a sense of Congress resolution urging the Secretary of Defense to encourage more investigations and prosecutions of sexual assault in the military. Congresswoman Harman is a long-time leader of women's health issues, and we are happy to have you here today.

Ms. Harman, please benefit us with your testimony.

STATEMENT OF HON. JANE HARMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. HARMAN. Thank you, Mr. Chairman, and thank you, Mr. Shays, for your powerful remarks, for your enormous concern about an issue that is deeply personal for me. As a woman Member of this House, as someone who has focused her entire career here on protecting the security of the United States of America, it is galling and enormously upsetting to think that the personal security of the women who fight for our flag is at risk.

As you mentioned, I spent 6 years here serving on the Armed Services Committee where I was on a three-person task force investigating sexual harassment against women in the military. I spent 8 years on the Intelligence Committee, I spent 4 years on the Homeland Security Committee, where I chaired the Intelligence Subcommittee. And these issues are never far from my personal priority list.

Sixty years have passed since President Truman issued his historic order ending racial segregation in the military. Here in Congress, we recently commemorated this milestone with Defense Secretary Robert Gates and former Secretary of State and chairman of the Joint Chiefs Colin Powell. Speaking at the event, Secretary Powell, who joined the Army just 10 years after Truman's order, said, "They no longer cared whether I was black or white, immigrant or not." His commanders, he said, asked him only one question: can you perform? And as we all know, he did.

Perhaps less well known is that the same year, Truman also signed the Women's Armed Services Integration Act into law, landmark legislation that allowed women to serve permanently in the armed forces. And we have. But as noteworthy as this event was, the progress it represented on paper, the progress for women it represented on paper, it still in many important respects eludes us. And I want to focus today, as you are, and as this hearing is, on a major problem, which is rape and sexual assault in the military, and the bipartisan legislation that Mike Turner, a member of your panel—who is sitting right here, and I am pleased to see you, Mike—and I have introduced, H. Con. Res. 397, which is intended to halt the epidemic of assault and rape against women in our military.

The stories are shocking in their simplicity and brutality. A female military recruit is pinned down at knife point and raped repeatedly in her barracks. Though her attackers hid their faces, she identified them by their uniforms. They were her fellow soldiers. During a routine gynecological exam, a female soldier is attacked and raped by her military physician. Yet another young soldier, still adapting to life in a war zone, is raped by her commanding officer. Afraid for her standing in her unit, she feels she has nowhere to turn.

These stories are sadly not isolated events. Women serving in the U.S. military today are more likely to be raped by a fellow soldier than killed by enemy fire in Iraq. Let me say that again. Women serving in the U.S. military today are more likely to be raped by a fellow soldier than killed by enemy fire in Iraq.

The scope of the problem was brought into acute focus for me during a visit to the West Los Angeles VA Health Center, where I met female veterans and their doctors. My jaw dropped when the doctors told me that 41 percent of the female veterans seen there say they were victims of sexual assault while serving in the military; 29 percent say they were raped during their military service. They spoke of their continued terror, feelings of helplessness and the downward spirals many of their lives have taken since, just the kind of story that Louise Slaughter just described.

Numbers reported by the Department of Defense show the same sickening pattern. In 2006, 2,947 sexual assaults were reported, 73 percent more than in 2004. The DOD's most recent report, released earlier this summer, indicates that 2,688 reports were made in 2007. But a recent shift, as you have heard, from calendar year reporting to fiscal year reporting makes comparisons with data from previous years much more difficult.

The Pentagon has made some efforts to manage this epidemic, most notably in 2005, after the media received anonymous e-mail messages about sexual assaults at the Air Force Academy. The press scrutiny and congressional attention, and I thank you for that, which followed led DOD to create the Sexual Assault and Response Office, SAPRO. Since its inception, SAPRO has initiated training and improved reporting of rapes and sexual assaults, but has failed to track prosecution rates, or how witnesses are faring within the military structure. I can tell you how they are faring, and it is not a happy story.

At the heart of this crisis is an apparent inability or unwillingness to prosecute rapists in the ranks. According to DOD's own statistics, a mere 181 out of 2,212 subjects, or 8 percent investigated for sexual assaults in 2007, including over 1,200 reports of rape, were referred to courts-martial. In nearly half the cases investigated, the chain of command took no action and in the majority of those that were acted upon, the offenders were assigned administrative or non-judicial punishment. As Chairman Waxman just said, in most cases that meant a slap on the wrist.

In more than one-third of the cases that were not pursued, the commander took no action because of "insufficient evidence." This is in stark contrast to the civil justice system, where 40 percent of those arrested for rape are prosecuted, according to Department of Justice and FBI figures. The DOD must close this gap and remove the obstacles to effective investigation and prosecution. Failure to draw bright red lines produces two harmful consequences. First, it deters victims from reporting rapes, and it fails to deter offenders. But second of all, it perpetuates the attitude, which all of us should condemn, that boys will be boys.

The legislation that Mr. Turner and I have introduced calls on the Secretary of Defense to develop and implement a comprehensive strategy to end assault and rape in the military, to encourage and increase investigations and prosecutions. It also urges the Secretary to provide better protection for victims from their alleged attackers after reporting a sexual assault or rape.

I have raised this issue, Mr. Chairman, personally with Secretary of Defense Gates, Chairman of the Joint Chiefs Admiral Mike Mullen, our former colleague, Army Secretary Pete Geren, among others. While they express real concern, and I believe that Pete Geren is going to make this a major focus of his tenure as Secretary of the Army, and I commend him for this, much, much, much more needs to be done.

And Congress must do better, too. While these sexual assault statistics are readily available, our oversight has yet to come to grips with an effective answer to solve the problem. No doubt the abhorrent and graphic nature of the reports makes people uncomfortable. But this is no excuse, and I applaud you, and I applaud Mr. Shays for shining a light and focusing on this problem.

Let me just conclude with this. Most of our service women and men are patriotic, courageous and hard-working people who embody the best of what it means to be an American. The failure to stem sexual assault and rape in the military runs counter to those ideals and shames us all.

Thank you.

[The prepared statement of Hon. Jane Harman follows:]

COMMITTEE ON
HOMELAND SECURITY
SUBCOMMITTEE ON
INTELLIGENCE, INFORMATION SHARING,
AND TERRORISM RISK ASSESSMENT
CHAIR
SUBCOMMITTEE ON
BORDER, MARITIME, AND
GLOBAL COUNTERTERRORISM
BLUE DOG COALITION
NATIONAL SECURITY WORKING GROUP
CO-CHAIR
CONGRESSIONAL
SPACE POWER CAUCUS
CO-CHAIR

CONGRESSWOMAN JANE HARMAN
36TH DISTRICT, CALIFORNIA

COMMITTEE ON
ENERGY AND COMMERCE
SUBCOMMITTEE ON
TELECOMMUNICATIONS
AND THE INTERNET
SUBCOMMITTEE ON
ENERGY AND AIR QUALITY
NEW DEMOCRAT COALITION

July 31, 2008

Testimony for the Committee on Oversight and Government Reform,
Subcommittee on National Security and Foreign Affairs

Sixty years have passed since President Truman issued his historic order ending racial segregation in the US military. Here in Congress, we recently commemorated this milestone with Defense Secretary Robert Gates and former Secretary of State and Chairman of the Joint Chiefs of Staff, Colin Powell.

Speaking at the event, Secretary Powell, who joined the Army just 10 years after Truman's order, said, "...they no longer cared whether I was black or white, immigrant or not." His commanders asked only one question, "Can you perform?" And as we all know, he did perform.

Perhaps less well-known is that, the same year racial segregation was officially ended in the military, Truman also signed the Women's Armed Services Integration Act into law - - landmark legislation that allowed women to serve permanently in the Armed Forces.

As noteworthy as these events were, the progress they represented on paper still in many important respects eludes us in practice.

Let me focus on one specific problem – rape and sexual assault in the military – and the legislation that Congressman Turner and I have introduced to help halt it.

The stories are shocking in their simplicity and brutality: a female military recruit is pinned down at knifepoint and raped repeatedly in her barracks. Though her attackers hid their faces she identified them by their uniforms. They were her fellow soldiers. During a routine gynecological exam, a female soldier is attacked and raped by her military physician. Yet another young soldier, still adapting to life in a war zone, is raped by her commanding officer. Afraid for her standing in her unit, she feels she has nowhere to turn.

These are true stories, and, sadly, not isolated incidents. Women serving in the U.S. military are more likely to be raped by a fellow soldier than killed by enemy fire in Iraq.

The scope of the problem was brought into acute focus for me during a visit to the West Los Angeles VA Health Center, where I met with female veterans and their doctors. My jaw dropped when the doctors told me that 41% of female veterans seen there say they were victims of sexual assault while in the military and 29% report being raped during their military service. They spoke of their continued terror, feelings of helplessness, and the downward spirals many of their lives have since taken.

RESPOND TO:

EL SEGUNDO:
☐ 2321 ROSECRANS AVENUE
SUITE 3270
EL SEGUNDO, CA 90245
PHONE: (310) 643-3636
FAX: (310) 643-6445

WASHINGTON, DC:
☐ 2400 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-8220
FAX: (202) 226-7290

WILMINGTON:
☐ 544 NORTH AVALON BOULEVARD
SUITE 307
WILMINGTON, CA 90744
PHONE: (310) 549-8282
FAX: (310) 549-8250

Website: www.house.gov/harman

PRINTED ON RECYCLED PAPER

Numbers reported by the Department of Defense show the same sickening pattern. In 2006, 2,947 sexual assaults were reported – 73% more than in 2004. The DOD's most recent report, released earlier this summer, indicates that 2,688 reports were made in 2007, but a recent shift from calendar-year reporting to fiscal-year reporting makes comparisons with data from previous years much more difficult.

The Pentagon has made some efforts to manage this epidemic – most notably in 2005, after the media received anonymous e-mail messages about sexual assaults at the Air Force Academy. The press scrutiny and congressional attention that followed led DOD to create the Sexual Assault and Response Office. Since its inception, SAPRO has initiated training and improved reporting of rapes and sexual assaults but has inexplicably failed to track prosecution rates or how victims are faring within the military structure.

At the heart of this crisis is an apparent inability or unwillingness to prosecute rapists in the ranks. According to the DOD's own statistics, a mere 181 out of 2,212 subjects – or 8 percent – investigated for sexual assault in 2007 (including 1,259 reports of rape) were referred to courts martial. In nearly half of the cases investigated, the chain of command took no action and in the majority of those that were acted upon, the offenders were assigned administrative or non-judicial punishment. In other words, slaps on the wrist. In more than one-third of the cases that were not pursued, the commander took no action because of "insufficient evidence."

This is in stark contrast to the civil justice system, where 40 percent of those arrested for rape are prosecuted, according to the Department of Justice and FBI.

The DOD must close this gap and remove the obstacles to effective investigation and prosecution. Failure to draw bright red lines produces two harmful consequences: it deters victims from reporting rapes and it fails to deter offenders. The absence of rigorous prosecution perpetuates a culture tolerant of sexual assault and rape — an attitude that says "boys will be boys."

The legislation that Mr. Turner and I have introduced calls on the Secretary of Defense to develop and implement a comprehensive strategy to end assault and rape in the military – to encourage and increase investigations and prosecutions. It also urges the Secretary to provide better protection for victims from their alleged attackers after reporting a sexual assault or rape.

I have raised this issue personally with Defense Secretary Gates, Chairman of the Joint Chiefs Admiral Mullen, and our former colleague, Army Secretary Geren, among others. While they express real concern - - and the Army under Pete Geren is making strides - - much, much more needs to be done.

Congress must do better too. While these sexual assault statistics are readily available, our oversight has failed to come to grips with the magnitude of the crisis. No doubt the abhorrent and graphic nature of the reports makes people uncomfortable. But this is no excuse for inaction. I applaud this subcommittee for holding this hearing to shine a light on the failure of existing policies.

Most of our servicewomen and men are patriotic, courageous and hard-working people who embody the best of what it means to be an American. The failure to stem sexual assault and rape in the military runs counter to those ideals and shames us all.

Mr. TIERNEY. Thank you very much, Ms. Harman. You have given us some information that is substantial there.

Did you want to ask for clarification on any of that, Mr. Shays?

Mr. SHAYS. Just one. First, thank you for your great statement and your kind words to all of us. But you gave a statistic of something like 2,000 or 1,200, and was that an annual rate of accusation? This was, you were making, it was something to do with accusation.

Ms. HARMAN. I said that according to DOD's statistics, 181, a mere 181 out of 2,212——

Mr. SHAYS. 2,212 accusations. Thank you, that is the number.

Ms. HARMAN [continuing]. Subjects investigated for sexual assault in 2007 were referred to courts-martial. So it is an 8 percent rate, and that compares with a 40 percent rate in the civil justice system.

Mr. SHAYS. So it was a 2,000 number that was studied?

Ms. HARMAN. Yes, 2,200 in 2007.

Mr. TIERNEY. Thank you, Ms. Harman.

I understand that, if possible, you are going to join the panel some time today. I know you have a busy schedule. We want to thank you very much for sharing your testimony and for your drive behind this issue and your leadership.

Ms. HARMAN. Thank you, Mr. Chairman, and I will try to stay, because as I said, this is a very deeply personal issue to me, and I respect very much the people who will appear on panels following me. I appreciate the committee's courtesy in inviting me to sit as part of the hearing panel. I want to thank you again for your personal interest.

Mr. TIERNEY. We are happy to have you join us.

Ms. HARMAN. You and I have had numerous conversations about this subject.

Mr. TIERNEY. We have. Thank you.

With that, we will move to the second panel. Thank you again, Ms. Harman. If the members of our second panel will kindly take their seats, in a couple of minutes we will get started on that.

The subcommittee will now receive testimony from our second panel of witnesses. We want to thank you both for your courage in coming to share your stories and your insights with us today. We are hoping that your testimony gives us some guidance on how we might improve the situation and what we do in the service with respect to issues of rape and assault.

Ms. Ingrid Torres is a station manager with the American Red Cross. She has served in close proximity with the U.S. military, including by providing direct field support to military operations. Since beginning her career with the American Red Cross in 2003, Ms. Torres has served, among other places, in Germany, Korea, Iraq and Japan. She has a masters in social work from the University of Michigan in Ann Arbor. We thank you, Ms. Torres, for your years of dedicated public service. We welcome you to the hearing today.

I would like to yield to Congressman Turner to briefly introduce our second witness on the panel, who is a constituent in his district, Ms. Mary Lauterbach.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank you and Ranking Member Shays and Representative Harman for your efforts to highlight this issue. This is a very serious issue which has incredible consequences on individual people's lives. We will hear some of that today. It is an opportunity where I think we can get the type of information necessary for us to be able to take action that hopefully can make a difference in this.

Today I have with us Mary Lauterbach, who is from my district in Vandalia, OH. Many people have heard the tragic story of her daughter, Maria, who was raped and murdered. Maria accused a fellow Marine, Cesar Laurean, of raping her. After that accusation, Maria and her unborn child were found dead and buried in Laurean's back yard.

Since that tragic death, Mary has been a tireless advocate for women in uniform. She has visited Capitol Hill, and Mr. Chairman and ranking member, I appreciate your efforts to meet with her and hear her story and the ways we can make a difference. Her story is inspirational. She has taken this to the issue of not only wanting answers about the tragic death of her daughter, Maria, but how can we make a difference in protecting other women who are serving and addressing this issue.

So Mr. Chairman, thank you for having her today. We appreciate the opportunity to hear her story.

Mr. TIERNEY. Thank you, Mr. Turner.

Thank you, Ms. Lauterbach, for joining us.

It is the custom of this committee to swear in witnesses before they testify, so I will ask the witnesses to please stand and raise your right hands.

[Witnesses sworn.]

Mr. TIERNEY. Thank you. The record will please reflect that both witnesses answered in the affirmative.

Your full statements are going to be placed on the record with the unanimous consent of this committee, so you needn't feel compelled to have to read the whole of it. We allot about 5 minutes for opening statements, because Members will be anxious to ask questions and delve for some insight on that. So please try to keep your remarks within 5 minutes. You will see the light turn from green to yellow when there is about a minute left. A bell doesn't go off, just the light changes. Then it turns to red when time is up. We of course will let you wind down and finish as appropriately as possible.

We appreciate your being here. We are going to be as lenient as we can on the time.

Ms. Torres, we will start with you if you are ready.

STATEMENTS OF INGRID S. TORRES, MSW, CSW; AND MARY STEINER LAUTERBACH, MOTHER OF LANCE CORPORAL MARIA LAUTERBACH

STATEMENT OF INGRID S. TORRES

Ms. TORRES. Chairman Tierney, Congressman Shays and other distinguished members of the subcommittee, thank you for the opportunity to testify today about the Department of Defense Sexual Assault Prevention and Response Program.

I would also like to thank RAINN for their continued support of victims of sexual assault.

I would like to begin by explaining a little about whom I am and the work that I do before summarizing my experiences with the SAPRO program. Before I get into that, however, I just state that I am here not as a representative of my employer, but rather, I am here as a private citizen.

That said, I am currently employed by the American National Red Cross within a branch of our organization that works almost exclusively with the military. As a member of the Service to the Armed Forces [SAF], mobile staff, I have been stationed at Yokota Air base in Tokyo, Japan; Camp Victory in Baghdad, Iraq; Kunsan Air Base in the Republic of Korea; and the U.S. Army Garrison Mannheim in Mannheim, Germany.

At overseas bases, American Red Cross managers are considered emergency and essential personnel and are thus required to live on the installation. My time overseas was spent with the American military and the men and women that I lived and worked with became my colleagues and friends.

I grew up in Indiana, moved to Ann Arbor, Michigan to pursue a masters of social work [MSW], at the University of Michigan. I first started working for the Red Cross in 2003 in Michigan while working to complete my MSW. I graduated in 2005 and accepted a position with the American National Red Cross as an assistant station manager in Japan. I remember being so excited to be doing a job that can make a difference to those serving their country, especially during a time of war.

It was while I was stationed at Kunsan Air Base in the Republic of Korea in 2006 that I endured an assault, which is the reason I am sitting in front of all of you today. On the evening of the assault, I had taken Ambien, a medication I had been prescribed to aid in sleep after serving in Iraq. And I was raped while I slept.

The perpetrator, who was an installation flight doctor, had a complete understanding of the effects of a sleeping aid such as Ambien, and he used that knowledge to hurt me. He was later found guilty and is currently in military confinement and has been dismissed from the Air Force.

The road after sexual assault is a long and challenging one. As is typical with victims of violent crime, I suffered from PTSD, terrifying nightmares and depression. I still wake in the night, he still comes after me in my dreams. Since the night of the rape and in the aftermath of the trial, I have experienced the SAPRO program at duty stations in Korea, Japan and Germany. I must say that the programs in each area vary greatly, some better, some worse, all in need of change. Civilians are not afforded the same protections as active duty military personnel after suffering a sexual assault. And yet civilians outnumber the military personnel with whom they live and serve. Civilians outnumber active duty personnel, and yet they are sidelined when it comes to being provided adequate care after an assault.

Throughout the rest of my statement, I am going to advise you of some of the different aspects of the SAPRO program and provide you with my recommendations for change. Specifically, I will be discussing restricted versus unrestricted reporting, some of the dif-

ferences in the SAPRO program at different duty locations and the response from military personnel. I will conclude by making five recommendations.

First, restricted versus unrestricted reporting. About 2 years ago, a policy was established that allowed for military personnel to report a sexual assault as either restricted or unrestricted. A restricted report gives victims the option to come forward and get medical services confidentially, without going through the chain of command.

Mr. TIERNEY. Ms. Torres, we are going to turn the light off, so that you can take the time that you need to testify. You have five recommendations, I think that we want to hear them fully. So don't feel compelled to rush because that light keeps flicking in front of you. We are happy to hear the balance of your testimony.

Thank you.

Ms. TORRES. A restricted report gives victims the option to come forward and get medical services confidentially, without going through the chain of command or the legal system. Civilians, however, were not and are not yet afforded this option. We are only allowed to make an unrestricted report, which means that once a civilian comes forward, the Military is required to investigate the crime and, if there is sufficient evidence, the military is required to prosecute. The entire process is difficult, prolonged and serves to re-victimize the injured party at every turn, as I was. If I knew then what I know now, I can't say with certainty that I would have reported the assault, because of the challenge that I experienced with the system.

I should at the very least have had the option of making a restricted report, if for no other reason than to avoid facing the obstacles that I faced every time I needed to go to the health clinic, where my perpetrator worked and was allowed to continue working, or to attend meetings with the base's group commanders, lawyers or investigators that were processing my case. My life became about the rape.

I have dealt with a lot of hostility over the last year and a half because of the sheer number of people who knew about the incident and the way that my case was handled. It seemed that everybody knew what was going on, and I had to continue to work with these individuals for nearly a year. Because of the pending court-martial, I was advised by OSI, the Office of Special Investigations and JAG not to talk openly about the case, which caused rumors and misconceptions to run rampant. There was no escaping it and there was no making it better. The hostility grew with my silence, mostly, I learned, after the trial, because no one knew exactly what was going on and it made everybody uncomfortable.

Ultimately, our society still publicly and privately tries the victims in sexual assault cases. Rape is the only crime where the victim must prove their innocence.

The Sexual Assault Prevention and Response Program has very little oversight and is different, depending on where you live. During legal proceedings of my case, I was stationed at three different bases in three different countries and had three very different experiences with the SAPRO program within multiple branches of

the military. There are so many differences that I can't really go into all of them now.

Some of the things of note, the difference between victim advocates between the Army and the Air Force specifically, how they are selected, inconsistent knowledge of the program by the SARCs, the sexual assault response coordinators. Also being denied care was another issue. I would be happy to answer further questions about some of the differences in detail should you have those. They are written in my official written statement.

Third, response from military personnel. I do believe that the response from senior leadership as well as other military personnel is an important element in preventing future rapes from occurring. The best example I can give you is that I was actually approached by the offender's commander and he requested my opinion on punishing the crime with an Article 15 rather than a court-martial. An Article 15 is non-judicial punishment, and is essentially a slap on the wrist.

Commanders do have broad authority and discretion in how to respond to rape. But simply giving an Article 15 will not deter such crimes, and it sets the tone that such crimes will go by essentially unpunished.

There were people who were supportive of me in command positions, and they were fantastic. But it is actions like that do set the tone as well.

The most important thing to note about the response of commanders and personnel is that I as the victim made others feel more uncomfortable than he did as the perpetrator because I stood up and said something.

My recommendations. I recommend the following five actions be undertaken as appropriate by the administration, the Department of Defense and Congress.

One, seriously review the SAPRO program in each branch of service and at the academies. Real change is needed to ensure that sexual assault prevention programs do more than minimally address the issues.

Two, change the SAPRO policy so that civilians can make a restricted report in sexual assault cases. This is an extremely important change that needs to be made as soon as possible. We need to be afforded the same protection as those in the military.

Three, standardize the SAPRO program DOD-wide, so that victims are cared for around the world in the same way. Create a standardized training program and continue training for all SARCs and VAs DOD-wide, so that services are consistently rendered to those in need, no matter where they are.

I would also recommend creating and maintaining an e-mail list of all SARCs and VAs to assist in training and dissemination of program updates.

In addition, civilian resources, such as the National Sexual Assault Hot Line, should be utilized as a supplement, though not a replacement for military assistance and education and the use of said resources should be included in all training.

Fourth, reevaluate and update the prevention portion of SAPRO. Prevention starts with accurate and useable knowledge. The current prevention program is insufficient and does little to keep this

crime from occurring. New programs should be implemented that incorporate best practices from the field and content focused on prevention.

Further, there should be an emphasis on training everyone, from senior commanders to incoming personnel, on issues surrounding sexual assault and prevention. This training should be different every year, and designed to engage attendees who have to meet yearly training requirements on the subject.

Also, mental health professionals need to be trained to deal with this issue specifically, so that they meet the needs of the victim in a military environment with sensitivity and as enlightened professionals. You should take into account common misconceptions, such as who is responsible for rape.

Additionally, detailed information should be made available to the general population on military installations regarding SAPRO confidentiality and other policies and services. While I knew a SARC existed, even knew him personally, I knew very little about the SAPRO program when I needed help. It took another friend telling me how to get in touch with the SARC to get the help I needed. Knowledge is connected to empowerment, and the more people know, the more likely they will be to get the services they need, or tell someone and ensure their rights are being addressed.

Fifth, enact reforms such as those proposed in H.R. 3990, the Military Domestic and Sexual Violence Response Act, or other similar legislation, which would enhance protections for civilians and military personnel stationed around the world. All those who serve this country, both military and civilian, deserve to be protected while rendering their service.

I would like to close with an observation. I was recently in Poland, and while there I went to Auschwitz. While walking through the expansive camp, wondering how it was that so many people came to be murdered in that place, it occurred to me, the most egregious human rights violations have been one at a time. And while rape and mass murder are two very different things, they have something in common, in that they are the two most violent crimes, and they violate the basic rights of individuals.

We can make ourselves overlook one individual rape, even blame the victim. But it is only when you start adding them up that you see what really happened. There are about 300 million people in the United States today, 150 million of them are women, and according to RAINN, 1 in 6 of these women have been sexually assaulted. That equates to tens of millions of victims in the United States alone. And they happen one at a time. Ultimately, you have to protect each individual victim in order to protect the group, and that is what I am asking you to do, to protect all of us.

The system is broken, and it is time that more significant changes are enacted and that commanders are held accountable for the actions of those beneath them. The military has come a long way in the last 10 years in dealing with sexual assault, but much work remains. Women, both civilian and military employees, serve this country honorably and should be respected, not marginalized. Understand that I have the utmost respect for the military and I appreciate the service of those that have answered their Nation's call to duty. I understand that most people serve with honor. But

that does not negate the fact that there is a very large problem that must be dealt with effectively and decisively if we are to create a better military for the future, where women, both military and civilian, can serve their country without having to fear the people they serve with.

Mr. Chairman and distinguished members of the subcommittee, thank you for your time and consideration. This concludes my statement. I welcome your questions at this time.

[The prepared statement of Ms. Torres follows:]

Ingrid S. Torres MSW, CSW
Testimony before the House Committee on Oversight and Government Reform
Subcommittee on National Security and Foreign Affairs
"Oversight Hearing on Sexual Assault in the Military"
July 31, 2008

Chairman Tierney, Congressman Shays, and other distinguished members of the Subcommittee: thank you for the opportunity to testify today about the Department of Defense Sexual Assault Prevention and Response Program. I would also like to thank RAINN for their continued support of victims of sexual assault.

INTRODUCTION

I would like to begin by explaining a little bit about whom I am and the work that I do before summarizing my experience with the SAPRO program. Before I get into that, however, I must state that I am here not as a representative of my employer but, rather, I am here as a private citizen.

I am currently employed by the American National Red Cross within a branch of our organization that works almost exclusively with the military. The Red Cross is a not for profit organization that is congressionally mandated to provide emergency message communication between military personnel and their immediate family members around the world and the military requests our presence at the locations at which we serve.

As a member of the Service to the Armed Forces (SAF) mobile staff, I have been stationed at Yokota Air Base in Tokyo, Japan; Camp Victory in Baghdad, Iraq; Kunsan Air Base in the Republic of Korea; and the United States Army Garrison Mannheim in Mannheim, Germany. I should clarify that as a civilian when I state that I have been 'stationed' at these locations I mean that I worked on these installations and also that I lived on them. At OCONUS locations American Red Cross managers are considered emergency essential personnel and are thus required to live on the installation. My time overseas was spent with the American military and the men and women that I lived and worked with became my colleagues and friends.

I grew up in Indiana and moved to Ann Arbor, Michigan in 2003 to pursue a Masters of Social Work (MSW) at the University of Michigan. I first started working for the Red Cross in 2003 at the Washtenaw County Michigan Chapter while working to complete my MSW. I graduated in 2005 and accepted a position with the American National Red Cross as an Assistant Station Manager in Japan. I remember being so excited to be doing a job that could make a difference to those serving their country – especially during a time of war.

I was raped by the installation flight doctor in 2006 while stationed at Kunsan Air Base, Republic of Korea. One night I took Ambien – a medication I had been prescribed to aid in sleep after serving in Iraq – and I was raped while I slept in my quarters. The offender was found guilty for the crime he committed against me and he is currently in military confinement and has been dismissed from the Air Force. Since the night of the rape and in the aftermath of the trial, I have experienced the SAPRO program at duty stations in Korea, Japan, and Germany. I must

say that the programs in each area vary greatly – some better, some worse, and all in need of change.

Civilians are not afforded the same protections as active duty military personnel after suffering a sexual assault – and yet civilians outnumber the military personnel with whom they live and serve. According to the Defense Manpower Data Center, Statistical Information Analysis Division worldwide there are nearly 1.4 million US military personnel and nearly 2.7 million civilians accompanying them either as employees (DoD and other) or dependents. Overseas (OCONUS) there are 291,000 military personnel as of 2005 and nearly 300,000 civilians accompanying them. Civilians outnumber active duty military personnel and yet they are sidelined when it comes to being provided adequate care after an assault.

Throughout the rest of my statement I am going to advise you of some of the different aspects of the SAPRO program and provide you with my recommendations for change. Specifically I will be discussing Restricted vs. Unrestricted Reporting, some of the differences in the SAPRO program at different duty locations, and the response from military personnel. I will conclude by making five recommendations for change.

OBSTACLES FOR VICTIMS IN THE CURRENT SYSTEM

Restricted vs. Unrestricted Reporting: About two years ago, a policy was established that allowed for military personnel to report a sexual assault as either a restricted or unrestricted report. Civilians, however, were and are not yet afforded this option. A restricted report is one in which the victim can come forward and receive medical and mental health services confidentially and without going through the chain of command or the legal system. An unrestricted report is one in which the victim receives medical and mental health services but the chain of command of both the perpetrator and the victim as well as the legal system get involved.

Civilians are only allowed to make an unrestricted report which means that once a civilian comes forward, the military is required to investigate the crime (which is invasive and traumatizing to the victim) and if there is sufficient evidence, the military is required to prosecute. The entire process is difficult, prolonged, and serves to re-victimize the injured party at every turn.

The road after sexual assault is a long and challenging one. As is typical with victims of violent crime, I suffered from PTSD, terrifying nightmares, and depression. I still wake in the night having just dreamt that he found me and came after me again – my biggest fear. Each time I try to fight him off in my sleep and most of the time he wins again. If I knew then what I know now – I don't know that I would have made the same decision when reporting the assault against me. I should at the very least have had the option of making a restricted report – if for no other reason than to avoid being re-victimized every time I needed to go to the clinic (he was a doctor), or I had to go to a meeting with the base's group commanders, or the lawyers needed more information, or OSI had more questions. Every day it seemed there was something that came up involving the assault. I do not want to understate the trauma of the rape – it is very difficult to process being raped by a friend – a doctor no less, who used the medical knowledge he *gained from the military* to rape me. However, I would say that the process of investigating and prosecuting the crime was just as traumatizing as the crime itself because it was so drawn out

and resulted in repeated exposure to the crime.

