SEXUAL ASSAULT IN THE MILITARY—PART II

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

SEPTEMBER 10, 2008

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SEXUAL ASSAULT IN THE MILITARY—PART II

WEDNESDAY, SEPTEMBER 10, 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 10:05 a.m., in room 2154, Rayburn House Office Building, Hon. John F. Tierney (chairman of the subcommittee) presiding.

Present: Representatives Tierney, Maloney, Lynch, Yarmuth, Braley, McCollum, Shays, Platts, Turner, and Foxx.

Also present: Representative Harman.

Staff present: Dave Turk, staff director; Andrew Su, professional staff member; Davis Hake, clerk; Mary Anne McReynolds, graduate intern; and Alex McKnight, fellow.

Mr. TIERNEY. A quorum being present, the Subcommittee on National Security and Foreign Affairs hearing entitled, "Sexual Assault in the Military—Part II," 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 if the Chair or ranking member of the full committee should come, we will also have them make opening statements if they so desire.

Without objection, so ordered.

I ask unanimous consent that the following Members be allowed to participate in this hearing: Congresswoman Jane Harman from California, Congresswoman Susan Davis of California and Congresswoman Diane Watson from California. Pursuant to House rules, these Members will be allowed to ask questions of our witnesses 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 of the members of the subcommittee will be allowed to submit a written statement for the record.

Without objection, so ordered.

Good morning, and thank you all for being here today. We continue our oversight into sexual assault in the U.S. military. In July, this subcommittee held the first congressional hearing focusing on the military's sexual assault prevention and response programs since 2006. We heard from two brave women who shared their personal and deeply moving stories with us, Ms. Ingrid Torres and Ms. Mary Lauterbach.

Ms. Torres is an employee of the American Red Cross who was stationed at military bases, was raped by an installation doctor at Kunsan Air Base in South Korea. She told us how she received different levels of care by various victim advocates and health specialists, including some who had little to no knowledge of the military's own prevention and response procedures.

Mrs. Lauterbach, the mother of Marine Lance Corporal Maria Lauterbach, told us how she is still trying to get answers about her daughter's rape and subsequent death by a fellow soldier. She also provided specific recommendations to improve the system for other potential victims and their families.

We heard testimony from top congressional leaders, including Congresswomen Louise Slaughter and Jane Harman, about their proposals to bring additional improvements. We received preliminary testimony from the Government Accountability Office, GAO, on its in-depth, on-the-ground investigation into the Defense Department's sexual assault prevention, response and oversight efforts. Today the GAO will testify again, this time on the final results of its investigation, which includes specific recommendations for the Defense Department.

Finally, at the July hearing we also heard from General Michael Rochelle on the Army's effort to prevent and respond to sexual assaults.

We did not, however, hear from all the necessary executive branch voices, and that is why we are here again today.

Beginning several months ago, we had asked to receive testimony from the Defense Department's top expert on sexual assault, Dr. Kaye Whitley, the director of the Department's Sexual Assault Prevention and Response Office. Dr. Whitley's office is, by the Pentagon's own acknowledgement, the "single point of accountability for Department of Defense sexual assault policy."

Inexplicably, the Defense Department refused to allow Dr. Whitley to testify before Congress. The Oversight Committee, with bipartisan support, was forced to subpoena her.

Despite this valid congressional subpoena, Dr. Whitley did not appear to testify. And according to Principal Deputy Under Secretary Dominguez, Dr. Whitley's superior, he told her or ordered her not to comply with the subpoena and not to attend the July hearing. Such an order does not, however, absolve Dr. Whitley from any personal responsibility to comply with the subpoena directed to her.

Not only did Dr. Whitley and the Department choose to defy a valid, legal subpoena and to place Dr. Whitley in danger of contempt and personal legal jeopardy for her nonappearance, but the Department gave no valid, legal justification for restricting her from appearing, and Dr. Whitley proffered none as well. Over August, this committee, again on a bipartisan basis, was forced to press the matter directly to the Defense Department.

We are satisfied that Dr. Whitley is appearing unfetterred before us today to shed light on the work of her office and the challenges remaining. But what kind of a message does her and the Department's unwillingness until now to allow testimony send to our men and women in uniform? Do they take Dr. Whitley's office seriously? Is she being muzzled, or is the Department hiding something?

Let me be clear: Preventing and responding to sexual assault perpetrated against our soldiers is simply much too important to be playing a game of cat and mouse. We hope that Dr. Whitley's presence here today is an indication that, going forward, the Defense Department will give sexual assault prevention and response the attention, resources and urgency it deserves. We also hope that Dr. Whitley's presence with us today presages the kind of bipartisan, constructive focus we envisioned when deciding to conduct oversight in this important issue.