I have dealt with a lot of hostility over the last year and a half because of the sheer number of people who knew about the incident and the way my case was handled. In my case at the installation where I was stationed, all but one group commander knew what was going on – and I had to continue to work with these individuals for nearly a year. Because of the pending court martial, I was advised by OSI and JA not to talk openly about the case – which caused rumors and misconceptions to run rampant. There was no escaping it and no making it better. The hostility grew with my silence – mostly, I learned after the trial, because no one knew exactly what was going on and it made everyone uncomfortable. Ultimately, we still publicly and privately try the victims in sexual assault cases. Rape is the only crime where the victim must prove their innocence.

Having the ability to make a restricted report protects victims from having to be re-victimized by the criminal justice system, as well as protects them from the civilian and military personnel that they must continue to work with who all too often blame and abandon the victim because of outdated ideas and fear of sexual assault. In addition, restricted reporting allows the victim to receive care they might not otherwise receive - especially OCONUS, where victims must get care through the military rather than on the economy because of language barriers, up-front costs of medical treatment, and reporting laws of the host nation.

The Sexual Assault Prevention and Response Program has very little oversight and is different depending on where you live: In Korea, right before I left, there was a big push to design and implement the prevention portion of the SAPRO program for the peninsula in something like 4 weeks. I don't remember the exact timeline, but it was short. There seemed to be little guidance or oversight from DOD, and my experience with 3 different SAPRO programs further illustrates this.

Korea: The response part of the SAPRO program seemed very established – my guess through frequency of use. The Sexual Assault Response Coordinator, SARC, was knowledgeable and helpful and steps were taken to protect me and my medical records from the perpetrator. The Victim Advocates were volunteers and were decently trained. However it should be noted that the DOD SAPRO program does not have standardized training – a minimum set of training, yes, but not standardized training! This leads to inconsistent care. The medical commander gave approval to keep paper records on me so that the man who raped me, a doctor, could not access them. The process worked relatively smoothly from a response standpoint.

Japan: The SARC had very little knowledge about the program he was leading and was not helpful in getting me assistance on base. I needed to be seen at the mental health clinic as I had been diagnosed with Chronic PTSD related to the assault and the psychologist there refused to see me and keep paper records. Digital records were not an option for my safety and he left me without medical care when I needed it most.

Germany: The SAPRO program there is mediocre. The current SARC is excellent but the Victim Advocate situation is poor at best. At Mannheim, units are required to name a person to be the unit's victim advocate, and I understand that this may be an Army wide policy. The Air Force, by contrast, tends to rely on volunteers. Forcing individuals to be Victim Advocates is a

terrible idea. In this time of crises, a victim needs someone who is knowledgeable and who wants to be there for them. They do not need to be re-victimized by a VA who would rather not be doing the job. At Mannheim, there are safeguards in place to weed out those who really don't want to be VAs, but I understand that is not an Army wide policy.

Response from the Highest Ranking Commanders down through the ranks: I do believe that the response from senior leadership as well as other military personnel is an important element in preventing future rapes from occurring. I was actually approached by the offender's commander and he requested my opinion on punishing the crime with an Article 15 rather than a court martial. An Article 15 is non-judicial punishment and is essentially a slap on the wrist. Commanders have broad authority and discretion in how to respond to rape but simply giving an Article 15 will not deter such crimes. The most important thing to note about the response of commanders and personnel is that the victim still makes others more uncomfortable than the perpetrator.

RECOMMENDATIONS

I recommend the following five actions be undertaken as appropriate by the Administration, the Department of Defense, and Congress:

1. **Seriously review the SAPRO program** in each branch of service and at the academies. A recent government report found that the DoD has "only minimally" addressed congressional interest in how well sexual assault prevention programs are working at the nation's military academies. This review can no longer be simply lip service. Real change is needed.

2. Change the SAPRO policy (DoD 6495.02) so that civilians can make a restricted report in sexual assault cases. This is an extremely important change that needs to be made as soon as possible. Civilian employees/dependents and contractors make up a significant number of Americans living OCONUS with the military and as such we have no where else to go but to the military for help after an assault. We need to be afforded the same protection as those in the military.

3. **Standardize the SAPRO Program** DOD wide so that victims are cared for around the world in the same way. Create and maintain an email list of all current SARCs and Victim Advocates to aid in continued training and dissemination of program updates. Create a standardized training program for all SARCs and VAs DOD wide so that services are consistently rendered to those in need no matter where they are. In addition, civilian resources such as RAINN should be utilized as a supplement, though not as a replacement for, military assistance and education in the use of said resources should be included in all training.

4. **Re-evaluate and update the prevention portion of SAPRO**. The current prevention program is insufficient and does little to keep this crime from occurring. New studies should be conducted to determine current best practices and a new prevention program established. Everyone from senior commanders to incoming personnel should receive new and updated training on preventing sexual assault and what sexual assault actually is. Required annual training should be different every year so that it is up to date and actually engages attendees

rather than being something to sit through yet again. Also, mental health professionals need to be trained to deal with this issue specifically so that they can meet the needs of the victim in a military environment with sensitivity and as enlightened professionals. It should take into account common misconceptions such as who is responsible for rape. According to a report by Amnesty International, one third of respondents believe women who flirt are partially responsible for being raped. In a separate article, "The Rape of Mr. Smith" the author points out that the law discriminates against rape victims in a manner that would not be tolerated by victims of any other crime. It is sometimes claimed that rapists can't stop their sexual urges once the 'victim' has provoked them in some way. If you made someone very, very angry – is it justifiable that they lose control of their impulses and kill you? No. Under the law people are required to control themselves.

One of the concerns brought to my attention by a professional in the field is that the SAPRO policies are not being implemented completely- she attributes this to a lack of information on the part of commanders and victims (service members and civilians). She believes that they are getting the word out about the availability of SARCS and advocates, but she does not know how much information is truly available to the general population re: confidentiality and other policies and services. Her premise, and this is one that I share, is that knowledge (information) is connected to empowerment and the more people know, the more likely they will be to get the services they need or tell someone and ensure their rights are being addressed.

Prevention starts with accurate and useable knowledge.

5. **Enact reforms**, such as those proposed in H.R. 3990 the Military Domestic and Sexual Violence Response Act or other similar legislation, which would enhance protections for civilians stationed on military bases overseas. All those who serve this country – both military and civilian – deserve to be protected while rendering their service.

CONCLUSION

I would like to close with an observation. I was recently in Poland and while there I went to Auschwitz. While walking through the expansive camp wondering how it was that so many people came to be murdered in that place it occurred to me that the most egregious human rights violations happen one at a time. And, while rape and mass murder are two very different things, they have something in common in that they are the two most violent crimes and they violate the basic rights of individuals. We can make ourselves overlook one individual rape, even blame the victim, but it is only when you start adding them up that you see what really happened. There are about 300 million people in the United States today and, according to RAINN, 1 in 6 of them have been raped. That equates to tens of MILLIONS of victims in the United States alone. And they happen one at a time. Ultimately you have to protect EACH individual victim in order to protect the group and that is what I am asking you to do – protect all of us.

The system is broken and it is time that more significant changes are enacted and that commanders are held accountable for the actions of those beneath them. The military has come a long way in the last ten years in dealing with sexual assault, but much work remains. Women – both civilian and military employees - serve this country honorably and should be respected –

not marginalized. Understand that I have the utmost respect for the military and I appreciate the service of those that have answered their nation's call to duty. I understand that most people serve honorably. But, that does not negate the fact that there is a very large problem that must be dealt with effectively and decisively if we are to create a better military for the future where women – both military and civilian - can serve their country without having to fear the people they serve with.

Mr. Chairman and distinguished members of the subcommittee thank you for your time and consideration. This concludes my statement and I welcome your questions at this time.

MEMORANDUM

FROM: Ingrid S. Torres MSW, CSW

SUBJECT: Changes to the current Sexual Assault Prevention and Response Program and H.R. 3990

REFERENCE:

Department of Defense Directive 6495.02

H.R.3990 – Military Domestic and Sexual Violence Response Act

U.S. v. Major Mark Seldes

U.S. v. Captain Thomas Still

Defense Manpower Data Center, Statistical Information Analysis Division

1. My name is Ingrid Torres and I am a civilian worker accompanying the military; I am writing to you about the current state of the DOD Sexual Assault Prevention and Response Program (SAPRO) as authorized by Department of Defense Directive 6495.02. Before I begin to summarize my concerns, first let me tell you a little about myself. I am currently stationed in Washington DC, having PCS'd here from Germany just this week. I was raped by the installation flight doctor in 2006 while stationed at Kunsan Air Base, Republic of Korea. One night I took Ambien – a medication I had been prescribed to aid in sleep after serving in Iraq – and he raped me while I slept. In the aftermath of the crime, I have experienced the SAPRO program at duty stations in Korea, Japan, and Germany. I must say that the programs in each area vary greatly – some better, some worse, and all in need of change. I have outlined items of concern below.

Civilians are not afforded the same protections as active duty military personnel after suffering a sexual assault – and yet civilians outnumber the military personnel with whom they live and serve. According to the Defense Manpower Data Center, Statistical Information Analysis Division worldwide there are nearly 1.4 million US military personnel and nearly 2.7 million civilians accompanying them either as employees (DoD and other) or dependents. Overseas (OCONUS) there are 291,000 military personnel as of 2005 and nearly 300,000 civilians accompanying them. Civilians outnumber active duty military personnel and yet they are sidelined when it comes to being provided adequate care after an assault. I seek immediate change to DoD Directive 6495.02 so that civilians accompanying the military

receive the same protection as military personnel. In addition, I seek movement on H.R. 3990. This bill, or similar protective legislation, should be passed and sent for approval by the Senate.

2. Restricted vs. Unrestricted Reporting: About two years ago, a policy was established that allowed for military personnel to report a sexual assault as either a restricted or unrestricted report. Civilians, however, were and are not yet afforded this option. A restricted report is one in which the victim can come forward and receive medical and mental health services confidentially and without going through the chain of command or the legal system. An unrestricted report is one in which the victim receives medical and mental health services but the chain of command of both the perpetrator and the victim as well as the legal system get involved.

Civilians are only allowed to make an unrestricted report which means that once a civilian comes forward, the military is required to investigate the crime (which is invasive and traumatizing to the victim) and if there is sufficient evidence, the military is required to prosecute. The entire process is difficult, prolonged, and serves to re-victimize the injured party at every turn. The civilian victim is victimized further through the loss of almost all of her privacy and personal autonomy once she comes forward, due to not being able to make a restricted report – a type of report that would allow her to get the help she needs without going public.

When the DOD policy regarding reporting domestic violence was enacted, the importance of allowing civilians to make a restricted report was recognized and that is part of the current domestic violence reporting policy. However, the sexual assault policy has never been updated to coincide with the domestic violence policy.

The road after sexual assault is a long and challenging one. As is typical with victims of violent crime, I suffered PTSD, terrifying nightmares, and depression. I still wake in the night having just dreamt that he found me and came after me again – my biggest fear. If I knew then what I know now – I don't know that I would have made the same decision when reporting the assault against me. I should at the very least have had the option of making a restricted report – if for no other reason than to avoid being re-victimized every time I needed to go to the clinic, or I had to go to a meeting with the base's group commanders, or the lawyers needed more information, or OSI had more questions. Every day it seemed there was something that came up involving the assault. I do not want to understate the trauma of the rape – it is very difficult to process being raped by a friend – a doctor no less, who used the medical knowledge he *gained from the military* to rape me. However, I would say that the process of investigating and prosecuting the crime was just as traumatizing as the crime itself because it was so

drawn out and resulted in repeated exposure to the crime.

I have dealt with a lot of hostility over the last year and a half because of the sheer number of people who knew about the incident and the way my case was handled. The number of people who are supposed to know, per SAPRO policy, is intended to be a small number; however that is not how it plays out. In my case at the installation where I was stationed, all but one group commander knew what was going on – and I had to continue to work with these individuals for nearly a year. I was advised not to talk openly about the case – which caused rumors and misconceptions to run rampant. There was no escaping it and no making it better. The hostility grew with my silence – mostly because no one knew exactly what was going on and it made everyone uncomfortable.

In the court martial process, the victim must still prove their innocence. The defense got to ask about my personal life, my sexual history (yes, that really is allowed, despite what they say about it not being relevant) and anything that the judge felt was relevant got made a part of public record. The kinds of questions I was asked were terrible and personal – questions such as whether 'I liked it on top' or 'how sex happens.' The judge, to his credit, kept my prior sexual history out of the trial, but I was still required to answer detailed questions about it in hearings – and it was severely traumatizing. Because one dishonorable man assaulted me, the public gets to know my personal, most intimate business, as trial proceedings are a matter of public record. This is a deeply embarrassing and troubling concept and something I will be forced to face for the rest of my career. We still try the victims in sexual assault cases. Rape is the only crime where the victim must prove their innocence.

Having the ability to make a restricted report protects victims from having to be re-victimized by the criminal justice system, as well as protects them from the civilian and military personnel that they must continue to work with who all too often blame and abandon the victim. In addition, restricted reporting allows the victim to receive care they might not otherwise receive - especially OCONUS, where victims must get care through the military rather than on the economy because of language barriers, up-front costs of medical treatment, and reporting laws of the host nation.

3. **The Sexual Assault Prevention and Response Program has very little oversight and is different depending on where you live.**
In Korea, right before I left, there was a big push to design and implement the prevention portion of the SAPRO program for the peninsula in something like 4

weeks. I don't remember the exact timeline, but it was short. There seemed to be little guidance or oversight from DOD, and my experience with 3 different SAPRO programs further illustrates this.

Korea: The response part of the SAPRO program seemed very established – my guess through frequency of use. The Sexual Assault Response Coordinator, SARC, was knowledgeable and helpful and steps were taken to protect me and my medical records from the perpetrator. The Victim Advocates were volunteers and were decently trained (though the DOD SAPRO program does not have standardized training – a minimum set of training, yes, but not standardized training! This leads to inconsistent care.). The medical commander gave approval to keep paper records on me so that the man who raped me, a doctor, could not access them. The process worked relatively smoothly from a response standpoint. When I left there was no standardized prevention piece to speak of, though as I mentioned above, they were scrambling to put one together. The breakdown in care in my case happened mostly with the sheer number of people who knew about the incident that I continued to have to work with.

Japan: The SARC had very little knowledge about the program he was leading and was not helpful in getting me assistance on base. I needed to be seen at the mental health clinic as I had been diagnosed with Chronic PTSD related to the assault and the psychologist there was very rude and demeaning and refused to see me ~~and keep paper records. He was informed that the reason I needed to have~~ paper records kept rather than records in the digital system was that I was raped by a military doctor who could pull up and view my medical records at any time prior to the pending court martial. Furthermore, the psychologist refused to provide care. He continued to be unwilling to provide care even after receiving clarification that permission had been given at higher levels in PACAF for keeping paper records. He left me without medical care when I needed it most.

Germany: The SAPRO program there is mediocre. The current SARC is excellent but the Victim Advocate situation is poor at best. At Mannheim, units are required to name a person to be the unit's victim advocate, and I understand that this may be an Army wide policy. The Air Force, by contrast, tends to rely exclusively on volunteers. Forcing individuals to be Victim Advocates is a terrible idea. In this time of crises, a victim needs someone who is knowledgeable and who wants to be there for them. They do not need to be re-victimized by a VA who would rather not be doing the job. At Mannheim, there are safeguards in place to weed out those who really don't want to be VAs, but I understand that is not an Army wide policy.

In addition, the Mental Health component of care in Germany is insufficient. One aspect of my current job is deploying, and in order to deploy, Red Cross staff are

required to meet military deployment standards. Because I had been diagnosed with Chronic PTSD and was on medication for this, I had to be evaluated by a Psychologist before being cleared to deploy. When I went in to the clinic in Heidelberg, my situation went from bad to worse. The doctor doing my intake was rude – firing off intense, personal questions without listening to the answers. One example of her poor intake skills is that she kept calling me Sergeant Torres – regardless of the fact that I told her multiple times that not only was I not a Sergeant, I was not in the military.

After the initial intake I was given an appointment to meet with another psychologist. During this first (and only) appointment he told me that I "was acting like a baby, and if I wanted to learn how to act like an adult he would help me." Not only was this inappropriate from a clinical perspective, it was unprofessional and was simply an incorrect assessment. I was getting ready to go back to Korea for the trial – to be visibly shaken and upset was a natural and normal response for any individual – not an indication of being "a baby." Had I not been a mental health professional myself I would have left and never gotten the care that I needed to recover. Instead, I knew he was out of line and sought care elsewhere. The problem is that not every victim will understand this and they will be further victimized by a system that wants them to "just get over it." Consistently inadequate mental health care compounded an already traumatizing situation – making it worse rather than better.

4. **Response from the Highest Ranking Commanders:** Last year, the entire Korean peninsula received an email from General Bell speaking out against the rape of a Korean woman by one of our military members.

The rates of sexual assault are staggering in the military – and you can be sure that only a fraction of actual assaults are reported. Korea is no exception. And, with the high rate of sexual assaults, it wasn't the assault of our own people which drew General Bell's public outcry, but rather the assault of one Korean woman. I am under no circumstance saying that one rape is better or worse than another. I am just as outraged that the Korean woman was assaulted as I am about my own rape. Rape is a violation of a woman's basic human rights and it is wrong - period. However, the numbers of our own military/civilian personnel are great in comparison to the numbers of local nationals being assaulted and it was the assault of one local national that drew comment from General Bell rather than the assaults of many of our own.

A more recent example of this is the locking down of bases in Okinawa after the assault of a young Japanese school girl. Bases are not locked down in this manner when our own are assaulted.

I understand that there is an international incident piece to a local national being assaulted and that Commanders have to speak out, but our leaders should care just as much about us as they do the host country nationals and they should state that. There wasn't an American in Asia – military or civilian – who wouldn't give their lives for their country. That is why we were there, serving our country. In turn our commander should protect us to the best of his or her ability. As stated above, after the Korean woman was assaulted, General Bell sent out a peninsula wide email speaking out against the crime and after the Japanese girl came forward, the commander in Japan locked down the bases. Such actions are simply not taken when our own were assaulted, rather those issues tend to be brushed under the rug (the commander of the man who raped me actually asked if I would be okay with an Article 15 rather than going through with a court martial – which for non-military personnel reading this an Article 15 is non-judicial punishment and is essentially a slap on the wrist).

If senior leaders do not stand by our own personnel they are, in effect, indirectly sanctioning crimes against our own. Speaking out against sexual predators only when they attack a local national will not change the attitude that is pervasive in the military that sexual assault is okay as long as it's internal, hush hush, and you don't get caught. Few would probably say out loud that that is what they believe, but my experience is that it is the general attitude toward assaults. Those at the top shape the attitudes and actions of those beneath them with their public response.

5. **Response from Military Personnel:** The commanders are not the only ones that need to re-think attitudes and reactions toward sexual assault. There was a case last year: US v Captain Tom Still. Captain Still admitted to several people that he raped the victim, but in trial he was acquitted on the rape charge but found guilty of fraternization.

After the trial was over, many people went to party at the squadron bar to celebrate his acquittal. This simply makes the situation of victims more complex and difficult than it already is. People are going to be less inclined to come forward when something happens if they hear others saying they went to a party because of an acquittal - it sets the wrong tone. Not to mention that a Captain in the United States Air Force was still found guilty of a felony charge and there was a party for him that the 'bigger' felony charge was dropped. This is not honorable behavior and it is unbecoming officers in the US military.

Command claimed that they did not know about the party, but a lot of people claimed to have gone to it. If commanders took a stronger stance against assault, things like this would be less likely to happen and we might be able to make progress in preventing sexual assaults. I learned while in Korea that I, as the victim, was the person that made others feel uncomfortable – not the perpetrator. Until that attitude changes, we will not see an improvement.

So, what could be done about this?

6. **Change the SAPRO policy** (DoD 6495.02) so that civilians can make a restricted report in sexual assault cases. This is an extremely important change that needs to be made as soon as possible. Civilian employees/dependents and contractors make up a huge number of Americans living OCONUS with the military and as such we have no where else to go but to the military for help after an assault. We need to be afforded the same protection as those in the military.

7. **Standardize the SAPRO Program** DOD wide so that victims are cared for around the world in the same way. Create and maintain an email list of all current SARCs and Victim Advocates to aid in continued training and dissemination of program updates. Create a standardized training program for all SARCs and VAs DOD wide so that services are consistently rendered to those in need no matter where they are.

8. **Seriously review the SAPRO program** in each branch of service and at the academies. There was a recent government report that found that the DoD has "only minimally" addressed congressional interest in how well sexual assault prevention programs are working at the nation's military academies. This review can no longer be simply lip service. Real change is needed.

9. **Re-evaluate and update the prevention portion of SAPRO**. The current prevention program is insufficient and does little to keep this crime from occurring. New studies should be conducted to determine current best practices and a new prevention program established. Everyone from senior commanders to incoming personnel should receive new and updated training on preventing sexual assault and what sexual assault actually is. Required annual training should be different every year so that it is up to date and actually engages attendees rather than being something to sit through yet again. Also, mental health professionals need to be

trained to deal with this issue specifically so that they can meet the needs of the victim in a military environment with sensitivity and as enlightened professionals.

10. **Enact reforms**, such as those proposed in H.R. 3990 or similar legislation, which would enhance protections for civilians stationed on military bases overseas. All those who serve this country – both military and civilian – deserve to be protected while rendering their service.

11. The system is broken and it is time that more significant changes are enacted and that commanders are held accountable for the actions of those beneath them. Although this topic is of a very personal nature to me, I don't just view it from the stand point of a victim. I also view it from the stand point of a professional clinical social worker. I know this isn't a pleasant subject, but I feel compelled to advocate for issues that should have been different for me and should be better for the next person. With sexual assault it is not if it will happen again - it is when, especially in the current military environment.

The military has come a long way in the last ten years in dealing with sexual assault, but much work remains. Women – both civilian and military - serve this country honorably and should be respected – not marginalized. Understand that I have the utmost respect for the military and I appreciate the service of those that have answered their nation's call to duty. I understand that most people serve honorably. But, that does not negate the fact that there is a very large problem that must be dealt with effectively and decisively if we are to create a better military for the future where women can protect their country without having to fear the people they serve with.

12. POC for this memorandum is the undersigned.

Respectfully,

//SIGNED//

Ingrid S. Torres MSW, CSW

30 July 2008

Mr. TIERNEY. Ms. Torres, thank you very much for your statement. We know that was not easy, but it certainly was compelling and helpful, I think, in the suggestions that you gave. We look forward to the questions and answers.

Ms. Lauterbach, you are recognized.

STATEMENT OF MARY STEINER LAUTERBACH

Ms. LAUTERBACH. Good morning, Chairman Tierney, Congressman Shays and members of the panel. Thank you for this opportunity to appear before you today to offer testimony on sexual assault in the military. I have submitted my written statement to the committee and I will just give a short summary now.

My name is Mary Lauterbach. I live in Vandalia, OH, just outside of Dayton. With me today is Merle Wilberding, an attorney who represents our family and is a former member of the Army's Judge Advocate General Corps.

I am the mother of Lance Corporal Maria Lauterbach, the pregnant Marine from Camp Lejeune who was murdered in December. The bodies of Maria and her unborn child, my first grandchild, were later found buried in a shallow fire pit in the back yard of fellow Marine Corporal Cesar Laurean. Seven months before her murder, Maria had filed a rape claim against Laurean.

I believe that Maria would be alive today if the Marines had provided a more effective system to protect the victims of sexual assault, a more effective support program and more expeditious investigation and prosecution system.

Today I would like to share with you the changes that I believe need to be considered for the military. I believe the military needs more effective security measures, more effective victim advocates, more effective programs for sexual assault victims, and finally, much more expeditious prosecutions.

By more effective security measures, I mean there should be an absolute right to base transfer. I also mean that military protective orders should create absolute physical separation and not just mandate separation between individuals. The victim should not have the burden to connect the dots between incidents of harassment and the rape claim, and the victim should not have the burden to generate evidence for the command.

By more effective victim advocates, I believe we need a study of the effectiveness of the victim advocates in the military compared to victim advocates that are in civilian society. Based on my observations, my conversations with Maria and our conversations with many other victims and mothers of victims, too many victim advocates are merely victim listeners. I believe a victim advocate needs to be more proactive. Victim advocates need to have clear authority to act independent of the chain of command.

By more effective victim programs, I mean the military needs to actively enroll victims in proper trauma treatment programs, education programs, and rehab and training programs. I know, I have seen the military, the Marines' Power Point program where they acknowledge the results of sexual assault trauma syndrome. But I in no way believe that it is effectively respected or practiced in the field.

By more expeditious prosecutions, I mean that the victims of sexual assault should not be left to twist and turn while the claim is being prosecuted or dismissed, especially because that time period is the period of the greatest risk, threat, intimidation and physical harm to the victim. It should not take 8 months to convene an Article 32 hearing on the claim, as it did in Maria's case.

I also mean more effective use of DNA data. While I understand that there are arguments of constitutional privacy against unrestricted use of DNA data in criminal investigations, I believe that the military should authorize the use of DNA data in the same way that fingerprints are authorized, or at least make DNA available for felony investigations.

Maria will always be a hero to me. Maria is dead, but there will be many more victims in the future, I promise you.

I am here to ask you to do what you can, to help change how the military treats victims of crime and to ensure that the victims receive the support and protection they need and they deserve. Thank you for your time and attention.

[The prepared statement of Ms. Lauterbach follows:]

Oversight Hearing on Sexual Assault in the Military

before the

Subcommittee on National Security and Foreign Affairs

House Committee on Oversight and Government Reform

United States House of Representatives
Rayburn House Office Building
Room 2154

July 31, 2008

Written Statement

by

Mary Steiner Lauterbach

Chairman Tierney, Congressman Shays, members of the Committee, thank you for the opportunity to appear today to offer testimony on "Sexual Assault in the Military."[1]

My name is Mary Lauterbach.[2] I live in Vandalia, Ohio, a small town to the north of Dayton, Ohio. With me is Merle Wilberding,[3] a lawyer who represents our family and a former member of the Army's Judge Advocate General Corps. He has counseled us through the complexities of the military legal system and has helped me understand and develop ideas on helping victims of sexual assault in the military.

I want to acknowledge my appreciation for the support and kindness that Congressman Mike Turner (Ohio – 3rd) has given to me and my family throughout this difficult time.

I am the mother[4] of Lance Corporal Maria Lauterbach, the pregnant Marine from Camp Lejuene who was murdered in December. The charred bodies of Maria and her unborn child were later found buried in a shallow fire pit in the backyard of fellow Marine Corporal Cesar Laurean. Six months before her murder, Maria had filed a rape claim against Cesar Laurean.

Because Maria is gone, I feel that I need to speak for her and tell you about her, and tell you about the things I believe Maria would fight for if she were here today.

Maria and her younger sister, Annie, were legally adopted when Maria was about eighteen months old. Maria and Annie were removed from their birth parents due to allegations of severe neglect -- at times they were left alone for eight hours at a time. Because of her difficult beginning, Maria developed strong separation anxiety from me. That separation anxiety continued throughout her life, not ending until the day of her death. During boot camp, Maria wrote me every day. Afterwards, when she was allowed to use a cell phone, she would call me three times a day, virtually every day.

While she was in high school, Maria encountered a Marine recruiting booth that offered a contest to see if anyone could sustain a chin-up for 60 seconds - Maria held up for 70 seconds. The recruiter was astonished and immediately pursued Maria to join the Marine Corps. Maria wanted nothing else than to meet the challenge of becoming a Marine.

---

[1] Neither I nor my counsel, Merle Wilberding, has received any federal grants (or sub-grants thereof) during the current or during either of the two previous fiscal years.

[2] 386 Poplar Grove Drive, Vandalia, Ohio 45377. My *curriculum vitae* is attached as Exhibit 1.

[3] Attorney, Coolidge Wall Co. L.P.A., 33 West First Street, Suite 600, Dayton, Ohio 45402. The *curriculum vitae* for Merle F. Wilberding is attached as Exhibit 2. I would also like to acknowledge my appreciation to Christopher R. Conard for his support and legal analysis of the many issues confronting us.

[4] As the mother of Maria Lauterbach, I have been appointed by Judge Alice O. McCollum of the Probate Court of Montgomery, County, Ohio, to be the Administrator for the Estate of Maria Frances Lauterbach. A copy of the Letters Testamentary is attached as Exhibit 3.

There is a video that has been posted on both the **CNN** website and the **NBC** ***Dateline*** website that shows Maria Lauterbach talking to the camera about her hopes and dreams:

> ***After high school I am going into the Marines, so I'll probably be doing that for 20 to 25 years, and then hopefully becoming a cop.***

In boot camp her love for the Marines was loud and clear. On June 18, 2006, she wrote a letter in which she said,

"I LOVE IT HERE."

Later, that summer in another letter, she passed on to her friend Josie this message:

> ***This might surprise you, but I find it enjoyable here -- like the physical fitness is awesome. I love the running, push ups, sit ups, and all the other stuff that I'm sure you hate.***

After boot camp she really hoped she would be deployed to Iraq, but after an ankle injury she was reassigned to clerical duties with the direct report Service Company of the Combat Logistics Regiment 27 at Camp Lejeune, North Carolina.

I still remember the day that Maria called me about the rape. It was Mother's Day in May of 2007. She said, "Mom, I have been raped." I asked Maria what happened, and she said that she and a fellow "Marine were on duty together in a building during the night of April 10th and that he locked the doors and attacked me."

Maria told me that she did not want to report it because, in her view, if she reported the rape, "there would be hell to pay." I cautioned Maria, "If this is not true, you would be getting some else in trouble, and that would not be right. But, if it is true, you have to report it. It's your duty." Maria resigned herself to that duty, "Okay, Mom," she said, "I'll report it." The next day, May 14, 2007, she filed her rape claim.

By Maria's accounts to me, Cesar Laurean was charismatic and had a lot of friends in the unit. While Maria was fearless on the outside in terms of physical activity, Maria was very vulnerable on the inside. The combination of Laurean's popularity and Maria's vulnerability in the context of the culture of the Marine Corps made the next seven months a nightmare for Maria.

The rape turned Maria's life upside down. After the rape, she began to have problems functioning at work, coming in late, missing meetings, and being the subject of many acts of harassment and intimidation. It was precisely at this point that Maria needed support from the Marines.

- As a rape victim, she needed to attend a program that helped her understand that having those types of problems with work are common problems of rape victims.

- As a rape victim, she needed to attend a program that helped her work through those problems and enable her to be a contributing member of the Marine work force.

The absence of those types of programs -- and they should be mandatory – is a critical reason why victims of sexual assault in the military have such a low rate of success in returning as valuable members of the military work force.

In late summer, her brand new car was keyed. I say "keyed," but it was really "screw-drivered." It was a very deep gash that ran from the headlight to the taillight. This should have been a ***Red Alert*** to the Marines.

Within a few weeks of the first incident, as Maria was walking across the base one evening, someone called her name. When she turned around, she was sucker-punched by another Marine. It was dusk and she could not see his face and did not recognize his voice. This should have been a ***Red Alert*** to the Marines.

Instead of recognizing these incidents as ***Red Alerts*** that would trigger a higher lever of protection for the rape victim, the Marines have discounted these events as "random" and "unrelated," even though she was under a military protective order at the time. That illustrates what I have observed about the military's treatment of sexual assault victims -- the burden is on the victim to protect herself, while the military waits for someone else to connect the dots to relate any incident to the sexual assault allegation.[5]

The Marines have also reported that at some point Maria had recanted the paternity of her baby Gabriel. I wonder about that. On several occasions Maria told me that she just wanted it to go away, primarily because the so-called investigation was dragging on and on and no one seemed to believe her.

I do know that she was ready to say anything to make it all go away – even saying that Laurean was not the father. No matter how much pressure was applied, however, Maria steadfastly refused to recant her rape accusation.

Maria regretted reporting the rape, and, more than anything, I regret urging her to report the rape. If she had not reported the rape, both Maria and my first grandchild would be with us today.

---

[5] In Maria's case, the Marines in their public statements always complained that no one gave "the command" any information that would trigger an investigation or even an effort to look for Maria. It seems like "the command" was always carefully limited in its definition so that it would not include (1) Maria's missing her OB/GYN appointment, (2) the finding of Maria's cell phone in the median strip of the main highway leading to Camp Lejeune, (3) Maria's allegedly recanting to the NCIS investigator her paternity claim (a classic symptom of rape trauma syndrome), or (4) the information I gave to the JAG officer who called me on December 21, 2007, complaining that my truant daughter was messing up her Article 32 investigation.

The last time I talked to Maria was at 2:30 pm on Friday, December 14, 2007. We talked about her upcoming baby. She was eight months pregnant and already a few centimeters dilated. I had planned on coming down about January 10th for the delivery of the baby.

Maria wanted me there in January, but she also wanted me to come down before Christmas. Maria loved Christmas and wanted to celebrate my birthday (December 23rd) with her. So, I said, "Alright, Maria, but that will be your only present." She was excited, and I told her that I would take her and any friends of hers to dinner. She said, "Good. I want to go to the Olive Garden restaurant."

She also told me that she "had to go" to this Christmas party that night and she was very upset because "he would be there." After again wondering about a MPO that would allow such contact, I told her that if she had to go, just go and make a brief appearance so she did not get into trouble with the Marines, and to call me when she got home that evening. Less than three hours later I received the call from her housemate, Marine Sgt Daniel Durham, who told me that Maria was missing. I never talked to Maria again.

One of the most troubling parts about Maria's murder is that the Marines received so many clues, so many **Red Alerts**, that should have put them on notice that they, the Marines, should have done more. From any objective view, when any of the following facts relating to a victim of a sexual assault takes place, there should have been an alarm bell sounding and the military service should have investigated whether there was any connection between the incident and the pending rape claim.

- On Tuesday morning, December 18, 2007, I called WO Wright and told him that there was something wrong, that Maria would not simply go "UA." WO Wright told me that there was "nothing I can do." I asked him, "Could you file a missing person report?" He said, "No, but you could," and he gave me the telephone number for the Jacksonville, North Carolina, Police Department.

- On December 21, 2007, I had a telephone call from a female JAG officer who informed me that she was a lieutenant colonel. We had the following conversation:

    - The JAG officer told me that my daughter "was UA, that she was a material witness in an Article 32 hearing, and that the case would fall apart if she did not show up."

    - I said to this JAG officer, "I am very worried that something bad has happened to Maria. Do you know that they found Maria's cell phone today in the median strip on the main drag going to Camp Lejuene?"

    - I went on to say, "Do you think there is any connection between her being missing and the rape claim? Do you know where this guy is?

- The JAG officer retorted that "He's accounted for."
- I responded, "Are you going to question him?"
- The JAG officer then backpedaled and ended the conversation.[6]

- A day or two after Christmas, Maria missed her OB-GYN appointment
- On January 4, 2008, I spoke with First Sergeant Jordan who was responsible for Maria. After I expressed my deep concern for Maria's safety to First Sergeant Jordan, she responded by telling me that the Marines have no resources to search for missing Marines, even after they move from UA to AWOL or deserter status.
- On January 4, 2008, I spoke with Megan Grafton, the NCIS investigator, and told her again of my concerns and the facts that had occurred that made me concerned. Her response to me was that Maria was in danger of being court-martialed.

Any one of those facts should have ignited a search by the Marines. The Marines should have the obligation to see if they could connect any of those facts to the underlying rape claim. Instead, in their public statements, the Marines have put the obligation on the victim to generate the evidence, to connect the dots. This is simply wrong and should not be tolerated. Look how the Marines explain away in their public Opening Statement any duty on their part to do anything:

> At this point [January 4, 2008], the commander has no reason to believe LCpl Lauterbach is not voluntarily UA. There is no evidence she has been the victim of foul play, and though her mother's concerns has intensified, there is still no indication that something has happened to LCpl Lauterbach. The command still has not received any information concerning recovery of her cell phone[7] or of the suspicious activity on her ATM account. Cpl Laurean has not been implicated in the absence in any way.[8]

---

[6] I later attempted to find out the name of this officer. When I spoke with Colonel David Smith, the commander of Maria's unit, he told me that the officer was no longer on base and never gave me the name or any contact information.

[7] I told the female JAG officer on December 21, 2007, about the cell phone recovery. The Opening Statement proclaims that "the command" had no evidence of the cell phone recovery. It is not right for the Marines to parse between this Marine command an NCIS investigator, a JAG officer, or an OB-GYN clinic. The Marines need to put a system in place to connect those dots. It is especially important – and may literally be a matter of life and death – that those dots be connected.

[8] Opening Statement on January 15, 2008, by Lt. Colonel Curtis Hill, Public Affairs Officer, 2nd Marine Expeditionary Force, Camp Lejeune, North Carolina.

In other words, the Marines would not and did not do anything unless someone gathered the evidence and handed the evidence to "the command,"[9] presumably on a silver platter. I believe the Marines should have a greater obligation to connect the dots in the case of a victim of a sexual assault. When anyone of those events happen, there should be an affirmative effort to see if there is a connection the event and the rape claim.

As a family, the Marines have been wonderful. I cannot tell you how many present and former Marines have come to me in tears, sharing their own grief with me. This happened at the visitation, at the funeral, and at the Memorial Service at Camp Lejeune on February 28th. The Memorial Service was simply extraordinary in its compassion and inspirational patriotism. All of that has been a real source of strength for me.

As an institution, the Marines have been disappointing, very disappointing. I remember so clearly our telephone conversation with Colonel Gary Sokoloski, the Staff Judge Advocate, and Lt. Colonel Curtis Hill on January 15 when they read to us their Opening Statement,[10] immediately before they released it at their press conference. There were so many things that were inconsistent with what Maria had told me, omissions of many important details such as Maria's attacks on base that were not perceived as threats, and several facts that I know to be true were contradicted by their public statements.

I felt then, and I feel now, that their public statements have been all about protecting themselves with no self-analysis as to whether their judgments and procedures could have better protected Maria or whether they could have done a better of job maintaining custody and control over Cpl Cesar Laurean. Instead of uttering a *mea culpa*, it seemed like the Marines were saying *Maria culpa*.

The real concern I have with the Marines' Opening Statement and then its follow up response is that its judgments and procedures seem to ignore the emotional symptoms shown by rape victims - - self-doubt, guilt, loss of trust, and a diminished capacity to be a productive person in the Marine Corps.

The Marines did not provide Maria with adequate support to understand and work her way through the traumatic ordeal of being a rape victim and having to live for more than six months with the accused and his friends. The Marines did not pro-actively provide adequate protection against the risks that came with that environment. Even if the Marines had one nothing more than transfer her to another base, Maria and her baby would be alive today.

Many of the behaviors the Marines are now citing as justifying their failure to protect Maria are behaviors that are common among rape victims. Many of these behaviors are counter-intuitive, behaviors such as reluctance to report, recanting, expressing a desire to absolve the accused.

---

[9] It is also interesting to note that their public statement always focuses on "the command" which thereby eliminates information other Marines (*e.g.*, NCIS, JAG, OB-GYN) had outside "the command."
[10] The Opening Statement is attached as Exhibit 4.

When you really look at the facts, Maria was behaving like a rape victim, and now the Marines are using those things to chip away at Maria's credibility and justify their failure to protect her. If that is the end of the story for Maria, I fear it will also be the end of the story for other rape victims in the future. We need changes in how the military treats victims.

Something that really shocked me was the number of stories I heard from former Marine women who had also suffered sexual assaults and shared their stories with me. The stories were painfully familiar: No one believed them, there were threats of disciplinary action against the victim, and there was harassment and intimidation from fellow Marines. Each one of them could have been Maria sharing her experiences with me. The most prevalent sentiment that was shared was a very real fear of the consequences of daring to report a rape.

In addition to those people who have contacted me during the last six months, my counsel has been contacted by more than a dozen families and support groups. All of them were seeking specific help for women in the military who have been sexually assaulted. The stories have been virtually identical – the complaining victim becomes isolated, taunted, and tormented. She was not guided or directed to appropriate support programs, she does not feel protected from her assailant, and she found herself treated as the guilty party, not the victim.

The security and safety of all of these victims, including Maria, was punctured by the hard realities of being a victim of sexual assault in the military. They all report that the military does not believe them, that they live in fear of harm from the perpetrator, and that they are in fear of harassment and intimidation from the rest of the unit.

After *NBC Dateline*[11] aired a program on Maria's case, my counsel received a telephone call from a mother who had watched the program. Her twenty-year-old daughter was a member of the military and had just made a sexual assault claim. Now she feared for her life. When she asked for a military protective order, her first sergeant told her that it would be of no value, because, in her view, if her assailant wanted to kill her, the MPO would not stop him. She was threatened with her own court-martial if her story did not hold up. She was obligated to stay in the same unit with the alleged attacker and was haunted by his presence. She did have a military victim advocate assigned to her, but the victim advocate told her that there was not really anything she could do.

When my counsel talked to the victim, he was immediately struck by how frightened she was. She did not want to ask for any protection, for fear that the intimidation and harassment would be worse. Like Maria, this victim just wanted it to go away. It was clear that she too wished she had not reported the rape.

All of these families have spoken out of desperation and fear, desperation because no one could help them and fear that their daughters would be physically harmed or emotionally traumatized. Like Maria, these victims had been threatened with court-martial,

[11] The hour-long program was aired on NBC Friday evening, June 6, 2008, at 9:00 pm (E.D.T.).

administrative reprimands, or in some cases being drummed out of the service. One mother said that the only difference between her daughter and Maria Lauterbach was that her daughter was still alive.

I believe that Maria would be alive today if the Marines had provided a more effective system to protect victims of sexual assault, a more effective support program, and a more expeditious investigation and prosecution system. I also believe that if other parents would become aware of the myriad of stories about sexual assault in the military and the consequences to the victims, no one in their right mind would allow their daughters to enlist in the military. It is time for Congress to act. It is time for the military services to improve the protection of its members who have been victimized by sexual assault.

There are things that I believe can be done to change how the military treats its sexual assault victims. We need changes that will provide better programs that will pro-actively help future victims of sexual assault, and not put the burden on the victim to connect the dots, not put the burden on the victim to generate the evidence for the military, and not put the burden on the victim to protect herself.

Specifically, I believe the military needs

- More effective security measures,
- More effective victim advocates,
- More, and more effective, programs for sexual assault victims, and
- More expeditious prosecutions.

By more effective security measures, I mean that there should be an absolute right to base transfer.

Maria had a series of military protective orders[12] issued that related to her and to Cesar Laurean. There were lapses in these military protective orders. More troubling is that the Marines seem to discount, after the fact, that they had any concern for the safety of Maria. Their public statements emphasize this point: "The MPO was established to

[12] The Marines define a military protective order as follows: "A non-punitive order imposing conditions upon a service member to maintain the safety and protection of another person. An MPO does not preclude disciplinary action under the Uniform Code of Military Justice nor does it preclude the issuance of a civilian protection order." http://www.usmc-mccs.org/victimadv/domestic/MPO%20signed.pdf *See also* Major Marshall L. Wilde, "Incomplete Justice: Unintended Consequences of Military Nonjudicial Punishment," 60 AIR FORCE LAW REVIEW 115 (2007); *Cf.*, Major Joshua M. Toman, "Note from the Field: Official Federal representation Against State Restraining Orders following the Armed Forces Domestic Security Act of 2002, ARMY LAWYER 26 (2007)

preserve the integrity for the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach."[13]

I also mean that military protective orders should create absolute physical separation and not just mandate separation between the individuals. MPO's cannot have formal or informal exceptions that ending up requiring the two individuals to be in (a) formations together, (b) to be in the mess hall together, (c) to be in safety meetings together, or (d) to be at Christmas parties together. Military protective orders should automatically be put in place, should be self-renewing, and notice should be given to civilian authorities.

By more effective security measures, I also mean that the victim should not have the burden to connect the dots between incidents of harassment and the rape claim and the victim should not have the burden to generate evidence for the command

By more effective victim advocates, I believe we need a study of the effectiveness of victim advocates in the military compared to victim advocates in the civilian society.

Based on my observations, my conversations with my daughter,[14] and our conversations with numerous victims and mothers of victim,

- I do understand that there are military victim advocates in the Marine Corps and in all of the military services, and that they undergo a special training course.[15]

- A study of the effectiveness of victim advocates in the military compared to victim advocates in the civilian society. It has been our experience that victim advocates in the civilian world are far more pro-active in protecting the victim, sometimes suggesting and other times pushing protective measures or rehab programs.

---

[13]Opening Statement on January 15, 2008, by Lt. Colonel Curtis Hill, Public Affairs Officer, 2nd Marine Expeditionary Force, Camp Lejeune, North Carolina.

[14] My daughter did have a military victim advocate who came up to me after the Memorial Service on February 28th and gave me her condolences. At lunch that day, we asked Colonel David Smith, the commander of Maria's unit, for the name and contact information for Maria's military victim advocate. He assured us that we would get it and that we should just ask Megan Grafton, the NCIS investigator, for that information when we met with her after lunch. We did meet with Megan Grafton. She assured us she would give it to us, but when the meeting broke up, she said it was "upstairs" and that she would send it to us by email. When the information did not arrive after one week, we called Megan Grafton, and she never returned our call.

[15]The Marines have its "Understanding Sexual Assault" training program in both a Power Point presentation and an html presentation posted on the Internet. The discussion is appropriate, but I wonder at its application. The Power Point presentation itself says the right things, but it needs to be done in the field..http://64.233.167.104/search?q=cache:gCgpS2H_etgJ:mcdetflw.tecom.usmc.mil/MarCorDet%2520Equal%2520Opportunity%2520Program/Sexual%2520Assault%2520Prevention%2520%2520Student%2520Verson%2520(Sgt%2520Bailes)%2520TVT.ppt+usmc+uniformed+victim+advocate+training&hl=en&ct=clnk&cd=1&gl=us

- Too many victim advocates are victim listeners. I have had victims tell me that their military victim advocates have been very understanding, very nice, but in the final analysis are unable or unwilling to do anything.

- Victim advocates need to be more pro-active. It seems that the military victim advocates may list options, perhaps even list good options for the victim, but then put it back on the victim, making them decide. It is at these most critical times -- when the victim is most vulnerable – that the victim advocate must act. It is important to remember that these victims are often 18 to 21 years old and at this point feel very vulnerable, very much alone, and incapable of making good decisions.

- Victim advocates need to be guiding and directing victims along the way

    - All too often victims are young, isolated and traumatized.

    - They need guidance both in handling the investigation and in regaining a sense of control over their work and personal lives.

- Victim Advocates need clear authority to act independent of the command

By more effective programs, I mean that the military needs to actively enroll victims into proper trauma treatment programs, education programs, and re-hab and re-training programs. I know -- and I have seen the Marines' Power Point program – the Marines acknowledge the effects of "Sexual Assault Trauma Syndrome," but I do not believe it is effectively practiced in the field. My own conversations with Maria and my conversations with other mothers and other victims have convinced me that the day-to-day culture and live style gives little or no credence to the debilitating effects of rape trauma syndrome. Consequently, I think there should be a study on the impact of rape trauma syndrome[16] on the victims' lives and job performance.

Finally, I believe there must be more expeditious investigations and prosecutions. More than six months had passed from date of Maria's complaint to her death. This is simply unacceptable. This delay is not fair to the victim. It is not fair to the accused. For both of them the charges loom above them and hold their lives in suspense. At the same time, the delay accentuates the frustration of the victim, and it continues the understandable uncertainty for the accused.

I believe that the longer the "investigation," the longer will be the period of isolation and intimidation. One of the major frustrations that Maria incurred was that she believed that the investigation was not going anywhere. She filed her complaint on May 14, 2008. When she was murdered six months later, the complaint was still pending. No Article 32 hearing had been held. In many ways, this was a simple claim. It was either valid or not

[16] T. S. Nelson, FOR LOVE OF COUNTRY: CONFRONTING RAPE AND SEXUAL HARASSMENT IN THE U. S. MILITARY (Haworth Maltreatment and Trauma Press 2006).

valid. The passage of time only lessened the value of evidence while it its delay festered in the mind of Maria, and perhaps was festering in the mind of Cesar Laurean.

I understand that the military currently takes DNA samples of all new members of the armed forces as a part of a program that initially restricted its use to the identification of remains, but now may be used in very restricted instances for law enforcement purposes.[17] I also understand that there are legal arguments of constitutional privacy against the unrestricted use of DNA data. However, I believe that the military should authorize the use of DNA data in the same way the use of fingerprints is authorized in criminal investigations, or at least be authorized to use DNA data in felony investigations[18] under more permissible circumstances than is presently permitted.[19] If it is permissible to use fingerprint records as part of any investigation, it should be permissible to use DNA records as a part of any investigation.

Maria will always be a hero to me. She was a proud Marine. She had the courage to report a rape by a fellow Marine, a Marine who was very popular in their unit. After months of harassment and frustration, she paid the ultimate price.

There are many other victims of crime who have left the military, but who might still be productive, contributing members of the military if they had received adequate support and protection during their times of need.

Our country is committed to an all-volunteer military. To continue to attract women to the military,[20] the military must demonstrate that it can protect them when they have been victims of sexual assault, that it can rehabilitate victims and return them as productive members of the military work force, and that the investigations provide the respect for victims that they already provide for the alleged perpetrators.

I am here today to ask you to do what you can to help - - to change how the military treats victims of crime and to ensure that victims receive the understanding, support, and protection that they need and deserve.

Thank you for your time and attention.

Mary Steiner Lauterbach

---

[17] 10 U.S.C. §1565 *et seq.*

[18] *E.g.*, Patricia Ham, "An Army of Suspects: The History and Constitutionality of the U.S. Military's DNA Repository and its Access for Law Enforcement Purposes, " 2003 ARMY LAWYER 1 (2003); Sarah Gill, "The Military's DNA Registry: An Analysis of Current Law and a Proposal for Safeguards," 44 NAVAL LAW REVIEW 175 (1997);

[19] 10 U.S.C. §1565 *et seq.*

[20] Just a few months ago, the Marines announced with great fanfare a major outreach to attract women to enlist in the Marine Corps. "Sending in the Marines (to Recruit Women)," Douglas Quenqua, New York Times, April 21, 2008, attached hereto as Exhibit 5.

Mary S. Lauterbach

Current Position	Assistant Director of Donor Relations University of Dayton, Dayton, Ohio
Prior Experience	Fund-Raising Consultant - February 2006 to February 2007 St. Christopher Parish, Vandalia, Ohio Business Manager - September 1999 to June 2005, Our Lady of Mercy Parish, Dayton, Ohio Business Manager - September 1993 to May 1999, St. Christopher Parish, Vandalia, Ohio Trust Officer - July 1985 to June 1989, Key Bank, Dayton, Ohio Branch Manager - June 1981 to July 1985, Bank One, Dayton, Ohio
Education	University of Dayton, Dayton, Ohio Master of Arts in Theology 1993 University of Notre Dame, South Bend, Indiana Bachelor of Science in Business 1981

Exhibit 1

Merle F. Wilberding

Merle F. Wilberding
1013 Rubicon Road
Rubicon Mill
Dayton, OH 45409-2506
937-226-1029

Coolidge Wall, LPA
33 West First Street, Suite 600
Dayton, OH 45402-1289
937-449-5772
wilberding@coollaw.com

Professional Background: My primary career has been as a practicing lawyer, although my interests and pursuits have included a broad range of topics. During the Vietnam War I served as a Captain in the U. S. Army Judge Advocate General's Corp and represented the government in the briefing and arguing of appellate courts-martial hearings, including *United States v. Lt. William L. Calley* ("The My Lai Massacre") and *United States v. Rowland* ("The Presidio Mutiny"). In private practice I started as an associate with Arent, Fox in Washington, D.C., before moving to Dayton in 1973 when I joined Coolidge Wall, a legal professional association, in Dayton Ohio. I am admitted to practice in Ohio, Iowa, and the District of Columbia, as well as the United States Supreme Court.

• Juris Doctor	University of Notre Dame (1969)
• M Library & Information Science.	University of Wisconsin–Milwaukee (2006)
• LL.M. (Taxation)	George Washington University (1972)
• M.B.A.	University of Dayton (1975)
• B. A.	St. Mary's University (Minnesota) (1966)
• Additional Study	University of Oxford, England (2001)

What Everyone Needs to Know About Law (1971), written for U S News & World Report

Bobsleds & Farmsteads (1998) --- A book on rural Iowa from 1890 –1950

150 Years of Cool Law (2003) -- A book on the history of Dayton and our law firm

D*umplings & Doughnuts* (2004) – A book of annotated illustrated family recipes

"My Lai 40 Years Later: What Really Happened in Pinkville?" VIETNAM MAGAZINE Pages 28 - 35 (April 2008)

"Tax Consequences of Shareholder Guarantees: There's Still Hay in *Tulia Feedlot*," 6 WYOMING LAW REVIEW 165 (2006), posted for comment on *Tax Professor Blog*. http://taxprof.typepad.com/taxprof_blog/2006/04/wilberding_on_t.html and reprinted in *The Monthly Digest of Tax Articles* 41 (October 2007).

"The Progressive Penal System at the United States Disciplinary Barracks," 31 FEDERAL BAR JOURNAL 44 (1972).

"New Speedy Trial Guidelines Promulgated," 2 ARMY LAWYER 1 (February 1972).

Exhibit 2

PROBATE COURT OF MONTGOMERY COUNTY, OHIO

ALICE O. MCCOLLUM, JUDGE

ESTATE OF Maria Frances Lauterbach aka Maria F. Lauterbach, DECEASED

CASE NO. 2008 EST 00359

ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

[For Executors and all Administrators]

Name and Title of Fiduciary Mary S. Lauterbach

Administrator

On hearing in open Court the application of the above fiduciary for authority to administer decedent's estate, the Court finds that;

Decedent died **[check one of the following]** ☐ testate - ☒ intestate - on December 16, 2007, domiciled in Vandalia, Ohio

[Check one of the following] ☐ Bond is dispensed with by the Will - ☐ Bond is dispensed with by law - ☒ Applicant has executed and filed an appropriate bond, which is approved by the Court; and

Applicant is a suitable and competent person to execute the trust.

The Court therefore appoints applicant as such fiduciary, with the power conferred by law to fully administer decedent's estate. This entry of appointment constitutes the fiduciary's letters of authority.

FEB 20 2008
Date

PROBATE JUDGE
Alice O. McCollum

FILED
PROBATE COURT
2008 FEB 20 P 1:43
ALICE O. MCCOLLUM
PROBATE JUDGE
MONTGOMERY CO OHIO

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of the records of this Court. It constitutes the appointment and letters of authority of the named fiduciary, who is qualified and acting in such capacity.

ALICE O. McCOLLUM
Probate Judge / Clerk
Alice O. McCollum

[Seal]

by

FEB 20 2008
Date

FORM 4.5 - ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

Exhibit 3

OPENING STATEMENT

Good afternoon ladies and gentlemen, my name is Lieutenant Colonel Curtis Hill and I'm the public affairs officer for the 2nd Marine Expeditionary Force, or II MEF as we refer to it, here at Camp Lejeune. I'm joined here by Colonel Gary Sokoloski, the Staff Judge Advocate for II MEF, and Special Agent in Charge Paul Ciccarelli from the Camp Lejeune field office of the Naval Criminal Investigative Service.

First, on behalf of the Commanding General of II Marine Expeditionary Force, we wish to offer our deepest sympathy and our heartfelt sorrow to the Lauterbach family and their friends for the loss of their daughter, Maria, and their grandchild. It is our hope that they will find strength during these tragic times. We, her Marine Corps family, miss her and we join the family in mourning her. Our thoughts and prayers continue to be with them.

Second, I want to thank you for your patience as we within II MEF and our subordinate command, 2d Marine Logistics Group, worked to collect information and conduct a review to determine what information was available to commanders and when that information was available in relation to the tragic events involving Lance Cpl Lauterbach and Cpl Laurean. Additionally, we collected information and reviewed actions taken as a result of information becoming available. We are now in a position to provide information to you that we are confident is accurate and will not adversely impact ongoing investigations or possible future judicial proceedings.

I will provide you a statement that will, within the limitations of what I can provide, lay out a timeline for this tragic case. I'd ask that you hold questions till the end of the statement. At that time, I'll open the floor for questions.

I will begin with some background information on the two Marines:

LCpl Maria Lauterbach was born in Orange City, Florida. Her home of record when she joined the Marine Corps in July of 2005 was Vandalia, Ohio. She graduated from Boot Camp in September of 2006 and was trained as a Personnel Clerk. This was her first duty station after completing her required training. She had not deployed in support of the Global War on Terrorism. She was promoted to Lance Corporal on February 1st, 2007, and her record indicates she was a solid Marine.

Cpl Cesar Laurean was born in Mexico and is a naturalized American citizen. His home of record when he joined the Marine Corps was Las Vegas, Nevada. He graduated from Boot Camp in December of 2004 and was trained as a Personnel Clerk. This was his first duty station after completing his required training. He had not deployed in support of the Global War on Terrorism. He was meritoriously promoted to Corporal on September 2nd, 2006, and his record indicates he was a stellar Marine.

On May 11th, 2007, LCpl Lauterbach confides in her Officer-in-Charge two incidents of a sexual nature with Cpl Laurean. After some initial discussions, the command's Uniform Victim Advocate meets with LCpl Lauterbach and explains the Victim

Advocate Program to her. The UVA takes LCpl Lauterbach to the Naval Criminal Investigative Service office aboard Camp Lejeune to file a formal complaint. LCpl Lauterbach reports to NCIS an alleged sexual encounter with Cpl Laurean on March 26, 2007, and a second encounter approximately two weeks later. LCpl Lauterbach alleged she had been raped by Cpl Laurean. The command's UVA accompanies LCpl Lauterbach to the medical department for a medical exam. Due to the length of time that elapsed between the alleged assault and the complaint, a forensic examination, or rape kit, is not performed. However, a "Well Woman" exam is performed to include a pregnancy test. The pregnancy test result is negative.

NCIS opens a rape investigation.

On May 12, 2007, the company commander of both LCpl Lauterbach and Cpl Laurean provides a verbal order to Cpl Laurean not to initiate any contact or communication with LCpl Lauterbach and stay a minimum of 1000 feet from her. Additionally, LCpl Lauterbach's UVA accompanies her to the Family Service Center for victim counseling. Both individual and group counseling are offered to her.

Also on this date, the regimental commander reassigned LCpl Lauterbach to a duty office building geographically separated from Cpl Laurean, basically across the base from each other. The commander deemed it appropriate to move LCpl Lauterbach as her new duty location co-located her with her Uniform Victim Advocate.

At this point, there have been no charges preferred, the evidence did not contain elements of force or threats, and there were no indications Cpl Laurean was a flight risk. The regimental commander considered these factors and Cpl Laurean's military character and decided pre-trial restraint was not appropriate.

On May 18th, 2007, NCIS interviews Cpl Laurean and he denies any sexual contact with LCpl Lauterbach.

On May 24, 2007, the company commander follows up the verbal order of May 12th, with a written Military Protective Order effective through June 24th. The MPO was established to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach.

From June 19th through June 24th, LCpl Lauterbach takes annual leave to parents home in Ohio. Upon returning from leave, LCpl Lauterbach behaves normally and displays no anxieties or unusual behavior.

On June 25th, 2007, the company commander re-issues a written Military Protective Order effective through September 24th. Again, the MPO is renewed to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach. Additionally, there is no indication LCpl Lauterbach and Cpl Laurean have been in contact in any way.

On June 27th, 2007, LCpl Lauterbach is ill and seeks medical attention. She is administered a pregnancy test. The result of the test is positive with medical personnel estimating the conception date as 14 May 2007. LCpl Lauterbach's UVA calls NCIS to report the pregnancy. LCpl Lauterbach goes to NCIS to make a statement regarding her pregnancy and belief that Cpl Laurean is the father as a result of the alleged rape.

From July 11th through July 26th, Cpl Laurean takes annual leave. He returns as expected and behaves normally afterwards.

During the summer months, both Marines perform their daily jobs; participated in two long liberty periods, Independence Day and Labor Day that both returned from on time, and there are no indications of contact between LCpl Lauterbach and Cpl Laurean. Additionally, the NCIS investigation continues.

On September 17, 2007, LCpl Lauterbach requests permission from her command to move into off-base housing in order to prepare a home for her and her expected child. This is common practice for Marines who are about to go through a life changing event, for example a marriage or having a child.

On September 20, 2007, the regimental commander issues a written Military Protective Order effective through December 23rd. The regimental commander issues this MPO because the company commander is on annual leave and unavailable. Again, the MPO is renewed to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach. Additionally, there is no indication LCpl Lauterbach and Cpl Laurean have been in contact in any way.

From September 26th through October 2nd, LCpl Lauterbach takes annual leave. She returns as expected and no unusual behavior is observed.

On October 18, 2007, NCIS recommends no disciplinary action be initiated on the alleged rape until forensic evidence DNA can be retrieved from the child. Cpl Laurean denied having any sexual contact with LCpl Lauterbach and this was believed to be significant evidence.

On October 22, 2007, the regimental commander submits a request for legal services requesting prosecutors review the investigation and provide a recommended Course of Action with an eye towards an Article 32 investigation. An Article 32 investigation allows for witnesses to testify under oath and subject to cross examination. An accused is present and represented by counsel.

On October 23rd, trial counsel discusses the case with the regimental commander.

On October 31, 2007, LCpl Lauterbach's request to move out of the barracks into off-base housing is approved.

On November 5, 2007, LCpl Lauterbach moves into an off-base house, renting a room from Sgt Durham who is scheduled to deploy during late December and was looking for someone to rent his home while he was deployed. Additionally on this day, trial counsel re-interviews LCpl Lauterbach who readjusts her statement that her pregnancy is a result of the rape. However, she continues to maintain that she was raped by Cpl Laurean. Trial counsel continues to look at evidence and prepare recommendations for further actions to the regimental commander. NCIS continues to look for evidence to corroborate LCpl Lauterbach's allegations.

From November 4th through November 13th, Cpl Laurean takes annual leave to his home in Las Vegas.

On November 26, 2007, LCpl Lauterbach attends a scheduled OB appointment at the Camp Lejeune Naval Hospital.

At this point in the alleged rape investigation, the regimental commander and trial counsel continue to discuss the evidence and the possible charges, if any, to prefer against Cpl Laurean. The regimental commander has not made a decision regarding what charges, if any, to prefer against Cpl Laurean and has not consulted with his Staff Judge Advocate. Cpl Laurean has not been detailed government defense counsel and no Article 32 hearing is scheduled as Cpl Laurean has not been charged with any offenses.

On Friday, December 14, 2007, LCpl Lauterbach reported to work as normal. The work day ended at 12 noon as the command was having a Christmas party. Attendance was not mandatory and LCpl Lauterbach elected not to attend. That morning Sgt Durham saw her car at the home when leaving for work.

At this point, we'll discuss a few things that occurred December 14th that the command did not know until sometime later. For example, when Sgt Durham arrives home from work, he finds a note left for him by LCpl Lauterbach stating, "I could not take this Marine Corps life anymore. So I am going away. Sorry for the inconvenience. Maria." Sgt Durham notices that some of her personal items are missing. She does not leave the house key behind. Sgt Durham calls LCpl Lauterbach's sister concerning the note. Shortly after this conversation, LCpl Lauterbach's Mother calls Sgt Durham. Sgt Durham text messages a junior member of LCpl Lauterbach's work section indicating his belief she was going into an Unauthorized Absence status, commonly referred to as "going UA." There is an ATM withdrawal of $700 from LCpl Lauterbach's account. Transaction occurs in Jacksonville. Video surveillance confirms LCpl Lauterbach makes the withdrawal. The ATM information is not provided to the command until January 9th. Please remember LCpl Lauterbach was at work on Friday, was not required to attend the Christmas party, and therefore was not required to be at work until Monday morning.

On Saturday, December 15th, Greyhound bus records reflect a ticket is purchased in LCpl Lauterbach's name for one way to El Paso, Texas departing that evening. Ticket is not redeemed. Command is not notified of this information until January 9th.

On Monday, December 17, 2007, LCpl Lauterbach failed to report to work. Her leadership begins to inquire as to her whereabouts by calling her cell phone. Sgt Durham physically arrives at her work section and provides the note to her leadership. Sgt Durham also provides information that LCpl Lauterbach appears to have taken some clothing, personal hygiene items, and her car with her. The command takes the extraordinary step of sending representatives to her residence to check to see if she is there. They knock on the door of Sgt Durham's residence with no response. LCpl Lauterbach's vehicle is not there. LCpl Lauterbach is entered into the administrative system in an Unauthorized Absence status. There is an elevated concern for her welfare because of the advanced stage of pregnancy. The command requests permission to list LCpl Lauterbach as a deserter in order to release a DD553 to apprehend her. This was an extraordinary step taken in hope of having her returned so the command could ensure she was receiving the proper medical care. Basically, with a DD553, federal resources could be used to assist in locating her.

On Tuesday, December 18, 2007, the section OIC calls LCpl Lauterbach's Mother to notify her of her daughter's absence. Mother states she spoke to Sgt Durham on December 14th, at which time he notified her of LCpl Lauterbach's absence. Mother also states she last spoke to her daughter on December 14th. The section OIC asks Mother about LCpl Lauterbach's whereabouts and possible reasons for leaving. Mother stated she didn't know where she was and didn't have reasons why she may have left. Mother files a Missing Persons Report locally in Ohio. Command receives information regarding the MPR on December 27th.

Command determines LCpl Lauterbach has voluntarily placed herself in an Unauthorized Absence status. The determination is based on the note left behind and some personal items taken to include her car.

On Wednesday, December 19th, 2007, Ohio authorities contacted local law enforcement authorities here in Onslow County about the Missing Persons Report. Onslow County Sheriff's Office notifies the Naval Criminal Investigative Service of the MPR. The notification went to the Onslow County Sheriff's Office as LCpl Lauterbach's residence falls within County jurisdiction. The command is not notified of the MPR until December 27th.

On Thursday, December 20th, 2007, Sgt Durham contacts section OIC informing him that he will be leaving on December 28th for training in California and that access to the residence would be difficult after that date. LCpl Lauterbach's cell phone is found along Highway 24 in Jacksonville, NC. The phone was used to make several calls by stranded motorist, one of which was LCpl Lauterbach's sister, who requests that the individual turn the phone into the police. The command is notified about the cell phone recovery and the circumstance surrounding the recovery on January 9th.

On Friday, December 21st, 2007, the Christmas Holiday liberty period begins.

On Monday, December 24th, 2007, an unidentified male withdraws $400 from Lauterbach's account. Location is Western Blvd, Jacksonville. The command is notified on January 9th.

On Wednesday, December 26th, 2007, LCpl Lauterbach does not attend a scheduled OB appointment at the Naval Hospital, Camp Lejeune. Command is not aware of this until January 9th. The Christmas Holiday liberty period ends at 6 o'clock in the evening.

On Thursday, December 27th, 2007, LCpl Lauterbach's leadership contact mother for any updates she may have on her daughter's whereabouts. Mother states she has had no contact with her daughter since December 14th. Mother also states that she has filed a Missing Person Report (MPR) with Onslow County Sheriff's Office. Onslow County Sheriff's Office contacts LCpl Lauterbach's OIC and confirms that the MPR exists. Detective also asks for LCpl Lauterbach's vehicle description and asks whether her OIC believed she left of her own free will. This was the command's first contact with OCSD concerning LCpl Lauterbach. Command is notified by NCIS that authorities from Vandalia, OH contacted Onslow County Sheriff's Office concerning MPR that was originally filed by mother in Ohio.

On December 28, 2007, as Sgt Durham is about to depart for training in California, and with Sgt Durham's permission, the command inventories and boxes LCpl Lauterbach's personal belongings at the residence in order to secure her property. The New Year's Holiday liberty period begins at noon.

On Wednesday, January 2nd, 2008, the New Year's Holiday liberty period expires at 6 o'clock in the evening.

On Thursday, January 3rd, 2008, the command turns in LCpl Lauterbach's inventoried gear to the supply warehouse. Supply re-inventories the gear and reports no discrepancies from the original inventory sheets.

On January 4th, 2008, the required 10-day letter is sent to LCpl Lauterbach's family. The letter is delayed a few days due to the holiday period; however, the command has been in previous contact with LCpl Lauterbach's mother.

LCpl Lauterbach's Mother contacts Company 1stSgt. The section OIC is made aware of the phone call to the Company 1stSgt and calls Mrs. Lauterbach. Mother asks if the command has done anything additional to find LCpl Lauterbach. According to the section OIC, the mother's concern had clearly intensified. Mother states to the Section OIC that she is coming to Camp Lejeune on Monday, January 7th, to meet with the command and will be bringing her brother. The section OIC plans to meet her at the gate at 9:45 on Monday, January 7th, to assist her with her visit. Section OIC plans to escort her to the workspaces to meet with the leadership. The mother gives no indication during this phone call that outside law enforcement would be involved or that she thought foul play was the reason for her daughter's absence. NCIS receives a call from LCpl Lauterbach's Mother. NCIS receives specifics from LCpl Lauterbach's Mother they

previously did not have. Examples include specifics of LCpl Lauterbach's cell phone recovery.

At this point, the commander has no reason to believe LCpl Lauterbach is not voluntarily UA. There is no evidence she has been the victim of foul play, and though her mother's concern has intensified, there is still no indication that something has happened to LCpl Lauterbach. The command still has not received any information concerning recovery of her cell phone, or of the suspicious activity on her ATM account. Cpl Laurean has not been implicated in the absence in any way.

On Monday, January 7, 2008, LCpl Lauterbach's mother and uncle arrive at Camp Lejeune earlier than expected accompanied by an Onslow County Sheriff's Office Detective and ask for a meeting with NCIS and the command. Regimental legal officer attends the meeting once the request was sent via the proper protocol. This is the first indication to the command that foul play may be suspected in her absence. During the afternoon, LCpl Lauterbach's section SNCOIC calls the Camp Lejeune Naval Hospital to ask if she had attended her December 26th OB appointment. Through either a mistake or confusion, the SNCOIC is told she had attended the appointment. The correct information regarding her attendance at the November 26th appointment and failure to attend the December 26th appointment was not received until January 9th.

On Tuesday, January 8, 2008, the company commander re-issues a written Military Protective Order effective through March 28th. There was a lapse in MPO coverage between December 24th and January 7th due to an administrative oversight during the holiday period. At one o'clock, Cpl Laurean's OIC accompanies Cpl Laurean to NCIS to speak with Onslow County Sheriff's Office. He is questioned as a possible witness, not a suspect. He was not provided his Miranda warnings. There's no information provided to the command to implicate Cpl Laurean in LCpl Lauterbach's absence. Cpl Laurean requests time during the workday to meet with his civilian attorneys at their office. His OIC approves the request.

On Wednesday, January 9, 2008, Cpl Laurean is out of the office all day with his civilian attorneys but maintains phone contact with OIC. Cpl Laurean requests additional time off to meet with his civilian attorneys. His OIC approves the request. Evidence previously not provided to the command is available. However, most of this evidence still points to LCpl Lauterbach going UA. Cpl Laurean's requests to meet with his lawyers does not raise concerns as he is also under investigation for the alleged rape. Additionally, Cpl Laurean maintains contact with his OIC throughout the day by phone. There has been no request from law enforcement agencies to detain or otherwise restrict Cpl Laurean.

As the situation developed and information was provided by investigators, all indications led the command to believe LCpl Lauterbach had voluntarily placed herself in an unauthorized absence status.

On Thursday, January 10th, 2008, LCpl Lauterbach's personal possessions are turned over to NCIS for delivery to Onslow County Sheriff's Office. Cpl Laurean is out of his

work section all day but maintains phone contact with his OIC throughout the day. That evening, Cpl Laurean informs his OIC of a possible appointment with his attorneys on Friday morning. Cpl Laurean is directed to call at 7:30 in the morning to confirm the appointment or to be at his work space at 7:30 if he does not have an appointment. At two o'clock, the Onslow County Sheriff holds a press conference where he, the head of the lead investigating agency, implies anticipation of a positive outcome to the case. Additionally, he makes an on-camera plea for LCpl Lauterbach to return. The Onslow County Sheriff names Sgt Durham as a "person of interest" and tells the media the Marine Corps is returning him from California to Onslow County so he can interview Sgt Durham.

On Friday, January 11, 2008, Cpl Laurean fails to report to work and fails to call his OIC. His section makes several attempts to contact him by phone with no response. Cpl Laurean is reported UA. The morning reports in the media indicate there will be an announcement of a positive break in the case at a noon press conference. The command receives information regarding a note in the possession of Cpl Laurean's spouse that will have a significant bearing on the case. The announcement is made that LCpl Lauterbach is believed to be dead and buried in Onslow County. Cpl Laurean is named a "person of interest" and the releasable information on Cpl Laurean is provided to the media to include a photograph.

At no point prior to Friday morning when information about the note was provided by Cpl Laurean's spouse, did the regimental commander or the NCIS investigators feel that LCpl Lauterbach was anything other than UA or have information that Cpl Laurean was involved in LCpl Lauterbach's absence in any way.

I'd like to discuss briefly some specific information received by the command and when it was received:

- Information regarding a $700 ATM withdrawal made on December 14th was provided to the command on January 9th.
- Information regarding the purchase of the Greyhound bus ticket to El Paso on December 15th was provided to the command on January 9th.
- Information regarding LCpl Lauterbach's cell phone being recovered and the circumstances of the recovery was provided to the command on January 9th.
- Information regarding an unidentified male withdrawing $400 from LCpl Lauterbach's account on December 24th is provided on January 9th.
- Information regarding LCpl Lauterbach's vehicle being found near the Greyhound bus station in Jacksonville on January 7th was provided on January 9th.

At this point, Col Gary Sokoloski will provide a message from LtGen Keith Stalder, the commanding general of II Marine Expeditionary Force:

Ladies and Gentlemen, LtGen Stalder, Commanding General of II Marine Expeditionary Forces is not in the State today.

"I want to extend my deepest sympathies to Maria Lauterbach's family and friends. The loss of any Marine or sailor in combat, or garrison, is tragic and effects us all deeply – it effects members of this command, the Marine Corps Base, and our friends in the local civilian community – we all grieve.

I am satisfied with the actions of the commanders in this case. We followed applicable regulations and procedures with the information available to the commander. I am impressed with the level of cooperation between our County neighbors, Naval Criminal Investigative Service and the flow of information during this period of intensive investigative activity.

As I indicated to Sheriff Brown this past Sunday evening, I continue to pledge the MEF's full cooperation with Onslow County Sheriff's Office and the District Attorney, Mr. Dewey Hudson. Thank you for your attendance."

We'll now take your questions.

The New York Times
nytimes.com

April 21, 2008

ADVERTISING

Sending in the Marines (to Recruit Women)

By DOUGLAS QUENQUA

THE Marines are looking for a few good women.

Actually, they will take as many as they can get. Faced with the difficulty of recruiting during a long and unpopular war, the United States Marine Corps has started marketing itself to women in a concerted way for the first time. It is running ads in magazines like Shape, Self and Fitness, which appeal mainly to female readers, as well as through more mainstream outlets like "American Idol," where the message is a unisex one of patriotism rather than macho swagger.

The Marine Corps still runs its traditional ads — during National Basketball Association and National Hockey League games, and in magazines like Sports Illustrated and Men's Fitness — often showing male recruits parachuting from airplanes, wielding big guns, driving heavy tanks and stampeding across the ground.

But now it is also showing a softer side. In the latest campaign, a print ad shows a female marine striking a martial arts pose in front of a crowd of men who are looking up to her as their leader. The tag line: "There are no female marines. Only marines."

The campaign is a big departure for the Marine Corps, which started accepting women for clerical duties in 1918 but until last year advertised to them only fitfully. During World War II, the most memorable recruitment ads aimed at women came from the Army and the Navy.

In 1973, when the military dropped the draft in favor of a volunteer force, the Marines introduced its "few good men" slogan and ran at least one spot for women, reaching out to high school graduates and "college gals" with a brochure that had a picture of a flower on it.

In the 1990s, when the Marines Corps was having trouble reaching recruitment goals, it ran a scattering of ads in magazines like Seventeen and Sports Illustrated for Women, using tag lines like "You can look at models, or you can be one" and "Get a makeover that's more than skin deep." That outreach "wasn't as sophisticated as it is now," said Jay Cronin, management director of JWT, a unit of the WPP Group, which has been the Marine Corps' advertising

Exhibit 5

agency for more than 60 years.

Mr. Cronin said the current effort was much different because everyone involved took the time to "understand the psychographics," that is, figuring out which women might actually want to join the military, and why. That is why the campaign aims at athletic women, not just all women graduating from high school, and the messages conveyed are much more egalitarian.

Although most combat jobs are off-limits to them, women make up 6.2 percent of the Marine Corps and go through the same basic training as men.

"We had never done much female outreach," said Lt. Col. Mike Zeliff, assistant chief of staff for marketing and advertising for the Marines Corps in Quantico, Va. "but there was an opportunity for us to go after the athletic, young woman who would be well suited to graduate from boot camp. We asked ourselves, 'What can we do to get the message out to these young women?' "

Women are not the only ones being courted specifically. The Marines Corps is reaching out to Latinos with ads in La Raza newspaper that emphasize family and honor ("Each unit in the Corps is a family, and each member knows they never stand alone"), and to Arab-Americans with a message about nationality and identity ("I am American. I am Arab. I am a Marine ... I know where I stand").

"We never used to have much of a targeting strategy — we were just looking for 18-24-year-old men" said Colonel Zeliff. "Today, we are more niche than ever."

Given the drumbeat of bad news from the lingering conflicts in Afghanistan and Iraq, where American military casualties recently topped 4,000, the sell can be a tough one. Sentiment against recuiting has flared on some campuses, as well as in Berkeley, Calif., where the City Council approved a measure in February asking Marine recruiters to vacate their downtown office.

Dana Balicki, national media coordinator for Code Pink, a women's peace group, called the Marine campaign "just another example of potentially misleading tactics used to sell the war to young people, and especially young women."

Talking specifically about the print ad that shows a woman in a leadership role, Ms. Balicki said, "She's supposed to look like she's being empowered, but she's in a typical self-defense stance. After knowing the statistics and talking to women who have experienced sexual trauma or violence in the military, it's hard to think of it as empowerment."

As opposition against the war continues, Congress has ordered the Marines and the Army to augment their forces. All branches of the military have been reaching out to nontraditional audiences, but none have done so quite as emphatically as the Marine Corps, which is the fourth-largest of the five branches (the Coast Guard is the smallest). Its advertising budget is $157.4 million this year, up from $152.4 million in fiscal year 2007.

The ad featuring a woman commander is intended to appeal to young women who are weary of being separated from boys and men in sports and are eager to prove themselves on a larger stage, said Marshall Lauck, JWT's lead executive on the Marines account.

"The message is that the Marine Corps offers a unique opportunity to earn that title and be shoulder to shoulder with your male counterparts," Mr. Lauck said. "That's an important aspect for the young women seeking that challenge, women seeking an opportunity for a great and selfless endeavor."

The Marines also broke from tradition earlier this year by running a 60-second spot during several episodes of "American Idol." Titled "America's Marines," the ad featured marines standing in formation against various national landmarks. It was intended to appeal to a general audience, including parents and other people whom military recruiters refer to as "influencers."

That ad "helped us get that female audience that we're looking for," said Steve Harding, a partner at the Marine Corps' media agency, MindShare (which places ads), which is also part of WPP.

The effect of the publicity is difficult to measure. There has been a small increase in the number of female recruits — to 2,507 in 2007 from 2,320 in 2006 and 2,282 in 2005— but the Marine Corps says it is particularly pleased by the volume of responses to the campaign. The magazine ads include reply cards, and, Mr. Harding said, they yielded more than 1,044 "qualified leads" in 2007, though only two turned into enlistments.

One is Ana Castillo, a senior at William Chrisman High School in Independence, Mo., who mailed in a reply card last September after seeing an ad in a women's fitness magazine in the waiting room of a doctor's office. Her older brother is a Navy veteran, and while she had been seriously considering joining the military, the ad prompted her to take action.

Ms. Castillo seems to be precisely the kind of young woman being sought by the advertising. She plays soccer and softball at high school and says she is hungry to prove herself on more dangerous fields.

"The Marines are the toughest," she said in a telephone interview. "They have the longest boot camp, the highest standards. The Marines want people to actually want to be in the Marines, not just be in it for the money."

It was those traits that Ms. Castillo saw reflected in the magazine ad, as well as in the words of the recruiter who called her a week after she mailed the reply card. She will turn 18 on June 24 and plans to leave for boot camp on July 7, after her high school graduation.

While the Marines seem to be taking the lead, other branches of the military are increasing their niche efforts as well. The Navy, for example, has started using the Web to recruit women for nontraditional jobs like aviation mechanics, placing banner ads on portals like Yahoo and movie and video game Web sites.

"We did e-mail blasts to women only, and what we found was lots of women out there have an interest" in joining the Navy, but they did not know what jobs were available to them, said Kathleen Donald, an executive vice president and account director with Navy's ad firm, Campbell-Ewald, a unit of the Interpublic Group of Companies.

Although military officials cite a number of reasons for their recruiting woes — high obesity rates in America, for example, and young people's shifting attitudes toward military service — the fact is that the images from the battlefront are hard to counteract.

"We're in the midst of a very difficult war, and the ground forces are taking a pounding," said Loren Thompson, chief operating officer and military analyst at the Lexington Institute, a research firm.

"I think what the Marine Corps is finding is that even recruiting for a small force in the midst of an unpopular war is becoming something of a challenge," he said. "They can no longer ignore people purely on the basis of demographic or inscriptive characteristics."

Maj. Wes Hayes, a spokesman for the Marine Corps Recruiting Command, said in response to Mr. Thompson's comment, "Look at our fiscal year missions. Since May 2005, we've met or exceeded our recruiting goals. Remember, recruiting is a marathon and not a sprint."

Ms. Castillo said her parents needed some persuading to let her join, despite her brother's experience in the Navy.

"My mom, well, I'm her little girl," she said. "She wants me to go to school. My dad was proud. He wanted me to go into the military, but he wants me to go into the Air Force."

Like anyone entering the Marine Corps today, Ms. Castillo is keenly aware of where she is probably headed. "I'm O.K. with it," she said. "If I get sent to Iraq, I'm going to be ready."

Copyright 2008 The New York Times Company

Privacy Policy | Search | Corrections | RSS | First Look | Help | Contact Us | Work for Us | Site Map

Mr. TIERNEY. Thank you, Ms. Lauterbach. We appreciate that very much.

We are going to have some questions here, we are going to try to strike a balance between being sensitive to how difficult it is for both of you to courageously testify and respond while at the same time giving Members an opportunity to delve further in, because your information is valuable to us.

So I am going to start by asking my colleagues if they have questions. Mr. Welsh? We customarily go 5 minutes for every Member here.

Mr. WELCH. I don't have questions. I just would like to thank Representative Slaughter and Representative Harman, whose testimony was really compelling. But then I really thank you, because we certainly appreciate how difficult it is to come here in a public forum and to share what is an intensively private and traumatic experience. What we fully appreciate is that you are doing it for other people. You have sisters who are in harm's way, and I think the way Representative Harman put it, quite nicely, the ideals that you went in to provide service to your country are being violated when your country is not standing behind those ideals when people are victimized by ones not so honorable as you.

So I just want to thank you. It is amazing, in Congress, some of the people that you meet. I have been here 2 years, not very long, but you are two of the most extraordinary people I have met in Congress. And I say that having been seated at the table where you are, Secretary of Defense, the Secretary of State, but I will take you.

Mr. TIERNEY. Mr. Shays.

Mr. SHAYS. I would like to yield to Mr. Turner.

Mr. TIERNEY. Mr. Shays yields to Mr. Turner. Mr. Turner.

Mr. TURNER. Thank you. Thank you, Mr. Chairman, thank you, Ranking Member Shays, for your holding this hearing. I want to thank both of you ladies for being here.

Ingrid, we just really appreciate your coming forward and telling your story. Because you are not just giving us the information of what occurred, you are also providing us some incredible opportunities for solutions. We appreciate that you stood up and did the right thing. You did it because it was right, and we are sorry for everything that you went through in standing up for justice.

Mary, every time I hear you tell the story, I am always so amazed at your strength and the insight that you give us. One of the contexts, I think, that is absolutely incredible about this, when we talk about DOD and the fact that they are not responsive, frequently we think that surely, DOD will get it by now. But they don't.

And I want to share a portion of a letter that I shared with the chairman and the ranking member that I received from the Marines inquiring about Maria's case on behalf of Mary. We had put together a number of questions concerning the circumstances of the investigation surrounding Maria and what occurred.

I sent it to the Commandant of the Marines, James Conway. And the response that I got back officially from the Marines was alarming. We had asked them, we had a sense that they really had not understood the threat that Maria was facing when she came for-

ward and made her allegations of rape. So we asked them the first basic question of, isn't rape inherently a violent crime, and they of course answered back with the statutory definition of rape, which includes violence.

And then we said, well, if that is true, certainly relate that to these circumstances. And they told us back that Maria had reported one sexual encounter, which they alleged was consensual, another which she had alleged to be rape. And then they wrote this sentence, which I want to read, which I think encapsulates what we are all concerned about. They wrote "Lauterbach never alleged any violence or threat of violence in either sexual encounter." I don't know how DOD could ever write a sentence like that with this issue. How can a rape ever not be violent, and the reporting of it certainly is a reporting of violence.

So that comes to the whole issue of what happens when a rape is reported and what are the obligations of DOD for the protection of the accuser, when they come forward and make an allegation of rape. Mary, you have said that certainly, the issue of how the investigation was handled impacted Maria's safety. That is one of my first questions to you, is, can you expand on your concerns about how the investigation was handled, and also how the investigation was handled once Maria came up missing?

Ms. LAUTERBACH. Certainly. One of my big concerns is, as I had mentioned before, it was on Maria to connect the dots. Here you are looking at a teenage girl who doesn't understand really the way the world works. She makes this complaint at my urging. She had waited a month to come to me. I said, it is important for you to make your complaint. So she does, and all of the actions from the beginning led one to believe that they just didn't believe her.

Unfortunately, Maria did become pregnant. She became aware of it at the end of June, beginning of July. And shortly thereafter, her car was vandalized. And they described it as being keyed, but really it was screwdrivered. There is a huge, thick white mark from the front door to the end tail light. It was clear someone was making a statement.

She reported it, the Marines dismissed it. Within a couple of weeks, she was getting something out of her trunk at twilight. They yelled her name, she turned around, she got punched in the face. She was very afraid at this point. She once again went and reported it, they said, can you identify the voice, she said, no, I am not certain who it is. They said, well, we can't link it with your sexual assault accusation, so too bad.

Maria had asked, she goes, I would like to be transferred from Camp Lejeune. They said, don't bother, it is not going to happen. Again, they said that at any time, Maria never indicated being afraid of violence. This simply was not the case. So we go forward, Maria could tell that her rape accusation was going nowhere. I spoke to her on December 14th, 3 o'clock in the afternoon. She was very upset, because she said, Mom, they are making me go to a Christmas party again tonight, and this guy is going to be there. And I said, that is the craziest protective order I have ever heard of. She said, well, I have to go. So we decided she was just going to show her face and leave.

It was about 2½ hours later, when I walked into my home, her housemate called me on the phone. There is a note here from Maria, she says, I can't take it any more, sorry for the inconvenience, suggesting she was leaving. But this was completely, and I was going to be seeing her, go to visit her within a couple of days. It was completely incongruous with any conversation we had ever had. Her roommate asked me to wait to report it to the Marines, so we wouldn't get her in trouble in case she showed up that weekend.

It was reported on Monday. I talked to them, got the name from her housemate, reported it Tuesday morning. They immediately said, well, we don't do anything about this. We can't even report it to the civilian authorities. So they gave me the phone number for the police. SO I went ahead and pursued it actively, talking to people. They knew I was terribly concerned. Maria was chronically nauseous. She was very sick, she was developing gestational diabetes, having early contractions, 8 months pregnant. January 15th was consistently her due date.

I didn't know what happened, I thought maybe she was in a diabetic coma. I didn't know. But by December 21st, they found her cell phone, someone had recovered it from the side of a highway. At that point, I knew it was a violent end, because she would never have thrown her cell phone away like that.

That afternoon, a Lieutenant Colonel from the Marines, who was in charge of the prosecution of her rape accusation, called me, saying, she is on unauthorized absence, do you know where she is? This investigation is going to fall apart, and she is our key witness. I said, do you think this could be a coincidence? Has anyone checked this guy? Has anyone talked to him? We are really worried, do you know where he is?

And she said, he is accounted for. And I said, you need to talk to him. After that, she quickly got me off the phone. I said, I am scared to death, I think harm has come to her.

In the reports from the Marines, they said that at no time did the mother indicate concern of violence. That simply is not the case. Clearly, she did not followup on my concerns, because Maria's car was parked in front of his house for a few weeks through this whole process. No one even bothered to drive in front of his home.

And then as time goes on, her first sergeant, First Sergeant Jordan speaks to me, and she said, even after 30 days, we don't look for them. It is too bad. After I reiterated my concern, she is going to have her baby at any time now, something is really wrong here, just the level of lack of concern in which she was going away, it was dramatic.

Mr. TIERNEY. Thank you very much.

Ms. Torres, I do want to ask one question. You indicated you have been on three bases, in three branches of the service after the incident. In each of those bases, did you find the commandant to be insensitive or less than informed or less than trained or was it only in some?

Ms. TORRES. The command element or the SAPRO program itself?

Mr. TIERNEY. Let's deal first with the command element, and then we will deal with the SAPRO.

Ms. TORRES. In Korea, I thought the commander, the wing commander and his deputy were wonderful. They were very personally supportive of me and the issue. I really didn't deal with the commander at Japan. I was TDY there for 2 months, and so really was just seeking services. I was just passing through.

In Germany, the commander didn't really know about it. He was my neighbor and friend, but no, there was nothing.

Mr. TIERNEY. How about SAPRO?

Ms. TORRES. In Korea, it was actually, the response program seemed very established, I imagine through frequency of use, especially at Kunsan. The SARC was extraordinarily knowledge and helpful and really went out of his way to help protect me, to include getting the medical commander to agree to keep paper records on me rather than through the digital system in ALTA, so that, since the person who raped me was a doctor, he would have immediate access to all of my records at any time with little supervision or ability of anyone to control that. And again, because I had been diagnosed with PTSD, there were ongoing issues as well as the pending court-martial.

So in Korea, the response portion was actually as put together as it could be at Kunsan. And again, I think a lot of that had to do with the specific SARC who was there, he was wonderful. But even that, out of the three, four SARCs that I dealt with, all of them were male, which is OK in some circumstances, but certainly not for everyone. In Japan, the SARC had very little knowledge of the program he was leading and was asking me questions about the process and things that needed to be done and how to have them done, which I thought was not useful, really.

I tried to be seen at the clinic there. Again, they wanted to put me on medication for the PTSD. And the doctor at the clinic, the psychologist refused to see me and keep paper records, which, with the pending court-martial, my records just could not be available to the perpetrator. There was no understanding of that. And even though this had been approved by higher levels than this particular officer, I was still left without care.

In Germany, the SARC, again, he was excellent, but I found the victim advocate situation to be troubling. In the Air Force, my understanding is that victim advocates are volunteers, they want to be there. Oftentimes they have been through this experience themselves. They are not just there to listen, really, they have a better understanding of what is going on. Whereas, in the Army, and I believe this might be an Army-wide policy, victim advocates are appointed by their unit. And while at Mannheim, they had tried to put together an understanding that if you don't want to be the victim advocates, we will find someone who does, but I don't know that is a policy everywhere.

And the mental health care that I received in Germany was quite insufficient. During intake, when I went to go in, and this was all related to the assault, during intake, the doctor, the psychologist didn't listen to me. She kept calling me Sergeant Torres, which is funny, as I am not only not a sergeant, but not in the military. And I had another psychologist tell me, this was days before I went back for the court-martial, I had a psychologist tell me that I was

acting like a baby, and if I wanted to learn how to act like an adult, he would be happy to work with me.

So there was a significant lack of understanding about PTSD, its effects on an individual's life. And this is something that will affect me for the rest of my career. I have to maintain security clearance, and every time that I do, as I am sure most of you know, this issue of PTSD will come up, as well as all of the notes that these psychologists and doctors have made that were not as professionally addressed as they should have been.

Mr. TIERNEY. Thank you. Thank you very much.

Mr. Braley.

Mr. BRALEY. I want to thank the chairman, and I also want to thank Ranking Member Shays, for their leadership on this issue. I want to thank my colleague, Mr. Rogers, for his ability to help demonstrate the bipartisan nature of this very important issue.

We have a lot of hearings in this committee room that cause my blood to boil, but I have to tell you, nothing has angered me more than what I hear today. I want to start by telling both of our witnesses how grateful I am for your bravery and your courage and for your willingness to share these stories.

Ms. Lauterbach, my father enlisted in the Marine Corps when he was 17 and served on Iwo Jima. It was one of the defining experiences of his life. And I am just ashamed at what you told us today. Mr. Rogers, I hope you have the ability to introduce Ms. Lauterbach to the Commandant of the Marine Corps, so she can ask him, wake up.

I want to share with the committee a story that appeared in yesterday's Dubuque Telegraph Herald. I am proud to represent the city of Dubuque. My wife grew up in Dubuque. The story reads, "A bagpipe burst through the silence at St. Rafael's Cathedral in Dubuque. U.S. Army Second Lieutenant Holly Wimunc's military comrades carried her coffin on their shoulders Tuesday, taking slow, heavy footsteps. The crowd was dotted with crisp, green military uniforms whose owners turned to watch the slain soldier's children clutch their father's hands as they walked to the front pews. The fallen soldier was laid to rest at Mt. Olivet Cemetery. Military funerals honor the lives of young men and women who were taken too soon. For soldiers who have died in combat, their loved ones are well aware of the ultimate cost of service, knowing in the back of their minds that the day could come, however piercing their grief may be. But Holly Wimunc wasn't killed in combat. Police investigating her death allege her life was taken by a fellow service member, a Marine who also happened to be her husband. Wimunc died on July 9th, brutally murdered in her own home, according to investigators. Her estranged husband, Marine Corporate John Wimunc, 23, was charged with first degree murder, accused of killing her and dismembering her body, which was discovered burned in a shallow grave in North Carolina."

This is not an isolated incident we are talking about. I have represented victims of sexual assault, sexual abuse and domestic violence. I can tell you that unless the people who are in charge of enforcing policy understand it and believe in it to the core of their being, nothing is going to change, we will continue to have tragic hearings like this. It is one thing to have a policy on paper. It is

one thing to have a Power Point presentation. But unless commanding officers and everyone in the chain of command believes at the core of their being that these are important priorities that need to be communicated to every member of our armed service and every civilian employee who has contact in that sphere, nothing is going to change.

And when you talk about victims advocates, Ms. Lauterbach, the No. 1 priority for any victims advocate, dealing with a rape victim, is ferocious independence in advocacy. When you have a chain of command structure that makes those members responsible to have their careers reviewed by people who may be upset with that ferocious advocacy, you have a problem. So I welcome your insights, and I look forward to working with the committee in addressing that problem.

With that, I will yield back my time.

Mr. TIERNEY. Thank you.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Ms. Lauterbach, I am sorry for your loss.

Ms. LAUTERBACH. Thank you.

Ms. MCCOLLUM. Ms. Torres, I am very sorry for what happened to you. But I do want to thank you for coming forward today. Because behind you in this room are many women, all around this country, whose story you are also sharing with us. I would say that I sent a letter to Secretary Rumsfeld when this, when the incidents in Iraq were becoming far too frequent occurrences in the press. And you know for every one in the press, I can't even imagine how many more aren't being reported.

I said, where is our zero tolerance policy toward sexual harassment, violence and gender discrimination? Took a while, I finally got a letter back, it was one line. Secretary Rumsfeld told me he was looking into it.

There has to be a zero tolerance policy, and you have my commitment to work with you and this committee to make sure that commitment becomes a reality as well.

Thank you, Mr. Chair.

Mr. TIERNEY. Thank you, Ms. McCollum. We are pleased to have with us this morning as well Congresswoman Susan Davis, and Congresswoman Jane Harman. Although they don't sit on this subcommittee, we are honored to have them with us. Ms. Harman, would you like to ask some questions?

Ms. HARMAN. Thank you, Mr. Chairman. I thought maybe Susan Davis should go first, since she hasn't had a chance to say anything.

Mr. TIERNEY. That is fine. We generally go by order of appearance.

Ms. HARMAN. I appreciate that.

Mr. TIERNEY. You defer to Ms. Davis.

Ms. Davis, do you have some questions?

Ms. HARMAN. And she chairs the Personnel Subcommittee of the Armed Services Committee. So I am very excited that she is joining this hearing.

Mr. TIERNEY. As are we. Ms. Davis.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman, and thank you to my colleague, Ms. Harman. I was at another hearing, but I have read your testimony. I especially, Ms. Lauterbach, I know that we had a chance to meet. I appreciate that time we had together. And I certainly as well am very sorry for your loss. But I believe that you are going to make a difference for other women and men who are the victims of sexual assault and I appreciate that support.

Ms. Torres, as I read your testimony as well, I certainly was touched by that, as also a social worker and someone who knows that many times, it is our personal experiences that lead us into doing such important work. You are certainly part of that, and I thank you very much for bringing your story and your experiences forward, along with your skills. Thank you very much.

I wanted to begin, Mr. Chairman, thank you very much for having this hearing and for bringing it to additional attention. We certainly have been working on these issues. There are a number of individuals that have been, and the Military Personnel Subcommittee will continue to do that. But I want to broaden that, so I am delighted that you are bringing attention to it and helping us all. Because there are many tragic stories out there. We deal with this in our district all the time. So it is very important that we do that.

I know that there have been some refinements even included in this year's Defense Authorization Bill. Congressman Loretta Sanchez and I, Representatives Cummings and Castor included in the bill a greater mandate for visibility over sexual assaults by creating a comprehensive data base for tracking and analyses that is just the tip of the iceberg, we know, but it is important to have that kind of tracking in the data base.

One of the issues, Ms. Lauterbach, that you brought to me, and that we will be having additional hearings and work on, is the victims advocacy support. It is the issue that you have been talking about today. One of the concerns is whether there is perhaps a different way to even organize this in a different kind of a role for someone who is playing that. I think that we have gone to a certain point, and that is admirable. I really commend the Department of Defense in creating the position, but I think what we have learned is that the position doesn't have enough authority in order to be able to help people to get the kind of resources that they need, and to really hold people accountable. I think that is the key here.

So I think in the next hearing as well, we will be looking at, is there a different way to structure this, is that the problem? Is it also training? Is it not having the status for that position that is required? I think it is a very important role that people are playing. And I think as you have testified to the fact that it isn't one that has resonated.

Could you speak to that particularly? I know this is difficult. If you were to organize this differently, what is it about the position that you would really like to see changed? For both of you, and Ms. Torres as well, because you have been in that position.

Ms. LAUTERBACH. In particular, I think that the victim advocate, as Mr. Braley had addressed before, it needs to be outside of the chain of command. In Maria's case, it was someone who had direct authority over her. And as he was saying, there is a real fear that,

oh, if I am being too cooperative or sympathetic, it affects my career. They need to be completely outside of the chain of command. That is terribly important.

As I had said before, we have to remember, so often these are teenagers who are being dealt with. They don't understand their rights. The victim advocate needs to be aggressive in encouraging these young ladies, and some men, to exercise their rights instead of discouraging them from doing so. So really acting as an independent advocate requires it being outside of the chain of command.

And another important part about the victim advocate, they need to be proactive. Again, in Maria's case, she suffered two very direct attacks. And we were concerned at home. I had no idea the level of a lack of interest within her command structure. But if she had a true victim advocate, once she got punched in the face that second attack, they would say, we have to get you out of here, you have to go off base, be transferred to another base, as she had wanted to do. So a real sense of independence is critical.

Ms. DAVIS OF CALIFORNIA. Ms. Torres, and forgive the repetition, because I am sure you have dealt with that. Ms. Torres, I am looking for, is there something besides being outside the chain of command? If that person is outside the chain of command but is not recognized as having any authority, then it is perhaps not going to make that difference.

Ms. TORRES. Having seen the differences in, the way the Air Force structures it, at least in the locations that I was at, the victim advocates were a group of volunteers. So it wasn't each unit having a specific victim advocate. Because again, then you wind up having to work with the victim advocate who is part of the unit and you both have the issues of the unit affecting you. Whereas my experience with the Air Force was, there was a group of volunteers and you could pull the most appropriate one for the individual.

As a civilian, it didn't matter if my victim advocate was an enlisted personnel or officer personnel, it didn't matter to me. The most appropriate person for the job. The biggest thing I could say, really, is training. Victim advocates outside of the unit, I wholeheartedly support that. I think that is imperative to get assistance.

But training, I did feel that even though I had some fantastic victim advocates, it was the SARC who was the driving force behind all of the assistance that I got, all of the protections that I received. He went out of his way to protect my medical records. All of that happened with the SARC. And that is the person that tends to have a lot of that control.

So the victim advocates were helpful in that they did go to doctors' appointments with me. I had no desire to be in the clinic by myself. They helped arrange it so I was often seen at the end of the day when no one else was there. And when you are deploying and working with the military, it seems like you are in the clinic all the time, you have to get shots, you have to go to the clinic. It is a never-ending saga.

So I think training is probably the most critical. But also maybe even re-examining what the victim advocates do. Because again, it was the SARC that was the driving force, not so much the victim advocates. I don't know if that is just different between the Marine

Corps or the Navy and the Army and the Air Force, because the programs are all different in all the branches of service. So some of that standardization is a little bit hard to really address, I think.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you, Ms. Davis.

Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman. Thank you again for holding the hearing, and thanks to these two witnesses for your enormous courage and concern for those who are still out there serving in harm's way in more than one sense. As a mother and a grandmother, I can barely hear these stories. I can only imagine how I would feel if my own daughter called, as yours did, or experienced what you did. Fortunately, that has not happened. But I think the pain on the face of everyone in this audience and the pain on the face of every Member here listening to you is evident. If that is any consolation, please know that we care a great deal and that we are in a position to help.

The question I have relates to something that Ms. Torres said in her testimony. You said that all of the people who intervened after your rape were male. When I was at the West Los Angeles VA, at this extraordinary women's clinic, one of the things they told me was that they were a women only clinic. All the physicians and all of the aid givers were female, because they had discovered that the only intervention that truly worked for most women who have been seriously assaulted and raped is if women provide it. So I want to ask you to elaborate, both of you, on what difference it would have made in both cases, if the people you had contacted were women.

Ms. TORRES. Well, I think it depends entirely on the person who has been assaulted. In my case, when I initially got in touch with the SARC, he was someone I knew. Kunsan is a very small installation and the officer corps is quite small as well. That is kind of where we fall into the structure. So I had known him, it wasn't as uncomfortable for me to have a SARC who was male, because I knew him. And he was a wonderful individual who really went out of his way to be helpful and non-threatening. He had a very clear understanding of the problems and knew that him being male was also an issue. He was fantastic.

And I can't really say, because when I went in, that was my experience. Then it just kept being that way.

I think it depends on the individual. I know a lot of women who would be very uncomfortable with that, and it would be completely unacceptable. Had I gone into the program and not known the SARC, I am not sure I would have been comfortable with it, especially in that environment. At Kunsan, I think there are only like 400 women or something. It is very small.

There definitely is something to be said for that. I still can't see male doctors. I just refuse. And so there is definitely, the individuals doing the rape kits, there is no excuse for anything other than a female doctor in those situations. Probably also the mental health providers, in my skills, or the mental health clinic, whatever they call it in each branch of service, I really do feel that is imperative, just for sensitivity and ease of being able to talk.

But I don't know the statistics on the number of SARCs who are male versus female. I am not really sure what those might be. But of the four that I knew, they were all male, yes.

Ms. HARMAN. Thank you.

Ms. Lauterbach, do you have any observations?

Ms. LAUTERBACH. I do know that Maria was more comfortable with female doctors. That is a fact. Though her victim advocate was a female, and a surprising number of the chain of command that she was in were female. And yet it was the chain of command effect that was the biggest part of the problem in Maria's specific case, because people were very concerned about their career and how that would affect them.

Ms. HARMAN. Thank you for that answer. I know we need to move to the next panel.

I would just observe that as we go forward and solve this problem, we need to be focused on what happens to the victim. That was something I said and something you both said. And what, who she interacts with when she comes forward to say what has happened to her. But we also do need to focus a lot on the chain of command. The training, at least, that I think we all think is necessary, and the prosecutions that need to follow the commitment of these crimes should not just be for the person who has perpetrated the crime, but should be against those who have helped that person cover up the crime. And we need to understand it in a command structure like the military. It starts at the top. And the responsibility goes way up to the top.

That is why, in closing, let me just say, Mr. Chairman, I have been comforted by conversations I have had about this issue, particularly with Secretary of the Army Pete Geren, who gets it, and has made some moves in the Army to feature this issue and help to draw bright red lines. That is what it is going to take. And Mike Mullen, too, feels an enormous responsibility here.

So I hope the military will do more. But I know this committee and this Congress must do more. We cannot let this epidemic, and that is what I think it is, of rape and violent assault, continue.

Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you. Thank you and Ms. Davis both for your presence and your participation this morning.

Mr. Shays, you are recognized.

Mr. SHAYS. Thank you. I would like to also concur. I thank Ms. Harman for participating and Ms. Davis, particularly given that this is legislation that would go through your committee, and we thank you for participating.

Ms. Lauterbach, I want to first say to you that you come across as just a wonderful mother. And I marvel at your daughter's courage. The fact is, you were dealing with a Government agency, the military, that you had no way of knowing was the problem, and almost in a sense, the enemy. I hate to say it that way.

I have been in public life 34 years. I meet people like you occasionally who decided that they are going to make a difference for someone else, so no one has to go through what you did. Your daughter is courageous, you are courageous, and our next panel is where we are going to start to begin to see some change. And I will speak to that in a second.

Ms. Torres, you are extraordinarily courageous as well. I was saying to my colleague up here, sometimes we think that we have to have a courageous vote or do something that is tough politically. That is child's play compared to what you all are dealing with, and obviously what your daughter dealt with, Ms. Lauterbach.

Ms. Torres, I am unclear about one thing that is sensitive, and I don't need a lot of detail, but I am unclear about your comment that you were unaware at the time that you were raped. I want to know, during the act, were you aware, did you realize afterwards? And then I want to know the actions you took right afterwards, or as soon as you could. I am just unclear of that.

Ms. TORRES. I had taken Ambien the night before this happened.

Mr. SHAYS. That part I got.

Ms. TORRES. It was, I hadn't been taking it regularly, so the dosage was probably too strong. And I don't remember moving to my bedroom, I don't remember taking off my clothes. I have a few second memory of him being on top of me and that is it until I woke up the next morning.

When I woke up the next morning, I was still groggy. Again, the Ambien was still too strong. And nauseous, I have to sleep it all the way off. When I had gone into the bathroom, there was a condom in the trash can, and that is when it all came together.

Mr. SHAYS. And then that day did you report, a week later, a month later?

Ms. TORRES. This would have been a Sunday. I reported it on Monday to the SARC and OSI later during the week.

Mr. SHAYS. Let me just respond. Thank you very much for that information.

When we had our hearing in 2006, we realized that the second task force that was set up by Congress in 2005 had not had its full membership. And I am thinking that was stunning. Now to realize that it has never even met, now that it has its membership. I can't help but wonder, if they had met, if they had done their job, would you, Ms. Lauterbach, even be dealing with this issue. I just hope some heads roll, because they need to. This is not the first time, it is not the second, this is like the third time. When Beth Davis appeared before us, she was raped repeatedly. When she told the commanding officers that she was raped, she was forced out of the Academy for having sex. When she was testifying alongside folks from the U.S. Air Force Academy, they had never once apologized to her.

So they gave a belated, begrudging apology to this woman for forcing her out because "she had had sex." And the person who raped her had still been allowed to stay in the Academy.

So I say that, Mr. Chairman, to say that I really hope heads roll. And I don't say that often. I was saying to Mr. Turner, where do we go? It is just unbelievable, the reluctance to deal with it. And his comment to me, if I could say it, was we need an outside change of command. In other words, Ms. Davis, I am saying this, I think we are reluctant to do that. But I think that you have to have a separate, independent body that deals with this. Because I don't think the military is capable of dealing with it. That is where I come down. And I just want to throw it out and have reaction to it. Because this is just—anyway. I yield back.

Mr. TIERNEY. Thank you very much.

Again, let me thank both of our witnesses here. I hope and I trust that the comments—Mr. Turner, did you want to say something else?

Mr. TURNER. Mr. Chairman, thank you. I appreciate the additional time. I don't have a question, but I did want to request. Mary Lauterbach has had a number of questions to the Marines that have not been answered. Our office has attempted to intervene and to get some of those answers. I would ask, if she would, in supplementing her testimony, if you could send to the committee the types of questions that you have been asking that you have not received answers to. I think it would be of interest to the committee, of areas where you have asked about her circumstances where the Marines are not being helpful.

Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you.

And again, thank both of you. We know it was very difficult and not a bit easy, but you stood up not only for yourself but for others in your circumstance, and I think it is incredibly important to them and to the country you continue to serve. So thank you very, very much. You are welcome to stay, if you wish, or to proceed. We appreciate your testimony and that concludes this panel. Thank you.

We will take a minute to allow the third panel to be seated, then we will go from there.

We will swear in the witnesses.

[Witnesses sworn.]

Mr. TIERNEY. Will the record please reflect that all the witness answered in the affirmative? Thank you.

Mr. Dominguez, I notice that Dr. Kaye Whitley is not in her chair. Is it under your direction that she has not shown for testimony this morning?

Mr. DOMINGUEZ. Yes, sir.

Mr. TIERNEY. You directed her not to?

Mr. DOMINGUEZ. I did.

Mr. TIERNEY. Do you have an executive privilege to assert?

Mr. DOMINGUEZ. No, sir.

Mr. TIERNEY. Mr. Dominguez, this is an oversight hearing. It is an oversight hearing on sexual assault in the military. As such, we thought it was proper to hear from the Director of the Defense Department's Sexual Assault Prevention and Response Office, Dr. Kaye Whitley. Your own Web site states, "SAPRO serves as the single point of accountability for Department of Defense sexual assault policy." Dr. Whitley has testified in Congress before, in fact, before this very subcommittee 2 years ago, also on sexual assault in the military.

While we understand that you are involved with these issues, along with your vast other areas of responsibility, Dr. Whitley is the day to day person who coordinates all policies with the military service branches and other Federal agencies. For the sake of continuity, detailed responses to the Government Accountability Office's findings and recommendations and general sustained oversight from the 2006 hearing, we feel strongly that Dr. Whitley should be sworn in to testify in addition to you.

If the head of the SAPRO office is up to the task of coordinating sexual assault prevention and response in the military, which is a huge undertaking, then surely she can come and speak for herself and answer questions directly from Members of Congress. The SAPRO office was created precisely to ensure that the Department of Defense and the military services would not follow the unacceptable mentality that led officials to circle the wagons and engage in cover-ups in the wake of Tailhook and Aberdeen.

All of this is why we are so puzzled that the Defense Department, apparently you in particular, have gone to such great lengths to try to stop Dr. Whitley from testifying and speaking for herself at this hearing. We invited Dr. Whitley to testify at this hearing more than a month ago, on June 27th. Inexplicably, the Defense Department and you, apparently, have resisted. We were forced to issue a subpoena to compel Dr. Whitley to testify. Despite no claim of executive privilege, because none exists, the Defense Department appears to be willfully and blatantly advising Dr. Whitley not to comply with a duly authorized congressional subpoena, something that would put Dr. Whitley in serious legal jeopardy.

As I said, these actions by the Defense Department are inexplicable. It is more than curious why the Defense Department is making every effort, including flouting a duly authorized subpoena, to stop Dr. Whitley from testifying and speaking for herself. It appears that there is disrespect, not only for the two women that preceded your testimony here, but for everyone who finds themselves in a similarly situated circumstance and for others who continue to be in the service, for the Government Accountability Office, which spent 2 years investigating this matter in an effort to help the Department of Defense comply with its congressional responsibilities and its own moral obligations, and obviously, it goes without saying, it shows contempt for this particular subcommittee and the full committee as well.

We are going to be showing all of our options here in the face of this blatant disregard of the subpoena. I will be forced to seek a contempt citation at the next full business meeting of the committee, whether that will be against you or Dr. Whitley or both. We will take other appropriate action as may be there. But I think you have imperiled Ms. Whitley unnecessarily in that respect.

Mr. Waxman, do you have any comments to make?

Mr. WAXMAN. Thank you, Mr. Chairman.

The Department's Agency, Sexual Assault Prevention and Response Office, SAPRO, that is the agency that is in charge of dealing with the sexual assault problems. We asked the Department of Defense to provide Dr. Whitley, who is the person in charge of this department, to come and testify. We were told that she wouldn't be permitted to come and testify, so we subpoenaed her.

Notwithstanding that, she is still not here. And Mr. Dominguez, you said you instructed her not to come? What is your reason for doing that?

Mr. DOMINGUEZ. Sir, in consultation with the Department's leadership——

Mr. WAXMAN. Tell us who in the leadership? Who did you consult with in the leadership of the Department of Defense?

Mr. DOMINGUEZ. Sir, I consulted with the Assistant Secretary of Defense for Legislative Affairs and the General Counsel of the Department of Defense. And——

Mr. WAXMAN. And they told you not to let her—she is under your command, is that right?

Mr. DOMINGUEZ. Yes, sir, she is my subordinate, and the point we are making here first is that she is available to the Congress and Members, and has been up here repeatedly on her own with her staff, unfettered, unmuzzled by us to provide whatever information she has and answer any person's questions. In this hearing format, we wanted to ensure and make the point that Dr. Chu, the Undersecretary of Defense for Personnel and Readiness, and I, are the senior policy officials accountable to Secretary Gates and to the Congress for the Department's sexual assault and prevention policies and programs.

If you find the Department's response and provisions efforts fall short of your expectations, responsibility for that shortfall rests with me. For that reason, sir, Dr. Whitley was directed not to appear today.

Mr. WAXMAN. That is a ridiculous answer. What is it you are trying to hide?

Mr. DOMINGUEZ. We have nothing——

Mr. WAXMAN. Let me speak. She is the one in charge of dealing with this problem. We wanted to hear from her. And despite a subpoena from a committee of Congress, you have been instructed by the Undersecretary or Deputy Secretary in charge of legislative affairs not to allow her to come? Well, and you want to come because you are in charge of this area and you can speak instead? Do we have to subpoena the Secretary to get people in the Department to come before us? We subpoenaed her. You have denied her the opportunity to come and testify and put her in a situation where we have to contemplate holding her in contempt. I don't even know if we could hold you in contempt, because you haven't been issued a subpoena.

Mr. Chairman, the Department of Defense has a history of covering up sexual offense problems. We all remember Tailhook and the scandal and how the military tried to cover that up. I don't know what you are trying to cover up here, but we are not going to allow it. We are going to talk further as to what recourse we have. I don't know if we need to subpoena the Secretary and then hold him in contempt, Mr. Chu and hold him in contempt, you and hold you in contempt. Those are better options to me than to hold her in contempt when she is put in this untenable position when the line of command instructs her not to comply with a subpoena of the U.S. Congress.

I don't know who you think elected you to defy the Congress of the United States. We are an independent branch of Government.

Mr. Chairman, I am going to talk to you and Mr. Shays and Mr. Davis about what we do next. But this is an unacceptable, absolutely unacceptable position for the Department to take and we are not going to let it stand.

Mr. TIERNEY. Thank you, Mr. Chairman.

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman and the chairman of the full committee.

Mr. Waxman has the authority solely to issue a subpoena without the approval of any Member here, and he has every right to issue it at any time. But in this case, you have the chairman of the full committee, the ranking member of the full committee, the chairman of the subcommittee and the ranking member of the subcommittee, which is me, all in support. And I will cooperate any way whatsoever to get Ms. Whitley here. And I would ask Mr. Dominguez to reconsider his very foolish decision and encourage her to come. And if not, we will get her here some other way.

Mr. DOMINGUEZ. Sir, I do want to say——

Mr. TIERNEY. No, we don't want to hear from you right now, Mr. Dominguez. We are more than a little bit upset with you, and whatever this false notion of bravado or whatever of thinking you are covering up for something or for Dr. Whitley—is she in the room today?

Mr. DOMINGUEZ. No, sir.

Mr. TIERNEY. She is not even in the building?

Mr. DOMINGUEZ. She is not, sir.

Mr. WAXMAN. Mr. Chairman, who is here to advise you on the details of that office and what they have done?

Mr. DOMINGUEZ. I know the details of that office and what they have done, sir.

Mr. WAXMAN. You do?

Mr. TIERNEY. Well, let me tell you something, Mr. Dominguez. We decide who we want to have for witnesses at this hearing, we decide who the people are who are going to give us factual testimony and the ones that we want to hear from when we are investigating or having a hearing. So for now, Mr. Dominguez, you are dismissed.

Mr. DOMINGUEZ. Thank you, sir.

Mr. TIERNEY. We will proceed with the rest of our witnesses here, with the Army witness and the Government Accountability Office. And we will hear from the Defense Department and the witnesses we want to hear from at a future date and will take such action as we all deem is appropriate in light of your inappropriate action that you have taken.

The remaining witnesses with us today are Lieutenant General Michael Rochelle. General Rochelle is the Deputy Chief of Staff of the U.S. Army for Personnel Management. He has served in the Army since 1972, and has a masters degree in public administration. The subcommittee felt it very important to have the perspective of the military services represented at this hearing, but recognizing, however, that it is too cumbersome to invite representatives from all of the different branches, we picked the largest service and asked them to testify. So General, we are greatly appreciative of your service and for your testifying today on behalf of the Army.

Also we have with us Ms. Brenda S. Farrell. Ms. Farrell is the Director of the Government Accountability Office's Defense Capabilities and Management team, responsible for the defense, personnel and medical readiness issues. Before her current assignment, she served as acting director for GAO's Strategic Issues team, over-

seeing issues on strategic human capital, Government regulation and decennial census issues. Over her 27-year career with the Government Accountability Office, Ms. Farrell has earned numerous awards, including one for sustained extraordinary performance. We greatly appreciate all the hard work that you have done and that you have done with respect to this particular project, as well as your team, and we look forward to hearing from you.

The subcommittee wants to thank both of you for being here to testify. You have already been sworn in. I repeat just for your benefit that we have a 5-minute rule. The green light will go on, with about 1 minute left, the yellow light, then when your time is up, the red light, at which point we will ask you to wind down. We are not going to slam the hammer down immediately on that.

Your testimony in its entirety will be included in the record at any rate, so we are going to ask you, General, if you would please proceed.

STATEMENTS OF LIEUTENANT GENERAL MICHAEL D. ROCHELLE, DEPUTY CHIEF OF STAFF, G1, U.S. ARMY; AND BRENDA S. FARRELL, DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

STATEMENT OF LIEUTENANT GENERAL MICHAEL D. ROCHELLE

General ROCHELLE. Thank you, Chairman Tierney.

Chairman Tierney, Ranking Member Shays, Chairman Waxman, distinguished members of the committee, I thank you for the opportunity to appear before this committee today and to discuss the Army's efforts concerning sexual assault, a subject we feel very powerfully and strongly about.

Even one sexual assault violates the very essence of what it means to be a soldier. And it is a betrayal of the Army's core values as well. On behalf of the Secretary of the Army, the Honorable Pete Geren, and Chief of Staff of the Army, General George Casey, I can assure you that the Army takes sexual assault very, very seriously.

The Army's comprehensive sexual assault prevention and response program is every leader's responsibility. And explicitly, it is a responsibility of every commander. It is formalized in Army regulation 600–20, in alignment, of course, with the Department of Army policy. The primary goal of our program is to create a climate where every soldier lives the Army values, thereby eliminating incidents of sexual assault, where soldiers feel they can report incidents when they occur without fear, knowing they will receive the help and care they so richly deserve, and where appropriate action will be taken against offenders.

In executing their responsibilities, Army commanders ensure allegations are investigated, that victims are treated with dignity and respect and receive promptly the care they need. And commanders take appropriate disciplinary or administrative action. Army senior mission commanders, generally one or two star commanding generals of installations, hold monthly sexual assault review boards to provide executive oversight, procedural guidance

and feedback concerning program implementation and case management.

Following their initial pre-command course training, all new commanders receive localized sexual assault prevention response training after their assumption of command. Soldiers receive annual as well as pre- and post-deployment sexual assault prevention and response training, while our first responders, legal professionals, medical professionals, advocacy, law enforcement, to include criminal investigation, as well as chaplains, receive specialized initial and annual refresher training.

Since November 2004, the Army has had a comprehensive training program for all levels of Army professional military education, from initial entry training all the way through our senior-most level of professional military education for commissioned officers, the Army War College. During our objective assessment of our program, we concluded our prevention efforts were insufficient, inadequate to the task. As we continue to work through and improve our program, the Chief of Staff and the Secretary are personally involved in the development of our Army's comprehensive prevention campaign and strategy. In the words of Secretary of the Army Pete Geren, "The goal of our sexual assault prevention and response program is to create a climate where soldiers live the Army values, thereby eliminating incidents of sexual assault. Soldiers must understand that they can report incidents when they do occur without fear, knowing they will receive the help and care they deserve. And leaders must ensure that offenders receive appropriate action."

I would like to conclude with a quote from a recent communique that Chief of Staff of the Army George Casey sent to every senior leadership active Guard and Reserve. Once again, "Sexual assault is a serious crime," he wrote, "and has no place in our Army. It is incompatible with our Army values, undermines unit cohesion and prevents us from working effectively as a team. Despite our efforts to eradicate sexual assaults from the Army, they continue to occur at an unacceptable rate." And he concludes, "Our soldiers, civilians and their families make tremendous sacrifices daily. They deserve to live and work in a community free from the threat of sexual assault. This is our goal, and all leaders must be dedicated to achieving it."

Mr. Chairman, Ranking Member Shays, distinguished members of the committee, again, I thank you for the opportunity to appear before this distinguished committee and I await your questions.

[The prepared statement of General Rochelle follows:]

WRITTEN STATEMENT BY

LTG MICHAEL D. ROCHELLE

DEPUTY CHIEF OF STAFF, G1

UNITED STATES ARMY

BEFORE

COMMITTEE ON HOUSE OVERSIGHT AND GOVERNMENT REFORM -

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

SECOND SESSION, 110TH CONGRESS

JULY 31, 2008

Chairman Tierney, distinguished members of the committee, thank you for the opportunity to appear before you and discuss the Army's Sexual Assault Prevention and Response Program.

It is DoD policy to investigate every unrestricted sexual assault report; treat victims with sensitivity and care; and take appropriate disciplinary or administrative action. The goals of our Sexual Assault Prevention and Response Program are to create a climate where Soldiers live the Army Values, thereby eliminating incidents of sexual assault; where Soldiers feel they can report incidents when they do occur, without fear, knowing they will receive the help and care they deserve; and where offenders receive appropriate action.

Even one sexual assault violates the very essence of what it means to be a Soldier and is a betrayal of the Army's core values. On behalf of the Secretary of the Army and the Chief of Staff, I can assure you that the Army takes sexual assault very seriously. To support our efforts in combating sexual assault, the Army has created the Sexual Assault Data Management System (SADMS). The Army is the only Service with such a system that integrates five authoritative sources from legal, medical, investigative, law enforcement, and advocacy services to provide a holistic case management record. The Army's $2.8M investment (to date) in the SADMS provides an assessment capability to conduct in-depth analysis of the SAPR Program including both performance measures and data trends.

The Army has added much to our knowledge base as we have grown our program. The Army's program's foundation supports the findings and recommendations from our Sexual Assault Task Force and Sexual Harassment Task Force reports. Through the Army's annual command program assessment reports and recommendations, our recent Inspector General Report, and our recurring analysis of sexual assault case data, we continuously reassess and improve our program.

We know that sexual assault is the most under-reported crime in the United States. As the Army reviewed the findings from early Defense Manpower

Data Center and the Army Research Institute surveys of our Soldiers, we learned that many Soldiers who said they experienced sexual assault within the previous 12 months did not report it. Accordingly, the introduction of sexual assault awareness and confidential victim services may have contributed to the sharp increase in the number of reported cases of sexual assault. Additionally, senior leadership emphasizes that Soldier safety is paramount; command climates appear to have reduced under-reporting and empowered more Soldiers to willingly report incidents of sexual assault.

While the Army continues to aggressively implement and improve our program, let me review the progress we have made to date:

- We built an extensive Army-wide victim advocacy program. At each Installation, our full-time professional Sexual Assault Response Coordinators (SARCs) interact directly with victims of sexual assault and other installation response agencies - medical, legal, law enforcement, investigative, and chaplains.
- The advocacy program extends to deployed units through deployable SARCs (DSARCs) and Unit Victim Advocates (UVAs). DSARCs are Soldiers trained and responsible for coordinating SAPR Program activities as a collateral duty. Army policy requires one DSARC at each brigade and higher echelon. UVAs are Soldiers trained to provide victim advocacy services as a collateral duty. Our policy requires two UVAs for each battalion.
- Since 2005, the Army has employed a comprehensive set of training support packages for all levels of Army Professional Military Education, from initial entry to the Army War College. Annual unit level sexual assault training is also mandatory, as is pre- and post-deployment training.
- Progress in the Army's sexual assault response capabilities is the result of an integrated coalition of command, advocacy, law enforcement, investigative, medical, legal, and chaplains. These "first responders" receive initial and annual refresher training for their specific response

capability. In most cases, initial training occurs at the corresponding Army training institution.

- Above all, sexual assault prevention and response is a leadership issue. Senior mission commanders are required by Headquarters, Department of the Army policy to hold monthly Sexual Assault Review Boards in order to provide executive oversight, procedural guidance and feedback concerning program implementation and case management.

Under the direction of Secretary Geren and General Casey, the Army is developing a comprehensive prevention campaign, which, among other things, focuses on peer-to-peer intervention strategies in order to affect behaviors that lead to sexual assault. While the Army has achieved success with our initial response-based efforts (creating the right climate, removing the stigma of reporting, and prosecuting Soldiers and Civilians who don't live up to the Army's standards), the Army will launch new initiatives in September 2008 focused primarily on prevention. As a result of the Army's sexual assault task force, the Army has completed all 239 actions from the Army's Action Plan, which included: developing a policy and training plan; establishing a SAPR program; establishing a victim advocacy program; and establishing a system for documentation, program assessment, and reporting and program involvement. Our initial prevention efforts were focused on risk-reduction methods within our professional military education and our commanders' actions. As an example, the Army reviewed its DNA processing, applied more resources, and cut the process time almost in half within a year's time.

Most reported sexual assaults involve offenders (64%) who are between the ages of 18 and 24. Similarly, an overwhelming majority of victims (85%) are also junior enlisted (E1-E4) Soldiers. The Army recognizes that many of these Soldiers enter military service with social beliefs that are inconsistent with Army values. To date, the Army's prevention efforts have been inadequately confronted those societal norms in the area of relationships between Soldiers. This phase of the campaign will focus on addressing negative social influencers,

increasing peer-to-peer bystander intervention and enhancing Soldiers' skill sets on how to stop assaults before they occur.

Key components of our prevention campaign include actions from the Secretary and Chief of Staff down to the Commanders at all levels of the Army. Recently, the Chief of Staff sent a message to commanders that he and the Secretary are not satisfied with the results of our prevention program, that we will overhaul our sexual assault prevention program, and aggressively take steps to develop a sound prevention initiative. Commanders at all levels are eager to engage. Consequently, we are refining our reporting and quality assurance measures for our SADMS to provide commanders statistical data to help them engage more effectively with sexual assault awareness and prevention.

The Army's Sexual Assault Program Office has prepared a Phase II Action Plan with over 125 actions. The action plan incorporates results of an Army Inspector General inspection report (May 2007) and other program assessments. We are planning a Sexual Assault Prevention and Risk Reduction Training Summit in September. The Summit will include national subject matter experts, Senior Army leaders and their Sexual Assault Program Managers, and Army training developers. Summit results will drive the development of our prevention training and strategic communications. While there is not a specific line item in the budget for our program, the Army will spend approximately $40M in FY 09 to achieve our FY09 prevention and response goals.

The Secretary and the Chief of Staff of the Army are personally involved in ensuring sexual assault prevention is paramount to all Soldiers and leaders. Our awareness and prevention processes are reviewed at the Senior-most levels, and we will continue to pursue improvements and enhancements to our program. Again, I thank you for the opportunity to appear before you today, for your continued support of the Army, our Soldiers and Families, and for your partnership in helping the Army address this important issue. I look forward to answering your questions.

Mr. TIERNEY. Thank you, General. We appreciate your testimony. Ms. Farrell.

STATEMENT OF BRENDA S. FARRELL

Ms. FARRELL. Thank you, Mr. Chairman.

Chairman Tierney, Mr. Shays, members of the subcommittee, thank you for the opportunity to be here today to discuss GAO's preliminary observations on DOD's and the Coast Guard's sexual assault and prevention and response programs. My remarks today draw from soon to be completed work examining DOD and the Coast Guard's programs conducted at this subcommittee's request.

As you know, sexual assault is a crime that contradicts the core values that DOD and the Coast Guard expect service members to follow, such as treating their fellow members with dignity and respect. Recognizing this, in 2004, Congress directed DOD to establish a comprehensive policy to prevent and respond to sexual assault involving service members. Though not required to do so, the Coast Guard has established a similar program.

Now let me briefly summarize my written statement. My statement is divided into three parts. The first addresses the extent to which DOD and the Coast Guard have developed and implemented policies and programs to prevent, respond to and resolve sexual incidents involving service members. We found that DOD and the Coast Guard have taken positive steps to respond to congressional direction. However, implementation of the program is hindered by several factors. Those factors include inadequate guidance on how the program is to be implemented and deployed in joint environments; some commanders' limited support of the programs; program coordinators' hampered effectiveness when they have multiple duties; inconsistent training effectiveness; and sometimes limited access to mental health resources.

The second part of my written statement addresses visibility over reports of sexual assault. GAO found, based on response to our non-generalizable survey administered to 3,750 service members in the United States and overseas, that occurrences of sexual assault may be exceeding the rates being reported, suggesting that DOD and the Coast Guard have only limited visibility over the incidents of these occurrences. At the 14 installations where GAO administered its survey, 103 service members indicated that they had been sexually assaulted in the preceding 12 months. Of these 103 service members, 52 indicated that they did not report the sexual assault.

We also found that factors that discourage service members from reporting a sexual assault incident include the belief that nothing would be done, fear of ostracism, harassment or ridicule and concern that peers would gossip about the incident.

The last part of my written statement addresses the extent to which DOD and the Coast Guard exercise oversight over reports of sexual assault. DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assault. However, neither has developed an oversight framework including clear objectives, milestones, performance measures and criteria for measuring progress to guide their efforts. Further, in compliance with statutory requirements, DOD reports data on sexual assault incidents involving service members to Congress annually. However, DOD's

report does not include some data that would aid congressional oversight, such as why some sexual assaults could not be substantiated following an investigation. Also why the Coast Guard voluntarily provides data to DOD for inclusion in its report. This information is not provided to Congress, because there is no requirement to do so.

In summary, Mr. Chairman, while DOD and the Coast Guard have taken positive steps to prevent, respond to and resolve reported incidents of sexual assault, a number of implementation challenges could undermine the effectiveness of the program. Left unchecked, these challenges could undermine DOD and the Coast Guard's efforts by eroding service members' confidence in the programs, decreasing the likelihood that victims will turn to the programs for help when needed or by limiting the ability of DOD and the Coast Guard to judge the overall successes, challenges and lessons learned from their program.

Our draft report is with the agencies awaiting comment on our findings and recommendations. We expect to issue our report in August. Thank you for the opportunity again to be here, Mr. Chairman. I would be pleased to take your questions.

[The prepared statement of Ms. Farrell follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EDT
Thursday, July 31, 2008

MILITARY PERSONNEL

Preliminary Observations on DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs

Statement of Brenda S. Farrell, Director
Defense Capabilities and Management

GAO-08-1013T

July 31, 2008

GAO
Accountability · Integrity · Reliability
Highlights

Highlights of GAO-08-1013T, a testimony before the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives

MILITARY PERSONNEL

Preliminary Observations on DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs

Why GAO Did This Study

In 2004, Congress directed the Department of Defense (DOD) to establish a comprehensive policy to prevent and respond to sexual assaults involving servicemembers. Though not required to do so, the Coast Guard has established a similar program. This statement addresses the extent to which DOD and the Coast Guard (1) have developed and implemented policies and programs to prevent, respond to, and resolve sexual assault incidents involving servicemembers; (2) have visibility over reports of sexual assault; and (3) exercise oversight over reports of sexual assault. This statement draws on GAO's preliminary observations from an ongoing engagement examining DOD's and the Coast Guard's programs to prevent and respond to sexual assault. In conducting its ongoing work GAO reviewed legislative requirements and DOD and Coast Guard guidance, analyzed sexual assault incident data, and obtained through surveys and interviews the perspective on sexual assault matters of more than 3,900 servicemembers stationed in the United States and overseas. The results of GAO's survey and interviews provide insight into the implementation of the programs but are nongeneralizable.

GAO expects to issue its final report in August 2008 and to make a number of recommendations to improve implementation of sexual assault prevention and response programs and improve oversight of the programs in both DOD and the Coast Guard.

To view the full product, including the scope and methodology, click on GAO-08-1013T. For more information, contact Brenda S Farrell at (202) 512-3604 or farrellb@gao.gov.

What GAO Found

DOD and the Coast Guard have established policies and programs to prevent, respond to, and resolve reported sexual assault incidents involving servicemembers; however, implementation of the programs is hindered by several factors. GAO found that (1) DOD's guidance may not adequately address some important issues, such as how to implement its program in deployed and joint environments; (2) most, but not all, commanders support the programs; (3) program coordinators' effectiveness can be hampered when program management is a collateral duty; (4) required sexual assault prevention and response training is not consistently effective; and (5) factors such as a DOD-reported shortage of mental health care providers affect whether servicemembers who are victims of sexual assault can or do access mental health services. Left unchecked, these challenges can discourage or prevent some servicemembers from using the programs when needed.

GAO found, based on responses to its nongeneralizeable survey administered to 3,750 servicemembers and a 2006 DOD survey, the most recent available, that occurrences of sexual assault may be exceeding the rates being reported, suggesting that DOD and the Coast Guard have only limited visibility over the incidence of these occurrences. At the 14 installations where GAO administered its survey, 103 servicemembers indicated that they had been sexually assaulted within the preceding 12 months. Of these, 52 servicemembers indicated that they did not report the sexual assault. GAO also found that factors that discourage servicemembers from reporting a sexual assault include the belief that nothing would be done; fear of ostracism, harassment, or ridicule; and concern that peers would gossip.

Although DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assault, neither has developed an oversight framework—including clear objectives, milestones, performance measures, and criteria for measuring progress—to guide their efforts. In compliance with statutory requirements, DOD reports data on sexual assault incidents involving servicemembers to Congress annually. However, DOD's report does not include some data that would aid congressional oversight, such as why some sexual assaults could not be substantiated following an investigation. Further, the military services have not provided sufficient data to facilitate oversight and enable DOD to conduct trend analyses. While the Coast Guard voluntarily provides data to DOD for inclusion in its report, this information is not provided to Congress because there is no requirement to do so. To provide further oversight of DOD's programs, Congress, in 2004, directed DOD to form a task force to undertake an examination of matters relating to sexual assault in which members of the Armed Forces are either victims or offenders. However, as of July 2008, the task force has not yet begun its review. Without an oversight framework, as well as more complete data, decision makers in DOD, the Coast Guard, and Congress lack information they need to evaluate the effectiveness of the programs.

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss issues related to the Department of Defense's (DOD) and Coast Guard's programs to prevent, respond to, and resolve reported incidents of sexual assault. As you know, sexual assault is a crime that contradicts the core values that DOD, the military services,[1] and the Coast Guard expect servicemembers to follow, such as treating their fellow members with dignity and respect. Recognizing this, Congress in 2004 directed the Secretary of Defense to develop a comprehensive policy for DOD on the prevention of and response to sexual assaults involving servicemembers, including an option that would enable servicemembers to confidentially disclose an incident of sexual assault. Since 2005, active duty servicemembers have had two options for reporting an alleged sexual assault: (1) *restricted*, which allows victims of sexual assault to disclose a sexual assault incident to specific individuals and receive medical care and other victim advocacy services without initiating a criminal investigation; and (2) *unrestricted*, which entails notification of the chain of command and may trigger a criminal investigation. Although these requirements do not apply to the Coast Guard, which is overseen by the Department of Homeland Security, the Coast Guard has adopted similar reporting options.

Mr. Chairman, you have recognized the need to shed light on this important issue. Specifically, you asked GAO to examine sexual assault prevention and response programs at the military academies as well as at military installations within DOD and the Coast Guard and during deployments. In response, we issued a report in January 2008 that reviewed programs to address sexual assault and sexual harassment at the military and Coast Guard academies.[2] This August, we will issue our follow-on report examining DOD's and the Coast Guard's programs to prevent and respond to sexual assault, including during deployments. A draft of this report is currently with the agencies for comment. Thus, our findings and recommendations have not been finalized.

[1]For purposes of this testimony, we use the term "military services" to refer collectively to the Army, Air Force, Navy, and Marine Corps. While the Coast Guard is a military service, it generally falls under the control of the Department of Homeland Security and not the Department of Defense. Therefore, we address the Coast Guard separately from the other military services.

[2]GAO, *Military Personnel: The DOD and Coast Guard Academies Have Taken Steps to Address Incidents of Sexual Harassment and Assault, but Greater Federal Oversight Is Needed*, GAO-08-296 (Washington, D.C.: Jan. 17, 2008).

My testimony today is based on our preliminary observations from our ongoing work requested by this committee. Specifically, my testimony today will address the extent to which DOD and the Coast Guard

- have developed and implemented policies and programs to prevent, respond to, and resolve sexual assault incidents involving servicemembers;
- have visibility over reports of sexual assault involving servicemembers; and
- exercise oversight over reports of sexual assault involving servicemembers.

To obtain our preliminary observations, we reviewed legislative requirements; reviewed DOD's, the military services', and the Coast Guard's guidance and requirements for the prevention of, response to, and resolution of sexual assault; analyzed sexual assault incident data; and visited 15 military installations in the United States and overseas to assess implementation of the programs. At the installations we visited, we met with sexual assault prevention and response program coordinators; victim advocates; judge advocates; medical and mental health personnel; criminal investigative personnel; law enforcement personnel; chaplains; various military commanders, including company and field grade officers; and senior enlisted servicemembers. We also obtained the perspective of more than 3,900 servicemembers by administering a total of 3,750 confidential surveys to a nonprobability sample of randomly selected servicemembers and conducting more than 150 one-on-one, structured interviews with randomly selected servicemembers at 14 of the 15 locations we visited. Our survey is the first since 2006 to obtain the perspectives of selected servicemembers in each military service and the Coast Guard on sexual assault issues and the first to assess sexual assault issues in the Coast Guard since the restricted reporting option became available in December 2007. Because we did not select survey and interview participants using a statistically representative sampling method, our survey results and the comments provided during our interview sessions are nongeneralizable and therefore cannot be projected across DOD, a service, or any single installation we visited. However, the survey results and comments provide insight into the command climate and implementation of sexual assault prevention and response programs at each location at the time of our visit.

We conducted this performance audit from July 2007 through July 2008 in accordance with generally accepted government auditing standards. Those

standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

DOD has taken positive steps to respond to congressional direction by developing and implementing policies and programs to prevent and respond to reported sexual assault incidents involving servicemembers, and the Coast Guard has taken similar steps on its own initiative. Commanders are also taking action against alleged sexual assault offenders. However, (1) DOD's guidance may not adequately address some important issues, such as how to implement its program in deployed or joint environments; (2) most but not all commanders support the programs; (3) program coordinators' effectiveness can be hampered when program management is a collateral duty; (4) required sexual assault prevention and response training is not consistently effective; and (5) factors such as a DOD-reported shortage of mental health care providers affect whether servicemembers who are victims of sexual assault can or do access mental health services. For example, at the installations we visited, we found that commanders—that is, company and field grade officers—had taken actions to address incidents of sexual assault and were generally supportive of sexual assault prevention and response programs; however, at three of the installations we visited, program officials told us of meeting with resistance from commanders when attempting to advertise, in barracks and work areas, the programs or the options for reporting a sexual assault. Also, although DOD and the Coast Guard require that all servicemembers receive periodic training on their respective sexual assault prevention and response programs, our nongeneralizeable survey, interviews, and discussions with servicemembers and program officials revealed that a majority, but not all, servicemembers are receiving the required training and that some who have received it still would not know or were not sure how to report a sexual assault using the restricted reporting option.

We found, based on responses to our survey and a 2006 DOD survey, the most recent available, that occurrences of sexual assault may be exceeding the rates being reported, suggesting that DOD and the Coast Guard have only limited visibility over the incidence of these occurrences. We recognize that the precise number of sexual assaults involving servicemembers is not possible to determine and that studies suggest sexual assaults are generally underreported in the United States.

Nonetheless, our findings indicate that some servicemembers may choose not to report sexual assault incidents for a variety of reasons, including the belief that nothing would be done or that reporting an incident would negatively impact their careers. In fiscal year 2007, DOD received 2,688 reports of alleged sexual assault, brought with either the restricted or unrestricted reporting option, involving servicemembers as either the alleged offenders or victims. The Coast Guard, which did not offer the restricted reporting option during fiscal year 2007, received 72 reports of alleged sexual assault brought with the unrestricted reporting option during that time period. However, servicemembers told us that they were aware of alleged sexual assault incidents involving other servicemembers that were not reported to program officials, and a 2006 Defense Manpower Data Center survey found that of the estimated 6.8 percent of women and 1.8 percent of men who experienced unwanted sexual contact[3] during the prior 12 months, the majority chose not to report it.[4]

While DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assault involving servicemembers, both lack an oversight framework, and DOD lacks key information needed to evaluate the effectiveness of sexual assault prevention and response programs. DOD's instruction charges the Sexual Assault Prevention and Response Office with evaluating the effectiveness of the sexual response prevention and response program. Our prior work has demonstrated the importance of outcome-oriented performance measures to successful program oversight and that an effective plan for implementing initiatives and measuring progress can help decision makers determine whether initiatives are achieving desired results.[5] However, neither DOD nor the Coast Guard has developed an oversight framework that includes clear objectives, milestones, performance measures, or criteria for measuring progress. Congress also lacks visibility over the incidence of sexual assaults involving Coast Guard members because the Coast Guard is not required to provide these data to Congress. Further, because the military services are not providing DOD with the installation- and case-specific

[3]The *2006 Gender Relations Survey of Active Duty Members* defines unwanted sexual contact to include rape, nonconsensual sodomy (oral or anal sex) or indecent assault (unwanted, inappropriate sexual contact or fondling) that can occur regardless of gender, age, or spousal relationship.

[4]The 95 percent confidence interval for this estimate is +/- 1 percent.

[5]GAO, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003).

data beyond what is statutorily required for inclusion in the department's annual report, DOD lacks the means to fully execute its oversight role. Also, some data included in DOD's annual reports to Congress could be misleading and do not provide some information needed to facilitate congressional oversight or understanding of victims' use of the reporting options. In addition, Congress directed DOD in 2004 to form a task force to undertake an examination of matters relating to sexual assault in which members of the Armed Forces are either victims or offenders, but, as of July 2008, the task force has not yet begun its review. As a result, DOD and the Coast Guard are not able to fully evaluate the effectiveness of their programs in achieving their goals, and lacking visibility over the incidence of sexual assaults in the military, congressional decision makers are impeded in judging the overall successes, challenges, and lessons learned from the programs.

We discussed the preliminary observations that are contained in this statement with officials in both DOD and the Coast Guard. Overall, DOD officials agreed with the need to take further action to improve implementation and oversight of the department's program. They emphasized that the department has focused on program implementation versus program oversight to date. They highlighted several areas in need of further attention, including examining whether there is a need for additional guidance that addresses implementation of its program in deployed and joint environments, providing the military services with specific resources for the program, training, access to mental health services, and enhancing oversight of the program. For example, they stated they are in the process of examining whether it is necessary to revise DOD's guidance with regard to implementing the program in deployed and joint environments. They also stated they are beginning to develop preliminary standards that they expect will serve as the foundation for the department's baseline performance measures and evaluation criteria. Representatives from the military services expressed concerns over our preliminary finding that some commanders do not support the sexual assault prevention and response program. They stated that they would look into this issue further in an effort to address any potential problems. In addition, service officials told us that they did not want to provide DOD with installation-level data, unless required to do so, because of concerns that data may be misinterpreted or that even nonidentifying data about a victim may erode victim confidentiality. DOD officials emphasized the importance of having access to the military service's installation-level data for purposes of analysis and oversight. Coast Guard officials also emphasized that the Coast Guard has focused on program implementation versus program oversight to date. They stated

that they would be willing to provide Congress with data on reported sexual assaults. In addition, they stated that moving forward they will work to leverage any changes DOD makes to improve implementation and oversight of its program.

Background

In October 2004, Congress included a provision in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005[6] that required the Secretary of Defense to develop a comprehensive policy for DOD on the prevention of and response to sexual assaults involving members of the Armed Forces. The legislation required that the department's policy be based on the recommendations of the *Department of Defense Task Force on Care for Victims of Sexual Assaults*[7] and on such other matters as the Secretary considered appropriate. Among other things, the legislation required DOD to establish a standardized departmentwide definition of sexual assault, establish procedures for confidentially reporting sexual assault incidents, and submit an annual report to Congress on reported sexual assault incidents involving members of the Armed Forces.

In October 2005, DOD issued DOD Directive 6495.01,[8] which contains its comprehensive policy for the prevention of and response to sexual assault, and in June 2006 it issued DOD Instruction 6495.02,[9] which provides guidance for implementing its policy. DOD's directive defines sexual assault as "intentional sexual contact, characterized by the use of force, physical threat or abuse of authority or when the victim does not or cannot consent. It includes rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of victim. 'Consent' shall not be deemed or construed to mean the failure by the

[6]Pub. L. No. 108-375 § 577 (2004).

[7]In February 2004, the Secretary of Defense directed the Under Secretary of Defense for Personnel and Readiness to undertake a 90-day review to assess sexual assault policies and programs in DOD and the services and recommend changes to increase prevention, promote reporting; enhance the quality and support provided to victims, especially within combat theaters; and improve accountability for offender actions. Among the recommendations of the task force was that DOD establish a single point of accountability for all sexual assault policy matters within the department.

[8]Department of Defense Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Oct. 6, 2005).

[9]Department of Defense Instruction 6495 02, *Sexual Assault Prevention and Response Program Procedures* (June 23, 2006)

victim to offer physical resistance. Consent is not given when a person uses force, threat of force, coercion, or when a victim is asleep, incapacitated, or unconscious."

The Under Secretary of Defense for Personnel and Readiness has the responsibility for developing the overall policy and guidance for the department's sexual assault prevention and response program. Under the Office of the Under Secretary of Defense for Personnel and Readiness, DOD's Sexual Assault Prevention and Response Office (within the Office of the Deputy Under Secretary of Defense for Plans) serves as the department's single point of responsibility for sexual assault policy matters.[10] These include providing the military services with guidance, training standards, and technical support; overseeing the department's collection and maintenance of data on reported sexual assaults involving servicemembers; establishing mechanisms to measure the effectiveness of the department's sexual assault prevention and response program; and preparing the department's annual report to Congress.

In DOD, active duty servicemembers have two options for reporting a sexual assault: (1) *restricted*, and (2) *unrestricted*. The restricted reporting option permits a victim to confidentially disclose an alleged sexual assault to select individuals and receive care without initiating a criminal investigation. A restricted report may only be made to a Sexual Assault Response Coordinator, victim advocate, or medical personnel. Because conversations between servicemembers and chaplains are generally privileged, a victim may also confidentially disclose an alleged sexual assault to a chaplain. In contrast, the unrestricted reporting option informs the chain of command of the alleged sexual assault and may initiate an investigation by the military criminal investigative organization of jurisdiction. Since December 2007, the Coast Guard has employed a similar definition of sexual assault as well as similar options for reporting a sexual assault in its guidance, Commandant Instruction 1754.10C.[11]

[10]Except for legal processes provided under the Uniform Code of Military Justice and Manual for Courts-Martial and criminal investigative policy matters that are assigned to the Judge Advocates General of the military services and DOD's Inspector General, respectively.

[11]Commandant Instruction 1754.10C, *Sexual Assault Prevention and Response Program (SAPRP)* (Dec. 20, 2007).

At the installation level, the coordinators of the sexual assault prevention and response programs are known as Sexual Assault Response Coordinators in DOD and as Employee Assistance Program Coordinators in the Coast Guard. Other responders include victim advocates, judge advocates, medical and mental health providers, criminal investigative personnel, law enforcement personnel, and chaplains.

DOD's and the Coast Guard's Programs to Prevent and Respond to Sexual Assault

DOD has taken positive steps to respond to congressional direction by establishing policies and a program to prevent, respond to, and resolve reported sexual assault incidents involving servicemembers, and the Coast Guard, on its own initiative, has taken similar steps. Further, we found that commanders are taking action against alleged sexual assault offenders. However, we also found that several factors hinder implementation of the programs, including (1) guidance that may not adequately address how to implement DOD's program in certain environments, (2) inconsistent support for the programs, (3) limited effectiveness of some program coordinators, (4) training that is not consistently effective, and (5) limited access to mental health services.

DOD Has Taken Some Steps to Respond to Congressional Direction, and the Coast Guard on Its Own Initiative Has Made Similar Progress

In response to statutory requirements, DOD has established a program to prevent, respond to, and resolve sexual assaults involving servicemembers. DOD's policy and implementing guidance for its program are contained in DOD Directive 6495.01 and DOD Instruction 6495.02. Specific steps that DOD has taken include

- establishing a standardized departmentwide definition of sexual assault;
- establishing a confidential option to report sexual assault incidents, known as restricted reporting;
- establishing a Sexual Assault Prevention and Response Office to serve as the single point of accountability for sexual assault prevention and response;
- requiring the military services to develop and implement their own policies and programs, based on DOD's policy, to prevent, respond to, and resolve sexual assault incidents;
- establishing training requirements for all servicemembers on preventing and responding to sexual assault; and

- reporting data on sexual assault incidents to Congress annually.

Although not explicitly required by statute, the Coast Guard has had a sexual assault prevention and response program in place since 1997. In December 2007, the Coast Guard, on its own initiative, updated its instruction to mirror DOD's policy and to include a restricted option for reporting sexual assaults.

In DOD, each of the military services has also established a Sexual Assault Prevention and Response office with responsibility for overseeing and managing sexual assault matters within that military service.[12] The Coast Guard's Office of Work-Life, which falls under the Commandant of the Coast Guard, is responsible for overseeing and managing sexual assault matters within the Coast Guard.

Commanders Are Taking Action against Alleged Sexual Assault Offenders

A key aspect of the DOD's and the Coast Guard's efforts to address sexual assault is the disposition of alleged sexual assault offenders. In both DOD and the Coast Guard, commanders are responsible for discipline of misconduct, including sexual assault, and they have a variety of judicial and administrative options at their disposal. During the course of our ongoing work, we found that commanders at the installations we visited were supportive of the need to take action against alleged sexual assault offenders and were generally familiar with the options available to them for disposing of alleged sexual assault cases. Commanders' options are specified in the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial and include

- trial by court-martial, the most severe disposition option, which can lead to many different punishments including death, prison time, and punitive separation from military service;
- nonjudicial punishment, pursuant to Article 15 of the UCMJ, which allows for a number of punishments including reducing a member's grade, seizing a portion of pay, and imposing restrictions on freedom; and

[12]Except for the Navy, which refers to its program as Sexual Assault Victim Intervention, each of the military services refers to its program as Sexual Assault Prevention and Response.

- administrative actions, which are corrective measures that may result in a variety of actions including issuing a reprimand, extra military instruction, or the administrative withholding of privileges.

In some cases, commanders may also elect to take no action, such as if evidence of an offense is not sufficient. However, there are also instances in which commanders cannot take action, such as if the alleged offender is not subject to military law or could not be identified, if the alleged sexual assault is unsubstantiated or unfounded, or if there is insufficient evidence that an offense occurred.

In determining how to dispose of alleged sexual assault offenders, commanders take into account a number of factors that are specified in the Manual for Courts-Martial. Some of the factors that commanders take into account include the character and military service of the accused, the nature of and circumstances surrounding the offense and the extent of harm caused, and the appropriateness of the authorized punishment to the particular accused or offense. Further, commanders' decisions are typically made after consulting with the supporting legal office (e.g., judge advocate).

Several Factors Hinder Implementation of DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs

Despite taking positive steps to implement programs to prevent and respond to reported sexual assault incidents involving servicemembers, we identified several factors during the course of our ongoing work that, if not addressed, could continue to hinder implementation of the programs.

DOD's guidance may not adequately address some important issues. DOD's directive and instruction may not adequately address how to implement the program when operating in deployed or joint environments. Program officials we met with overseas told us that DOD's policies do not sufficiently take into account the realities of operating in a deployed environment, in which unique living and social circumstances can heighten the risks for sexual assault and program resources can be widely dispersed, which can make responding to a sexual assault challenging. Similarly, program officials told us there is a need for better coordination of resources when a sexual assault occurs in a joint environment. At one overseas installation we visited, Coast Guard members told us that they were confused about which program they fell under—DOD's or the Coast Guard's—and thus who they should report an alleged sexual assault to. Installations can also have multiple responders responsible for responding to an assault, potentially leading to further confusion.

While most commanders support the programs, some do not. DOD's instruction requires commanders and other leaders to advocate a strong program and effectively implement DOD's sexual assault prevention and response policies. The Coast Guard's instruction similarly requires that commanders and other leaders ensure compliance with the Coast Guard's policies and procedures. Though we found that commanders—that is, company and field grade officers, at the installations we visited have taken actions to address incidents of sexual assault, some commanders do not support the programs. For example, at three of the installations program officials told us of meeting with resistance from commanders when attempting to place, in barracks and work areas, posters or other materials advertising the programs or the options for reporting a sexual assault. In some cases, commanders we spoke with told us that they supported the programs but did not like the restricted reporting option because they felt it hindered their ability to protect members of the unit or discipline alleged offenders. Commanders who do not support the programs effectively limit servicemembers' knowledge about the program and ability to exercise their reporting options.

Program coordinators' effectiveness can be hampered when program management is a collateral duty. To implement sexual assault prevention and response programs at military installations, DOD and the services rely largely on Sexual Assault Response Coordinators, while the Coast Guard relies on Employee Assistance Program Coordinators. However, we found that there are a variety of models for staffing these positions. DOD's instruction leaves to the military services' discretion whether these positions are filled by military members, DOD civilian employees, or DOD contractors, and thus whether Sexual Assault Response Coordinators perform their roles as full-time or collateral duties. In the Coast Guard, Employee Assistance Program Coordinators are full-time federal civilian employees, but they are also responsible for simultaneously managing multiple programs, including sexual assault prevention and response, for a designated geographic region. We found that the time and resources dedicated to implementing sexual assault prevention and response programs varies, particularly when the program coordinators have collateral duties.

Training is not consistently effective. Although DOD and the Coast Guard require that all servicemembers receive periodic training on their respective sexual assault prevention and response programs, our nongeneralizeable survey, interviews, and discussions with servicemembers and program officials revealed that a majority, but not all, servicemembers are receiving the required training, and that some

servicemembers who have received it may not understand how to report a sexual assault using the restricted reporting option. For example, a survey we administered at 14 military installations revealed that while the majority of servicemembers we surveyed had received the required training, the percentage of servicemembers who responded that they would not know how to report a sexual assault using the restricted reporting option ranged from 13 to 43 percent for the seven installations where we administered our survey in the United States and from 13 to 28 percent for the seven installations where we administered our survey overseas. To date, neither DOD nor the Coast Guard has systematically evaluated the effectiveness of the training provided. Servicemembers who have not received the required training or are otherwise not familiar with their respective programs incur the risks of not knowing how to mitigate the possibility of being sexually assaulted or how to seek assistance if needed, or risk reporting the assault in a way that limits their option to maintain confidentiality while seeking treatment.

Access to mental health services may be limited. DOD and the Coast Guard both require that sexual assault victims be made aware of available mental health services, and in 2007, DOD's Mental Health Task Force recommended that DOD take action to address factors that may prevent some servicemembers from seeking mental health care. However, we found that several factors, including a DOD-reported shortage of mental health care providers, the inherent logistical challenges of operating overseas or in geographically remote locations in the United States or overseas, and servicemembers' perceptions of stigma associated with mental health care can affect whether servicemembers who are victims of sexual assault can or do access mental health services. We also did not find any indication that either DOD or the Coast Guard are taking steps to systematically assess factors that may impede servicemembers who are victims of sexual assault from accessing mental health services.

Visibility over Reports of Sexual Assault

We found, based on responses to our nongeneralizeable survey and a 2006 DOD survey, the most recent available, that occurrences of sexual assault may be exceeding the rates being reported, suggesting that DOD and the Coast Guard have only limited visibility over the incidence of these occurrences. We recognize that the precise number of sexual assaults involving servicemembers is not possible to determine and that studies suggest sexual assault are generally underreported in the United States. Nevertheless, our findings indicate that some servicemembers may choose not to report sexual assault incidents for a variety of reasons, including the

belief that nothing would be done or that reporting an incident would negatively impact their careers.

In fiscal year 2007, DOD received 2,688 reports of alleged sexual assault made with either the restricted or unrestricted reporting option involving servicemembers as either the alleged offenders or victims. The Coast Guard, which did not offer the restricted reporting option during fiscal year 2007, received 72 reports of alleged sexual assault made using the unrestricted reporting option during this same time period. At the 14 installations where we administered our survey, 103 servicemembers indicated that they had been sexually assaulted within the preceding 12 months. Of these, 52 servicemembers indicated that they did not report the sexual assault incident. The number who indicated they did not report the sexual assault ranged from one to six servicemembers per installation.

Respondents to our survey also told us that they were aware of alleged sexual assault incidents involving other servicemembers that were not reported to program officials. DOD's fiscal year 2007 annual report and a Coast Guard program official further support the view that servicemembers are not reporting all sexual assault incidents, as does the Defense Manpower Data Center's *2006 Gender Relations Survey of Active Duty Members*,[13] administered between June and September 2006. Issued in March 2008, the Defense Manpower Data Center survey found that of the estimated 6.8 percent of women and 1.8 percent of men in DOD who experienced unwanted sexual contact during the prior 12 months, the majority (an estimated 79 percent of women and 78 percent of men) chose not to report it.[14] The Defense Manpower and Data Center report did not include data for the Coast Guard, but, at our request, the center provided information showing that an estimated 3 percent of female and 1 percent of male Coast Guard respondents reported experiencing unwanted sexual contact during the prior 12 months.[15]

[13]Defense Manpower Data Center *2006 Gender Relations Survey of Active Duty Members* (DMDC Report No. 2007-022, March 2008). The weighted response rate was 30 percent.

[14]For the DOD female population, this is an estimate of 6.8 percent with a margin of error of +/-1 percent. For the male population, this is an estimate of 1.8 percent with a margin of error of +/-0.6 percent. The margins of error are calculated with a 95 percent confidence interval.

[15]For the Coast Guard female population, this is an estimate of 3 percent with a 95 percent level of confidence with a margin or error of +/-3 percent. For the male population, this is an estimate of 1 percent with a margin of error of +/-1 percent.

While the survey results suggest a disparity between the actual number of sexual assault incidents and the number of those reported, this is largely an expected result of anonymous surveys. Whereas formal reports, whether restricted or unrestricted, involve some level of personal identification and therefore a certain amount of risk on the part of the victim, the risks and incentives for service members making anonymous reports are very different. Hence, anonymous survey results tend to produce higher numbers of reported incidents. Another factor obscuring the visibility that DOD and Coast Guard officials can have over the incidence of sexual assault is the fact that many of the individuals to whom the assaults may be reported—including clergy and civilian victim care organizations, civilian friends, or family—are not required to disclose these incidents. As a result, while DOD and the Coast Guard strive to capture an accurate picture of the incidence of sexual assault, their ability is necessarily limited.

Our survey data revealed a number of reasons why respondents who experienced a sexual assault during the preceding 12 months did not report the incident. Commonly cited reasons by survey respondents at the installations we visited included: (1) the belief that nothing would be done; (2) fear of ostracism, harassment, or ridicule by peers; and (3) the belief that their peers would gossip about the incident. Survey respondents also commented that they would not report a sexual assault because of concern about being disciplined for collateral misconduct, such as drinking when not permitted to do so; not knowing to whom to make a report; concern that a restricted report would not remain confidential; the belief that an incident was not serious enough to report; or concern that reporting an incident would negatively impact their career or unit morale. The Defense Manpower Data Center's 2006 *Gender Relations Survey of Active Duty Members* identified similar reasons why servicemembers did not report unwanted sexual contact, including concern that reporting an incident could result in denial of promotions, assignment to jobs that are not career enhancing, and professional and social retaliation.

However, servicemembers also reported favorable results after reporting unwanted sexual contact to military authorities, including being offered counseling and advocacy services, medical and forensic services, legal services, and having action taken against alleged offenders. Respondents to our survey indicated they were supportive of the restricted reporting option as well. For example, a junior enlisted female observed that the military is going to great lengths to improve the ways that sexual assault can be reported and commented that "in my opinion, people will be more likely to report an incident anonymously." Similarly, a female senior

officer commented that "giving the victim a choice of making a restricted or unrestricted report is a positive change and allows that person the level of privacy they require."

DOD and the Coast Guard's Oversight over Reports of Sexual Assault

DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assault involving servicemembers. However, they lack the oversight framework necessary to evaluate the effectiveness of their sexual assault prevention and response programs, and DOD lacks key information from the military services needed to evaluate the effectiveness of department's program. DOD's annual reports to Congress may not effectively characterize incidents of sexual assault in the military services because the department has not clearly articulated a consistent methodology for reporting incidents and the means of presentation for some of the data does not facilitate comparison. In addition, the congressionally directed Defense Task Force on Sexual Assault in the Military Services has yet to begin its review, although DOD considers its work to be an important oversight element.

Oversight Mechanisms in DOD and the Coast Guard

DOD's directive establishes the department's oversight mechanisms for its sexual assault prevention and response program and assigns oversight responsibility to DOD's Sexual Assault Prevention and Response Office (within the Office of the Deputy Under Secretary of Defense for Plans).[16] DOD's Sexual Assault Prevention and Response Office is responsible for

- developing programs, policies, and training standards for the prevention, reporting, response, and program accountability of sexual assaults involving servicemembers;
- developing strategic program guidance and joint planning objectives;
- storing and maintaining sexual assault data;

[16]DOD's instruction requires the Sexual Assault Prevention and Response Office to serve as the single point of responsibility for sexual assault policy matters, except for legal processes provided under the Uniform Code of Military Justice and Manual for Courts-Martial, and criminal investigative policy matters that are assigned to the Judge Advocates General of the military services and DOD's Inspector General, respectively.

- establishing institutional evaluation, quality improvement, and oversight mechanisms to periodically evaluate the effectiveness of the department's program;
- assisting with identifying and managing trends; and
- preparing the department's annual report to Congress.

To help provide oversight of the department's program, in 2006 DOD established a Sexual Assault Advisory Council, which consists of representatives from DOD's Sexual Assault Prevention and Response Office, the military services, and the Coast Guard. The Sexual Assault Advisory Council's responsibilities include advising the Secretary of Defense on the department's sexual assault prevention and response policies, coordinating and reviewing the department's policies and programs, and monitoring progress. The military services have also established some oversight mechanisms, though these efforts are generally focused on collecting data. Though Coast Guard representatives attend meetings of DOD's Sexual Assault Advisory Council, the Coast Guard has few other formal oversight mechanisms in place to oversee its sexual assault prevention and response program. According to program officials with whom we spoke in both DOD and the Coast Guard, to date their focus has been on program implementation, as opposed to program evaluation.

DOD and the Coast Guard Do Not Have an Oversight Framework in Place to Evaluate the Effectiveness of their Sexual Assault Prevention and Response Programs

Though DOD and the Coast Guard have established some oversight mechanisms, neither has established an oversight framework for their respective sexual assault prevention and response programs, which is necessary to ensure the effective implementation of their programs. Our prior work has demonstrated the importance of outcome-oriented performance measures to successful program oversight and shown that having an effective plan for implementing initiatives and measuring progress can help decision makers determine whether their initiatives are achieving desired results.[17] In reviewing DOD's and the Coast Guard's programs, we found that neither has established an oversight framework because they have not established a comprehensive plan that includes such things as clear objectives, milestones, performance measures, and criteria for measuring progress, nor established evaluative performance

[17]GAO-03-669.

measures with clearly defined data elements with which to analyze sexual assault incident data. Because DOD's and the Coast Guard's sexual assault prevention and response programs lack an oversight framework, their respective programs, as currently implemented, do not provide decision makers with the information they need to evaluate the effectiveness of the programs or to determine the extent to which the programs are helping to prevent sexual assault from occurring and to ensure that servicemembers who are victims of sexual assault receive the care they need.

During the course of our ongoing work, we found a number of areas demonstrating the need for an oversight framework. For example, although DOD's Sexual Assault Prevention and Response Office is responsible for establishing institutional program evaluation, quality improvement, and oversight mechanisms to periodically evaluate the effectiveness of the department's programs, it has yet to establish qualitative or quantitative metrics to facilitate program evaluation and assess effectiveness. As a specific example, DOD has not yet established metrics to determine the frequency with which victims were precluded from making a confidential report using the restricted reporting option or reasons that precluded them from doing so.

Additionally, we found that neither DOD nor the Coast Guard has established performance goals, such as a goal to ensure that a specific percentage of servicemembers within a unit have received required training. In the absence of such measures, Sexual Assault Prevention and Response Office officials in DOD told us that they currently determine the effectiveness of DOD's program based on how well the military services are complying with program implementation requirements identified by DOD.

Importantly, both DOD and the Coast Guard recognize the need to establish an oversight framework in addition to their existing oversight mechanisms. For example, the Sexual Assault Advisory Council is in the initial stages of developing performance measures and evaluation criteria to assess program performance and identify conditions needing attention. However, DOD has not yet established time frames for developing and implementing these measures. DOD also is working with the military services to develop guidelines to permit, among other uses, consistent assessment of program implementation during site visits. In addition, Coast Guard program officials told us that they plan to conduct reviews of their program for compliance and quality in the future and plan to leverage any metrics developed by DOD to assess their program. Further, the Coast Guard Investigative Service has begun to conduct limited trend analysis on

reported incidents, including the extent to which alcohol or drugs were involved in alleged sexual assaults.

Without an oversight framework to guide program implementation, DOD and the Coast Guard also risk not collecting all of the information needed to provide insight into the effectiveness of their programs. In reviewing DOD's program, we found that the military services encountered challenges providing requested data because the request to do so was made after the start of the data collection period. For example, with the exception of the Army, none of the military services was able to provide data as part of the fiscal year 2007 annual report to Congress on sexual assaults involving civilian victims, such as contractors and government employees. Similarly, while there is no statutory reporting requirement, the Coast Guard voluntarily participates in DOD's annual reporting requirement by submitting data to DOD's Sexual Assault Prevention and Response Office. However, DOD does not include these data in its annual report, and the Coast Guard does not provide these incident data to Congress because neither is required to do so. As a result, at the present time Congress does not have visibility over the extent to which sexual assaults involving Coast Guard members occur.

DOD Lacks Access to Data to Conduct Comprehensive Cross-Service Analysis over Time

Though DOD's Sexual Assault Prevention and Response Office is responsible for assisting with identifying and managing trends, it is not able to conduct comprehensive cross-service trend analysis of sexual assault incidents because it lacks access to installation- or case-level data that would facilitate such analyses. DOD officials told us that the military services will not provide installation- or case-level incident data beyond those that are aggregated at the military service level. These data are generally limited to information needed to meet statutory requirements for inclusion in the annual report to Congress. In discussing this matter with the military services, service officials told us they do not want to provide installation- or case-level data to DOD because they are concerned (1) the data may be misinterpreted, (2) even nonidentifying data about the victim may erode victim confidentiality, and (3) servicemembers may not report sexual assaults if case-level data are shared beyond the service-level. However, without access to such information, DOD does not have the means to identify those factors, and thus to fully execute its oversight role, including assessing trends over time. For example, without case-level data, DOD cannot determine the frequency with which sexual assaults are reported in each of the geographic combatant commands to better target resources over time.

DOD Data Reported to Congress Could Be Misinterpreted

DOD reports data to Congress annually on the total number of restricted and unrestricted reported incidents of sexual assault. However, in reviewing DOD's annual reports to Congress, we found that the reports may not effectively characterize incidents of sexual assault in the military services because the department has not clearly articulated a consistent methodology for reporting incidents and the means of presentation for some of the data does not facilitate comparison. For example, meaningful comparisons of the data cannot be made because the respective offices that provide the data to DOD measure incidents of sexual assault differently. In the military services, Sexual Assault Response Coordinators, who focus on victim care, report data on the number of sexual assault incidents brought using the restricted reporting option based on the number of victims involved. In contrast, the criminal investigative organizations, which report data on the number of sexual assault incidents brought using the unrestricted reporting option, report data on a per "incident" basis, which may include multiple victims or alleged offenders. We believe that this lack of a common means of presentation for reporting purposes has prevented users of the reports from making meaningful comparisons or drawing conclusions from the reported numbers.

Further, DOD's annual report lacks certain data that we believe would facilitate congressional oversight or understanding of victims' use of the reporting options. For example, while DOD's annual report provides Congress with the aggregated numbers of investigations during the prior year for which commanders could not take action against alleged offenders, those aggregated numbers do not distinguish cases in which evidence was found to be insufficient to substantiate an alleged assault versus the number of times a victim recanted an accusation or an alleged offender died. Also, though DOD's annual report documents the number of reports that were initially brought using the restricted reporting option and later changed to unrestricted, it includes these same figures in both categories—that is, the total number of restricted reports and the total number of unrestricted reports. An official in DOD's Sexual Assault Prevention and Response Office told us that because the military services do not provide detailed case data to DOD that the department is not able to remove these reports from the total number of restricted reports when providing information in its annual report. However, we believe that the double listing of these figures is confusing.

Congressionally Directed Defense Task Force on Sexual Assault in the Military Services Has Not Yet Begun Its Review

To provide further oversight of DOD's sexual assault prevention and response programs, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005[18] required that the Defense Task Force on Sexual Assault in the Military Services conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or offenders.[19] As part of its examination, the law directs the task force to assess, among other things, DOD's reporting procedures, collection, tracking, and use of data on sexual assault by senior military and civilian leaders, as well as DOD's oversight of sexual assault prevention and response programs. The law does not require an assessment of the Coast Guard's program. Senior officials within the Office of the Under Secretary of Defense for Personnel and Readiness have stated that they plan to use the task force's findings to evaluate the effectiveness of DOD's sexual assault prevention and response programs. However, as of July 2008, this task force has yet to begin its review.

Senior task force staff members we spoke with attributed the delays to challenges in appointing the task force members and member turnover. As of July 2008, however, they told us that all 12 task force members were appointed and that their goal is to hold their first open meeting, and thus begin their evaluation, in August 2008. They also told us that they project that by the end of fiscal year 2008 DOD will have expended about $15 million since 2005 to fund the task force's operations—with much of this funding going towards the task forces' operational expenses, such as salaries for the civilian staff members, contracts, travel, and rent. The law directs that the task force submit its report to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force no later than 1 year after beginning its examination. If such a goal were met, the task force's

[18]Pub. L. No. 108–375 § 576 (2004).

[19]The Defense Task Force on Sexual Assault in the Military Services is an extension of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies established by the Secretary of Defense pursuant to the National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108–136 § 526 (2003). The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 directed that the task force studying the academies be renamed and begin carrying out the new functions required by the National Defense Authorization Act for Fiscal Year 2005 once it had completed its duties under the National Defense Authorization Act for Fiscal Year 2004. The National Defense Authorization Act for Fiscal Year 2005 also allowed the Secretary of Defense to change the composition of the task force after it completed its work related to the academies and before it began to carry out its new functions. The Defense Task Force on Sexual Harassment and Violence at the Military Service Academies submitted its report on June 30, 2005.

evaluation could be complete by August 2009. However, at this time it is uncertain whether the task force will be able to meet this goal.

Concluding Observations

In closing, we believe that DOD and the Coast Guard have taken positive steps to prevent, respond to, and resolve reported incidents of sexual assault. However, a number of challenges—such as limited guidance for implementing DOD's policies in certain environments, some commanders' limited support and limited resources for the programs, training that is not consistently effective, limited access to mental health services, and a lack of an oversight framework—could undermine the effectiveness of some of their efforts. Left unchecked, these challenges could undermine DOD's and the Coast Guard's efforts by eroding servicemembers' confidence in the programs, decreasing the likelihood that sexual assault victims will turn to the programs for help when needed, or by limiting the ability of DOD and the Coast Guard to judge the overall successes, challenges, and lessons learned from their programs. We expect to make a number or recommendations in our final report to improve implementation and oversight of sexual assault prevention and response programs in both DOD and the Coast Guard. Our final report will also include DOD's and the Coast Guard's response to our findings and recommendations once they have had an opportunity to further review our draft report.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

GAO Contact and Acknowledgments

If you have any questions on matters discussed in this testimony, please contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov. Key contributors to this statement include Marilyn K. Wasleski (Assistant Director), Joanna Chan, Pawnee A. Davis, K. Nicole Harms, Wesley A. Johnson, Ronald La Due Lake, Stephen V. Marchesani, Amanda K. Miller, and Cheryl A. Weissman.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "E-mail Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are $2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, DC 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

PRINTED ON RECYCLED PAPER

Mr. TIERNEY. Thank you once again, thank your staff and you for putting the report together. I assume it is going to be a helpful tool, General, for the Army and for others to sort of look through this report. I think it also corroborates some of the testimony we heard from the two previous witnesses in terms of training, in terms of availability or access to services on that.

Let me explore. The report is on the record, obviously, and it is pretty detailed. It speaks for itself in a lot of respects. But when we talk about data and the need for Congress as an oversight body and probably the DOD as well, to have data from each of the different services, currently some of that data is difficult to get, as your report indicates. What is it that could be done about that? I am going to ask the General if he thinks the Army would cooperate with releasing that or if the Army is one of the entities that is raising the objections, Ms. Farrell, that you note in your report.

Ms. FARRELL. The data in the report could be very misleading and very confusing for a number of reasons, besides the fact that we think that it is in complete. The data, for example, we have pointed out in our report that we issued in January of this year on the academies as well as the soon to be issued report in August about the use of common terminology as lacking. The services have different definitions of how they even define what they report.

And we feel that OSD should make clear what type of data they are trying to collect. The data I think you are referring to specifically are the installation based data that we had requested at the beginning of our review. We thought that would be helpful in determining our methodology of which installations to visit, those that had few incidents versus those that had what would appear to be at a medium range and a high number. We did not have the benefit of such data to develop our methodology of where we would visit.

And at this time you cannot do any trend analysis, either. So our point was not to pinpoint installations to say this is a bad installation, this is a good installation. It was to try to understand just what is working and what is not working. And that is one of the reasons why we would think installation data would be helpful to SAPRO, to the services, to share their experiences, to share what is working and what is not working.

Mr. TIERNEY. Thank you.

General, is there an objection from your branch of the service on providing that installation data?

General ROCHELLE. No, sir, none whatsoever. In fact, the Army did cooperate, and it required us to crunch the numbers differently in order to be able to respond by installation. And we did so.

If I may continue, Mr. Chairman, first of all, I applaud the value of the overall report, the GAO report. That was your basic question. It is useful. It gives us a way to see ourselves more clearly from the view of an outsider, which is always helpful. I don't envy the GAO's task, however, in synchronizing the multitude of ways in which the services right now look at themselves. That is a pretty huge task. We know how we view ourselves and how we slice and dice, if you will, the data. But it is inconsistent with how our sister services do so.

But I would like to just conclude by saying, it is a very valuable report.

Mr. TIERNEY. I think one of the reasons that we had the task force that was supposed to be set up, and this goes to another point the report makes, it was not started that year, is that would help the Department of Defense work with the different branches to try and get some conformity across all those branches. I am sure your branch would be cooperative with the others if they had some idea from this task force of what might be done to make sure that everything was the same or standard across all those. So we will get into that when we continue the hearing and we have the appropriate witnesses here.

General, some of the comments that the witnesses made earlier were about training. They said there is some inconsistency and the report also indicated some inconsistency of the personnel that were dealing with victims on that. What is the Army doing to try and make sure, I know you talked in your opening remarks about the training being available. But obviously we have some real life circumstances here where people found that individuals were not as well informed as they might be on training.

So what do you do on a regular basis to keep ramping up that training and to make sure it gets right down into each installation?

General ROCHELLE. Mr. Chairman, thank you for the question. In addition to initial training, which we measure in terms of the number of ours, for every person going into the sexual assault prevention program, everything from the individual soldier whose training initially upon arriving at basic training might start at a 4-hour training session, orientation on reporting, orientation on, an introduction to the sexual assault coordinators and the victim advocates at that installation and unit level, it grows to the unit victim advocates at our deployable sexual assault coordinator, at the brigade level and above, to the installation SARC.

Everyone's training is measured based on the responsibilities that they are given, of course. And then it is annually refreshed, and then refreshable by the individual via——

Mr. TIERNEY. You indicated you are measuring that by hours. I am assuming that you also measure it somewhat by some more objective standard as to whether the victims advocates and whether the others, the SARC actually get it, whether they understand what they do. Do you have some other measures besides just putting in the time?

General ROCHELLE. No, sir, that is not what I meant. What I meant to convey to the committee is that based upon the responsibilities of the information, we expand the training to meet the needs that individual will have to address in the unit, at the installation or as an individual soldier. And of course, productivity of the training is measured on the basis of assessments by the commander and also by individuals who are responsible at the unit level.

Mr. TIERNEY. Thank you.

Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman.

General, it is my understanding that in the GAO information, where they did this survey of 15 installations, that one of the ques-

tions that they asked was, in the last 12 months, have you received any sexual assault training. It is my understanding from that information that the Army and the Air Force posts are high, in the 80 to 90 percent range. My additional understanding is that the Marines, however, are barely over 50 percent, with Camp Lejeune being at 43 percent.

I want to know if you find that information surprising.

General ROCHELLE. If I find it surprising?

Mr. TURNER. Surprising. We talk about training, we talk about the efforts of it. So many times when Congress asks questions, we are given process answers of, we have a program on that. This information that we are receiving from GAO says 80 to 90 percent of the people in the Air Force and Army report that they have received sexual assault training. The same data collection point for the Marines was just slightly over 50 percent. But Camp Lejeune, again, there have been so many troubling instances, was it 43 percent? And I wonder if you find the statistics surprising.

General ROCHELLE. Sir, I must admit I do.

Mr. TURNER. I appreciate that. I am going to put you on the spot one more time, General. If you were listening to the earlier testimony, when Mary Lauterbach was telling me the circumstances of what had occurred with Maria Lauterbach, there were a number of questions that needed to be answered by the Marines. I am going to ask you this question, because what I believe is part of the problem that we are dealing with here is a culture question. It is not one that you just put another program in place and it is going to be self-executing. I think there is a cultural issue that is a problem.

So I wrote the Commandant of the Marines on March 11, 2008, and if you were listening to the testimony, you would have heard my reading of the response that I got back from General Kramlich that I am going to read for you also. It was, "In answer to the question of doesn't a rape accusation inherently contain an element of force or threat?" Their answer was, "Lauterbach never alleged any violence or threat of violence in either sexual encounter," one of which, in the paragraph above, they identified as allegedly being rape.

Now, I have shown that to Members of Congress repeatedly, Members on the House floor, members of this committee. And I want you to know that everyone finds that response, this is in writing, with a letter dated March 8th, just shocking. Could you tell me your thoughts on that?

General ROCHELLE. Sir, I would not attempt to put myself in the position of the Commandant or anyone who may have assisted in crafting that letter. I don't know what was intended by that phraseology, so I am not sure I could offer a comment, except this. I have no doubt but that the Commandant and the entire Marine Corps feels nothing short of disgrace over the circumstances that we are discussing. I would like to, on behalf of the U.S. Army, offer my condolences to the family as well.

Mr. TURNER. Would you agree that inherent in an element of the crime of rape is force or threat of force and violence?

General ROCHELLE. Indeed I would, sir.

Mr. TURNER. Thank you, General. I appreciate that.

Mr. TIERNEY. Thank you.

Ms. Davis.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

Thank you both for being here. One of the things that you mentioned, Ms. Farrell, in the GAO report, is that there weren't specific guidelines, a framework from which to evaluate it. I am wondering, General Rochelle, do you believe, does the military feel that in fact they have those guidelines? Is that a disconnect from the report and some of the thinking that in fact there is a framework there?

Maybe Ms. Farrell, if you could identify what you think, what is the missing framework?

Ms. FARRELL. Let me talk a little bit about what that guideline is before you launch into that. We are really talking about a framework. DOD does have policies. They do have instructions that set out what the SAPRO office is, roles, responsibilities. There are a number of players that are involved in this process, as has been discussed today, the role of the program coordinators, the victims advocates, the medical personnel. There are clear definitions about the restricted option versus the unrestricted option.

And when we reported in January of this year on the academies, we acknowledged that there was a framework in place, but there was more that needed to be done in terms of benefiting from that framework in terms of an analysis and taking the data that was being reported to Congress and analyzing it to determine what it did mean, in order to tell what was working, what was not working.

By the time we spread our wings, so to speak, and started looking at this issue throughout DOD, not just at the service academies, it appeared to us that the framework, that we saw more in place at the academies, was really not in place DOD-wide. Again, there are policies and there are regulations. But there are not very clear goals, very clear milestones. The task force would be an example of the milestone that Congress had set for DOD, but there is nothing in any type of comprehensive framework that sets milestones of how this program is going to move forward over the next few years.

So we are looking for very clear goals, very clear milestones, very clear performance measures and very clear criteria of how DOD will analyze the progress that it is trying to make.

Ms. DAVIS OF CALIFORNIA. Thank you.

Can I ask General Rochelle, is there a disconnect there? Do you think there is a belief, that there is a framework there that you are working from, or would you say that in fact that is a fair assessment of where you are right now?

General ROCHELLE. Thank you for the opportunity, Ms. Davis. It certainly is from a factual perspective accurate, that is the absence of broad guidelines from DOD. But I will also add that I don't believe it has hampered, I really do not believe it has hampered the Army. I won't attempt to speak for any other service here in establishing our programs and making sure that our programs are moving forward.

Now, that is not to suggest that we are perfect and from the sense of milestones, objectives, intermediate objectives and the like.

I would never suggest that. But I really believe that we have the flexibility in the absence of those guidelines to be able to design our program in such a way that it works best for soldiers, especially given where the Army is in the global war on terror.

Ms. DAVIS OF CALIFORNIA. But where do you think the shortcomings are? And Ms. Farrell as well. Because I think one of the issues that people have testified to, and very well, is the victim advocate and the role that individual plays. They are volunteers, they perhaps are not trained necessarily as well as they could be. Is that an area, or is there something else that maybe we haven't looked at?

General ROCHELLE. Let me offer, if I may, as I mentioned in my initial response to the chairman, the one area is in the definitions, is in simple definitions and in how one computes certain metrics. That might be very helpful, so that it is consistent across the services.

On the other hand, I would also add that once again, what it has not done is hamper our ability to launch what we consider to be certainly on the response side of the equation, which I can speak more to later, what we consider to be a very good program. We are not satisfied, by any stretch of the imagination, with where we are. But we are confident that we have a good——

Ms. DAVIS OF CALIFORNIA. Is there anything about those statistics, whether it is in enforcement, whether it is in prosecution that you would believe would be something to look at? What concerns you as you look at those numbers?

General ROCHELLE. What I would add, I would have a greater degree of confidence that when I looked across the same data for the Army, Navy, Air Force and Marine Corps that the definitions are common, that I can then glean greater insights from the information.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you, Ms. Davis.

Ms. Harman.

Ms. HARMAN. Thank you, Mr. Chairman, and thank you to the witnesses for trying to shed more light on this really urgent problem. I especially want to thank our representative from the military for apologizing to the family, the Lauterbach family for what happened. Obviously, we don't know all the facts there yet. But there is nothing, there is no way to deny that a woman serving her country and her unborn fetus are dead and that probably the circumstance came about because of a crime that she tried to report and tried to protect herself against in the military.

I want to say a couple of things, Mr. Chairman. First of all, about the absence of the director of SAPRO. I am really shocked that the civilian side of the Defense Department would have created this problem. Responsibility starts at the top. Bob Gates is a person I have talked to personally about this issue, and who has expressed some interest and concern. It makes absolutely no sense to me that the Assistant Secretary of Defense for legislation would block the head of the appropriate office from testifying here under oath. All that suggests, as Chairman Waxman said, is that for some reason she might have under oath felt compelled to tell us

something that the civilian side of the Defense Department didn't want us to know.

Well, my plan, following this hearing, is to call Bob Gates and see what light he can shed. Having said that, the military side of the Defense Department is trying to step up to this problem. As I mentioned in my opening remarks, I think the Army is probably doing the best job. I have talked to Pete Geren several times about this myself and he is the one who said that he sees this as a watershed issue much like racial integration was 60 years ago. So I commend him and I commend you for what the Army is trying to do. I know that the chairman of the Joint Chiefs, Mike Mullen, is very interested in this, too. Leadership starts at the top.

This isn't just a response problem. This is a prevention problem. The goal here is not to counsel women who have been brutally physically destroyed. The goal here is to prevent young soldiers from doing this to their fellow soldiers. We recognize that in an all volunteer force, some young people sign up for duty who may not have had clear boundaries imposed by the families they come from or the communities they come from. That is a problem with all young people. As a parent of four, I think I had to counsel my own kids many times on what was right and what was wrong. Maybe their families have done this and they haven't learned the lessons, I have no idea.

But the point is, once they show up for duty, or even at the earlier stage, at the intake proceedings, because we hear that some of these problems start then, they have to be given a clear, easy to understand, course in what is right and what is wrong. So does their chain of command. Does either of you disagree with that?

General ROCHELLE. Not only do I not disagree with it, Representative Harman, but I wholly, wholly endorse it. Our efforts toward prevention, and I am happy to have the opportunity to talk briefly about it, our effort toward prevention has really begun with a, if you will, a realization that young men and women are entering our Army today as you said with a different set of values in terms of the relationships between men and women, and between one another, men and men, women and women. And where the Secretary and the Chief are leading the Army, personally leading the Army, is toward this prevention aspect.

As you know, ma'am, and I believe you have been invited to attend, the Army will launch in September phase two of our Sexual Assault and Prevention Response Program. We have phenomenal expectations for the success of that. But it will primarily begin before an individual enters the force, in terms of orientation and training on the prevention aspects, and to counter those, if you will, social norms that they enter our force with.

As Secretary Geren has said, it is unconscionable to him, and the Chief has echoed this as well, that the same Army values that could cause a young man or woman to willingly and without hesitation lay down his or her life for a fellow soldier are the same Army values that should make sexual assault prevention unconscionable in the U.S. Army.

Ms. HARMAN. Mr. Chairman, my time has expired. I would just like to quote one phrase from the GAO report which says, "Occurrences of sexual assault may be exceeding the rates being re-

ported." You bet. We have an epidemic here. We have some folks in the military who really want to get this right. We have victims sitting before us who have been grievously abused, and many victims in the future unless we fix this. And I commend your subcommittee for moving forward here. I think we have to pass legislation demanding that changes be made, especially given what we just learned this morning, which is that at least some people on the civilian side of the Department of Defense don't want to come and talk to us.

Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you again, Ms. Harman.

Elijah Cummings, Mr. Cummings from Maryland has joined us. He is a member of the full committee and we are pleased to have him with us this morning. Mr. Cummings, feel free to ask some questions.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

When I first got to Congress in 1996, sexual assault was a big deal. I will never forget, after I was only here for about 3 months, I went on a tour of some of the bases, and we addressed some of the problems. But there have been continued questionable trends in the nature of non-combat related deaths of female soldiers that report incidents of sexual assault in theater. Of the total 174 reports of sexual assault in the U.S. Central Command, some 68 percent of unrestricted reports and 38 percent of restricted reports were made in Iraq in 2007.

Further, as indicated by the Sexual Assault Prevention and Response Office in 2007, these numbers are subject to change, as information is validated over time. Has this data changed since the Department's 2007 report? Either one of you.

General ROCHELLE. Sir, I can't answer that question for the entire Department.

Mr. CUMMINGS. Do you find that there has been a continued higher amount of incidents of sexual assault in Iraq than any other area in the U.S. CENTCOMM?

General ROCHELLE. Not for the Army, sir. Let me answer your question specifically for the Army. Sexual assault, reported incidents of sexual assault for the entire deployed theater represent 0.58 per 1,000. Whereas for the total Army, that number is 2.53, I will verify the last part of that in just a moment, per 1,000. So my point is, less than a third, less than a third of the total number of restricted and unrestricted sexual assault reports for the deployed force for the Army.

Mr. CUMMINGS. Thank you first of all for what you just said. I am also deeply concerned about the troubling numbers and that Congress, for that matter, has failed to prevent the Department and Congress has failed to prevent sexual assaults in theater, and the link to some of these service members' later non-combat related deaths. Specifically, this is what I am most concerned about. A lady named, well, it is Private Johnson, specifically, my office and the offices of Representatives Diane Watson and Lacy Clay have been contacted by Private Lavina Johnson's father. Are either one of you familiar with that case?

General ROCHELLE. Sir, I am.

Mr. CUMMINGS. Specifically, my office and the offices of Representatives Watson and Clay have been contacted by her father, Private Johnson was a constituent of Mr. Clay. And an Army soldier who served in Iraq and later committed suicide while stationed in Iraq. There are a lot of questions surrounding her death. Are you familiar with that?

General ROCHELLE. Sir, I am.

Mr. CUMMINGS. As a result of this case, I began to scratch the surface regarding the link between victims of sexual assaults and their later non-combat related deaths in theater. Unfortunately, I discovered several cases where a report of sexual assault occurs, and it is shortly followed by the death of the victim. And a suicide is far too often determined under questionable circumstances.

To make matters worse, as identified in Ms. Farrell's submitted testimony, reports of sexual assault may be exceeding the rates being reported. I can only imagine the real number of our men and women in uniform who have suffered through a sexual assault ordeal in theater. For instance, of the bases located in Iraq, Camp Taji has reported a high incidence of female soldiers that have fallen victim to sexual assault and later meet their untimely death by suicide. There are even additional reports by the press indicating that these numbers at Camp Taji may be much higher, including eight victims from Fort Hood alone, that reported an incident of sexual assault, and later committed, allegedly committed suicide.

One example is the case of Army Private First Class Tina Priest, who died on March 1, 2006, apparently committing suicide 11 days after she reported being sexually assaulted by a fellow soldier. After her death, the Army concluded that PFC Priest used her big toe to pull the trigger to commit suicide. Rape charges against the soldier whose sperm was found on Priest's sleeping bag was dropped, and he was convicted of a lesser charge of disobeying a direct order. No further investigation was conducted.

I have run out of time, Mr. Chairman, and I thank you for your patience. But would you all comment on this whole phenomenon of sexual assault and allegations of suicide? And by the way, when are we going to get a clear answer with regard to PFC Johnson's father? He came in here, he was here, sitting in that seat right over there about 7 days ago, literally with tears in his eyes, saying the Army is giving him the runaround. He is very, very upset and I want to be able to give him some answers.

General ROCHELLE. Sir, let me attempt to clear up, first of all, non-combat related deaths, which I would like to make sure we are clear on what that definition is. It includes everything from accidents to suicides to fatalities from disease that occur in theater and natural causes, writ large. In other words, it is not related to direct combat with the enemy or indirect fire, for example.

So we are talking a very, very large number of types of incidents. The relationship between sexual assault and those types of fatalities, I am not sure how we can draw that connection because of the broad nature and the definition that relates to non-combat related fatalities. I don't specifically know the details on Private Johnson, who I think you mention is related in some way to the Lavina Johnson. I am familiar with that matter, and I also know, sir, that Army criminal investigative agents met with Ms. Johnson's father

this month and were very forthcoming with him for all of the forensic evidence and all the information that relates to how the Army concluded its findings in her very unfortunate death.

Beyond that, I don't know how much more forthcoming we might possibly be.

Mr. CUMMINGS. I know my time is up, Mr. Chairman. I will provide you with some written questions, because we have had an opportunity to look at the evidence, and I can tell you, it just doesn't, there are some inconsistencies that a first year law student would pick up on.

General ROCHELLE. I would be happy to receive that, Mr. Cummings.

Mr. TIERNEY. Thank you, Mr. Cummings.

Mr. Platts, do you have some questions?

Mr. PLATTS. Thank you, Mr. Chairman.

First, I want to thank you and Ranking Member Shays for in the last session and this session holding these very important hearings and helping to raise awareness and focus on this very important issue.

I want to thank our witnesses for their testimony. Lieutenant General Rochelle, I am a fellow Shippensburg graduate. Mine was undergrad in public administration, and I know yours was masters. I represent Moore College, so I appreciate your service.

First, I just want to make a comment: your record of service and that of the overwhelming majority of all of our men and women is deserving of our Nation's deepest, deepest gratitude in serving and defending our Nation and the security of our citizens. I guess what I am challenged to understand, and in the previous hearing under then-Chairman Shays and now with Chairman Tierney, is, we certainly are making efforts, but we clearly have a long way to go in adequately addressing the challenge of sexual assault, prevention and response in our military ranks. And when we don't do it right, as I don't think yet we are, it does bring great disrespect on all who wear the uniform.

As you well stated in your testimony, even one sexual assault violates the very essence of what it means to be a soldier, and is a betrayal of the Army's core values. I think that goes across all of our military branches. And somehow we need to do better in conveying from the top down that this is a betrayal. It is a betrayal of the values of the military, it is a betrayal of what our Nation stands for, and it will be dealt with in the most severe manner possible, with all due process being afforded.

Until we get to that point, we are not doing right especially by the men and women wearing the uniform, all men and women wearing the uniform with honor, because they are being brought disrespect because of the wrongdoing of the minority in the ranks. And especially that man or woman who is wearing the uniform who is assaulted and not able to be protected, in the first instance, and then helped and assisted adequately.

So I hope with your leadership and work and all in uniform, we will do better. The testimony we had last session from the cadet at the Air Force Academy, as a parent, it was just heart-wrenching to hear. As one who regularly interacts with the military and does my best to support them, it is hard, as a parent, maybe, to say to

a mom or dad, especially of a female looking to enlist or go to one of the academies, that you do it without some hesitation because of us not getting it right yet.

I do have a specific question regarding Pennsylvania. In my district, I do a lot of work with the Guard, the 28th Division, soldiers getting ready to do pretty significant with the only Guard Stryker brigade going to Iraq later this year, including a good number of friends who serve who will be over there as part of that deployment. Can you highlight Army specifics you are taking, and trying to be more proactive here in protecting our soldiers and responding to assault, specifically if there is an effort focused on Guard and Reserve? Because they are in a different setting in the sense that often, the support they have is not the same as active duty forces who are at large bases with large Army infrastructure, as opposed to the Guard and Reserve who, if it happens during a 2-week summer activation or weekend training, or they go back to Guard status from full-time activation, is there some specific effort to ensure that Guard and Reservists that are sexually assaulted have the support in their home communities as opposed to simply on the bases where they may have been stationed?

General ROCHELLE. Thank you, Representative Platts. I welcome the opportunity to comment on that.

This is a one-Army program, a total Army program, active Guard and Reserve. Both our sexual assault response coordinators at installation and/or higher level command positions who have responsibility for coaching and mentoring it, and by the way, many of those installation-level, higher level sexual assault response coordinators are masters in social work degree individuals. And the policy to have unit victim advocates applies equally to the active component as it does to our reserve component brethren. More so than ever today, we have to function as a total force, we must. And we always strive to do that.

Let me add one editorial comment, if I may. We have in our total force today 163,000 women. I would like point out that across the Department of Defense, it is my perception that this is a Defense-level statistic, 12 percent, 12 percent of our victims are male. So we don't discount, nor do we underscore, fail to underscore the importance of, this is a problem for everyone. We are addressing it in our National Guard and Reserve just as aggressively as we are in the active component. Deployed unit victim advocates and deployed sexual assault response coordinators, just like in the active component.

Mr. TIERNEY. Thank you, General. Thank you, Mr. Platts.

Mr. Shays, you are recognized.

Mr. SHAYS. Thank you, Mr. Chairman.

General, thank you for your service to our country. The questions I am going to ask do not reflect on your service. But how can I have any confidence whatsoever in a military that forces a young girl out of the Academy because she was raped, and then they said, well, she had sex, and leaves the rapist in? And how can I have confidence with a military where a young woman says she was raped, she is pregnant, and they just let her have to deal with the unbelievable intimidation that she had to deal with? How can I have any confidence in a military that comes before our committee

in June 2006 and the Defense Task Force on Sexual Harassment and Violence that was set up in 2005 did not have its complete membership and the military says, well, they will get right on it? Then we find out that they filled up the membership and yet they haven't met once.

How can I have any confidence whatsoever?

General ROCHELLE. Sir, first of all, I must assume that those are actual incidents. I am unfamiliar with any of them, or either of them with the exception of the committee that you refer to at the Department of Defense level. I can only tell you that the senior leadership of the U.S. Army is committed to ensuring that the American people have the confidence and this body has the confidence that we are totally committed to eradicate sexual assault in the U.S. Army.

Mr. SHAYS. General, as the G1, you are responsible for retaining qualified soldiers and recruiting new members to the Army. You have discussed recently that some of the largest recruiting challenges you face are that moms and dads are not supportive of the Army as a career choice during a time of war. I am assuming you have seen the figures from the VA that one in three women in uniform report having been sexually assaulted.

How do I tell my constituents that serving in the military is good and a noble service to our country when they also have to face danger from their peers as well as the enemy?

General ROCHELLE. Sir, I am familiar with the VA's statement and the data that has recently been reported. We are concerned, as well, with the confidence of the American people, especially that every soldier is valued for his or her contribution on or off the battlefield. That is precisely why, Ranking Member Shays, that the U.S. Army is focused on prevention. Addressing the social norms that young people come to us possessing, if you will, today, and then instilling in them and their social interactions between soldiers, as well as between civilians, or with civilians on the battlefield and off the battlefield, that those values are equally applicable to those relationships as they are to the relationships when under fire.

Mr. SHAYS. Would you explain to me why this task force has not met?

General ROCHELLE. Sir, I am not in a position to explain why the DOD task force has not met.

Mr. SHAYS. Ms. Farrell.

Ms. FARRELL. We have heard a variety of reasons why the task force hasn't taken place. We have been monitoring it since we began this work at the request of this committee. Initially we were told that there was the intent to carry task force members over from the first task force that served on the academy task force. Then we heard that there was difficulty just getting people, the right mix of people and the composition. We hear the same thing that you have heard, as we have been monitoring this for the past year and a half, that, soon, you know, next month, next month. Our understanding is that all the task force members have been appointed and now the plan is to begin next month.

Mr. SHAYS. I heard that in June 2006. And it was a pretty incredible hearing, so you would have thought that would have been immediate action.

First, I have to, we all are up for re-election and I am asking my constituents to renew my contract. But if my constituents renew my contract and I am appointed to be either the ranking member of the full committee or chairman, I am going to hire, as one of my hires, a woman who has been sexually assaulted in the military, someone like Beth Davis. I am going to have her be able to devote her time to visiting the academies, obviously working in conjunction with the majority, and to visit the military. I don't think the military yet takes this seriously. And I am just dumbfounded by it. I think the little actions we have seen are frankly not impressive.

Mr. TIERNEY. Thank you, Mr. Shays.

We have a couple of Members who wish to ask a few more questions as followup, if the witnesses are fine with that. Ms. Davis.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman, and again, thank you both for being here. I think we would all recognize that on many fronts, tremendous improvement has been made. I especially appreciate the fact that you talked about early prevention, because I think that is important. And that is not just your job, that is all of our jobs, it is the school's job, it is our family's job, and we all need to do a better job at that. Having people that are willing to come forward and talk about their experiences is critically important.

I wanted to just followup a little bit on Mr. Shays, because we have talked about a number of issues here, the witnesses have spoken about the need to look at the advocacy program, the sexual abuse response team and how people become part of the SARC, what their role is, whether that should be a volunteer. We also know that there is a host of information about whether investigations go forward with the kind of support that they need, whether they are resourced enough to do that.

Where do those discussions take place, and how can we be more helpful in helping you to get to that place? One of the things we did do in the recent authorization bill was to ask for better definitions, so that those reports can move forward. But beyond all those statistics and behind the statistics are the people that we are trying to serve. We learn from people in our districts every day about problems. And how do you see that, what is that context? Is it the task force? Is it our Committee on Personnel? How can we support that effort to a far greater extent? Because none of us want to be sitting here in another year or so feeling that there are pieces of this that we could perhaps have dealt with better, and I would like you to respond to that.

General ROCHELLE. I think the answer to your question, Representative Davis, is all of the above. It is the task force, it is the partnership, and I am speaking now from the standpoint of the Army, the partnership that the Army views it has with the Congress, specifically the House Armed Services Committee, the Personnel Subcommittee, this committee and others, and working collectively and collaboratively to eliminate sexual assault from our lexicon. I agree, and would echo once again that I think definitions, common definitions would be beneficial to all of us, not just defini-

tions, but quite frankly the way in which we calculate our various statistics, so that we know we are looking at a common playing field, level playing field, if you will.

But I would conclude by again saying, we view this as a partnership with the Congress.

Ms. DAVIS OF CALIFORNIA. Thank you. I think the chairman would probably say that partnership would certainly mean having appropriate people testify. And I think that is a great frustration that is not part of the Personnel Committee today. But I certainly would ask that be responded to, because I think that is part of the partnership.

Thank you.

Mr. TIERNEY. Thank you, Ms. Davis.

Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. Chairman and ranking member, I want to thank you again for holding this. One of the things that is so important when we have a hearing like this is that you start to learn more information, additional information that takes you down other paths that hopefully can lead to solutions and some recommendations. I was just told by staff that the Army and Marine Corps apparently signed felony waivers for a total of 10 convicted sexual assaulted-related crimes in fiscal year 2007. General, are you aware of this, and if so, that of course begs the question, how does the Army enforce a DOD no tolerance standard while simultaneously allowing convicted felons to enlist?

General ROCHELLE. The Army, I am familiar with 5 of the 10 cases I believe you cite for the Army and the Marine Corps. Two points, if I may, Representative Turner. Every waiver for enlistment against any standard, certainly a standard that deals with a misdemeanor or a waiver of an exception for enlistment that deals with something that may carry a felony level conviction or offense is reviewed by a general officer in the chain of command within the U.S. Army Recruiting Command, the National Guard or the Reserves. So every single one of those was looked at by successive levels of leaders, all the way up to a general officer, who then made a decision that the circumstances warranted that young person enlisting.

The key distinction I would like to make is because the offense may have carried a felony level conviction does not mean the individual was convicted. It may not even mean the individual was taken to court.

Mr. TURNER. Obviously you can understand our concern, though. If you have a no tolerance standard, you are saying that, you can't stay. But it appears from this information, you are saying you can come in. I am certain that we are going to have additional questions about this. I know the committee has been working on this issue with you. I appreciate that there is additional information that we need to know, but I do believe that we will be asking for it.

General ROCHELLE. I would be happy to share it, sir.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you. Just let me wrap up, if I can, with a couple of questions. I think Ms. Farrell's work deserves some attention here.

Ms. Farrell, you talked about the guidance not adequately addressing some issues like implementation of the program in deployed and joint environments. Can you expand on that a little bit for us?

Ms. FARRELL. Certainly. Especially in locations such as Iraq, Afghanistan, where you have members from all the services, possibly even the Coast Guard, when we did our surveys at overseas locations, and had our one on one interviews with over 150 service members, often the issue came up that members would not know who to turn to in the event that they were a victim of sexual assault, if they were Coast Guard, for example, in Bahrain and in a joint environment. Do they go to the Navy? Who is their Coast Guard representative? The guidance is just lacking in this particular area of how situations would be handled. And of course, this is so important with the restricted reporting requirement, where you can only go to certain individuals and keep that incident confidential.

Mr. TIERNEY. Thank you.

General, how does the Army deal with that in a joint environment, in a deployed situation?

General ROCHELLE. Every joint element, whether it is the Joint Staff in the Pentagon, or a joint headquarters in Iraq or Afghanistan, has a U.S. Army element that is the command and control element that oversees both training standards, discipline in general, as well as the sexual assault prevention program for the Army members of that unit, in order to assure service consistency, which is very important. I think that is the answer to your question, sir.

Mr. TIERNEY. So you are saying that the Army has its own operation wherever they go?

General ROCHELLE. That is correct.

Mr. TIERNEY. Whether it is a joint force or whatever, that they stay within the Army lanes and they just report on up there?

General ROCHELLE. Under the U.S. Army element for that joint headquarters, yes, sir.

Mr. TIERNEY. OK. Now, other services don't report to that Army chain?

General ROCHELLE. Sir, they do not, for certain——

Mr. TIERNEY. They don't have a SARC officer there?

General ROCHELLE. For certain Title 10 functions, they do not.

Mr. TIERNEY. So I am thinking that maybe some other service might not have the direction that the Army does, they may be there without a SARC officer and they can't go to your force and they may not have one of their own.

General ROCHELLE. Well, I wouldn't assume that, sir.

Mr. TIERNEY. I wouldn't assume it, either, but I am seeing Ms. Farrell's point here, it would be nice if the DOD had sort of a standard across that dealt with that, and it might make it easier.

General ROCHELLE. Yes, sir.

Mr. TIERNEY. Ms. Farrell, you found that sometimes the program management was collateral duty for people. Did you find that invariably diminished the capacity of the person that was responsible

for the program, or did you make that point that it just was a fact, without making an assessment as to whether or not it diminished the performance?

Ms. FARRELL. You are referring to the program coordinator, sir?

Mr. TIERNEY. Exactly. The program management is how you phrased it, the program coordinator's effectiveness can be hampered when program management is a collateral duty.

Ms. FARRELL. We found that there are different staffing models for the program coordinators, where they were talking about the SARC or the victim advocates, which often are volunteers. This is something that is flowing from our draft report that DOD could take action on instead of waiting for a task force that is next year, by looking at the various staffing models and what is working well and what is the most effective. It is one of those best practices that may be applied from one service to another service.

Mr. TIERNEY. General, does the Army have all full-time people or do they have a mix? And have there been any assessments as to whether or not one is outperforming the other?

General ROCHELLE. Thank you for the opportunity to address that question. I had hoped to address it from a previous question by one of the Members. At the installation level and at the higher command level, it is not a collateral duty in the Army. The installation sexual assault response coordinator is solely responsible for that program.

At the unit level, it is a collateral duty, but it is not a voluntary duty in the U.S. Army. The commander selects the non-commissioned officer or the officer who serves as the unit victim advocate, two at certain levels at command, one at other levels of command. And that is the commander's way of putting his or her stamp of approval on that individual's capability and training, I might add, to perform the duties adequately.

Mr. TIERNEY. In the Army, do you have any attempt to see that there are more women involved in this process than men? There was some interesting discussion between the witnesses that preceded whether or not it makes it easier on a female victim to report up through people who are also women.

General ROCHELLE. Sir, it varies. Our anecdotal, if you will, information suggests that it just depends on the individual. Some are more comfortable speaking to a member of a different gender, and others are equally comfortable speaking to a SARC or unit victim advocate of the same gender.

We have approximately 85 percent, I think that is on our deployed force, 85 percent of our program managers at the level of unit victim advocate SARC, deployed SARC, are male, 10 percent in theater. And in the continental United States, it is 15 percent female.

Mr. TIERNEY. Ms. Farrell, do you have any observations on that point, or any comments? It might be outside your report, but I am just curious to know your thoughts.

Ms. FARRELL. Often in some of these locations, there aren't females, enough females to volunteer to take on such duties. I agree that it would vary by the individual, who the individual is comfortable with. It did come up in some of our one on one discussions, that some females feel more comfortable with other females as the

victim advocates. I would assume the same would be true for males, they might feel more comfortable with a male victim advocate.

Mr. TIERNEY. Thank you.

Ms. Torres had a particular situation where her assailant was in fact a medical professional, and then she was in a situation where she was in that system and trying to keep paper records as opposed to electronic records. Does the Army have a policy for just that situation, where somebody might be in a situation where their assailant was in the medical profession and would otherwise have access to their data, unless they were kept separately, and what does the Army do in that kind of an incident?

General ROCHELLE. Sir, I am sorry, I am not completely familiar with the instance you are referring to.

Mr. TIERNEY. Ms. Torres testified earlier that her assailant was in fact a doctor, and that after she had made her complaint, she still had to get medical treatment in the system. But that all the records were being kept in electronic data, unless whoever was in charge of that particular SARC office would have cooperated and made sure that they were kept, or the commander made sure that they were kept in paper documents, so that this individual who was going through a disciplinary proceeding wouldn't have access to all of her medical records while that was going on.

So does the Army have a policy with what they do in that situation, or is that so unique that you have not addressed it yet?

General ROCHELLE. Sir, I am insufficiently familiar with exactly how that may be addressed under the HIPAA rules that govern who has access to medical records and who does not. If you would permit me, I would like to take that one for the record.

Mr. TIERNEY. I would be happy to do that, just give it to you for your consideration, since if a situation happened once, it is probably not the only time it is going to happen. Maybe each branch ought to look at what they are going to do about it in such a situation. I would appreciate that.

Last, Ms. Farrell, you mentioned the shortage of mental health services, the access to mental health services. How much of a shortage is there, how desperate is it, and what recommendations might you make with respect to that?

Ms. FARRELL. Shortages are DOD-reported shortages coming from a report a couple of years ago. And we do have current work that is underway for the Senate Armed Services Committee to look at medical personnel requirements and where are the gaps and what is DOD and specifically the Army doing about those shortages as they move forward.

The shortages of mental health providers came up at locations, in deployed locations. Of course, in CONUS, service members can have long waiting lines, as well, depending on the installation and the population that they are serving. They may have access to VA, they may not. It depends upon the location. So it is going to vary by location.

Mr. TIERNEY. What we found at the Walter Reed hearings and subsequent hearings as well, just getting mental health professionals into the service at adequate levels is difficult. General, it just begs the question, what are you doing?

General ROCHELLE. Sir, just to add to Ms. Farrell's comments, we are challenged on several fronts, not just because of the heavy demands of deployment. But I would like to specifically highlight mental health providers. We are challenged not only in the deployed environment, but we are challenged here in the continental United States as well.

Fortunately, however, the answer to the question what are we doing, we have received the authorization from the Office of Personnel Management to bypass many of the OPM bureaucratic rules and do direct, and actually execute direct hires of these professionals. Even that level of authority, which would allow me to walk up to, or the commander of any hospital facility to walk up to a person who is fully qualified and say, I would like you to come to work for us, serving our soldiers, family members, as well as our deployed force, it is inadequate to the task. There simply aren't enough.

Mr. TIERNEY. Is there something on a policy basis, or otherwise, that Congress should be addressing to help with that situation?

General ROCHELLE. Sir, if I may, that may be an area for continued discussions in the partnership with the U.S. Congress.

Mr. TIERNEY. OK. We should do that, then.

Do either of you have any comments you would like to make as we wrap this up? Is there something that we should have asked you that we didn't? Ms. Farrell.

Ms. FARRELL. Thank you for the opportunity, and I would just like to take a second to thank some of the staff that are here that have done this very comprehensive work for you. Marilyn Wasleski, the Assistant Director, Wesley Johnson, the Analyst in Charge, Pawnee Davis and Steve Marchesani, Analysts.

Mr. TIERNEY. We thank them as well. We really appreciate your work, and it was a comprehensive report. I think we will be able to hopefully get some direction on a new policy on that will be helpful.

General, do you have any closing comments?

General ROCHELLE. Sir, I would like to take the opportunity on behalf of the Secretary of the Army, the Honorable Pete Geren, and the Chief of Staff of the Army, General George Casey, and every soldier in uniform, to take the opportunity to apologize to any, any soldier who has ever worn the uniform who has suffered the outrage of sexual assault.

Mr. TIERNEY. We appreciate that.

Thank you both very much for your testimony. This concludes the hearing.

[Whereupon, at 1 p.m., the subcommittee was adjourned.]

○