But just because the Pentagon establishes a sexual assault office does not ensure that our task in preventing and responding to sexual assaults is complete. Just because the Defense Department's Task Force on Sexual Assault, after 3 long years, finally had its first public meeting in August does not mean that we can all collectively take a sigh of relief. Far from it; an incredible amount of work remains.

As the GAO will document more fully later this morning, programs need to be standardized and staffed with dedicated personnel and dedicated funding. A message of zero tolerance needs to be vigorously enforced all the way up the chain of command. The message must come clearly, repeatedly and vigorously that not a single case of sexual assault by or against a member of the U.S. military is tolerable and that it will be punished to the full extent of the law.

I understand that the military has taken the GAO findings and recommendations seriously and the Department and services have already begun to institute several changes to standardize and improve the training, education and care of all soldiers in our Nation's military.

While I applaud these reforms and I hope to learn more about their implementation today, I believe that much more needs to be done to address longstanding cultural problems on the prevention side and greater effectiveness and willingness to bring sex offenders to justice on the response side.

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. They continue today. And what all the experts agree on is that many more assaults are unreported.

Today the subcommittee will finally hear directly from the Pentagon's point person, Dr. Whitley, 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 punish those committing these heinous crimes.

I hope we will all have an open and constructive dialog here today, with the goal of empowering sexual assault victims to come forward to seek justice and to receive help and to ensure a climate in our military where sexual assault is in no way either officially or unofficially condoned, ignored or tolerated.

I now yield to the ranking member of the subcommittee, Mr. Shays, for his opening. And I want to thank him again for his leadership on these issues, for his cooperation, as well as the coopera-

tion of Mr. Davis, and for their staff in working together with us on a bipartisan basis in preparation for these hearings.

Mr. Shays.

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

Statement of John F. Tierney
Chairman
Subcommittee on National Security and Foreign Affairs

"Oversight Hearing on Sexual Assault in the Military, Part II"

As Prepared for Delivery

September 10, 2008

Good morning, and thank you all for being here.

We are here today to continue our oversight investigation into the problems of sexual assault and harassment in the U.S. military. In July of this year, this subcommittee held the first Congressional hearing focusing on the military's sexual assault prevention and response programs since 2006.

But just because the Pentagon establishes some offices and task forces does not mean the intolerable situation and longstanding military culture, where sexual assaults are both underreported and under-prosecuted, has been resolved. These programs need to be standardized, staffed with dedicated personnel and funding, and most importantly, need to be enforced from the platoon leader all the way to the Secretary of Defense. The message must come from the top that not one single case of sexual assault by or against a member of the U.S. military is tolerable, and will be punished to the full extent of the law.

Starting several months ago, we had asked the Department of Defense to send its top expert on sexual assault issues, Dr. Whitley, the director of the department's Sexual Assault Prevention and Response Office, to testify at the first hearing. Dr. Whitley, is by the Pentagon's own acknowledgement, the "single point of accountability" for the department on these matters. She had already briefed committee staff, and we found her knowledgeable and candid about her office's successes and challenges.

Yet, inexplicably, and in defiance of a Congressional subpoena to appear, Dr. Whitley was instructed by her superiors to ignore the subpoena and not appear at the July 31 hearing. Not only did the department choose to defy a valid legal notice, and place Dr. Whitley in danger of contempt and personal legal jeopardy for her non-appearance, but they gave us no valid reason for ordering her not to appear. Only after protests and communications by the Committee with Defense Secretary Robert Gates about the department's non-compliance with the committee's oversight jurisdiction, was Dr. Whitley made available.

We are pleased that Dr. Whitley is finally able to appear unfettered today, and to shed some light on the work of her office and the challenges which remain. But what kind of message does the Department's unwillingness to allow Dr. Whitley's testimony

send to our men and women in uniform? Does it take Dr. Whitley's office seriously? Is she being muzzled? What is the Department of Defense hiding by reacting this way?

What we learned at the July hearing only reinforces in my mind that there needs to be a sea change in the attitudes of Pentagon officials if we are to ever stem the tide of sexual assault in the military. We heard that the department's task force on sexual assault in the military services had just scheduled its first meeting after having been created three years ago with an operating budget of $15 million. We learned that all installation-specific data is still not readily available to senior Defense officials so they can keep track of where incidents of sexual assault were occurring the most.

We also heard from two brave women who shared their deeply moving stories with us – Ms. Ingrid Torres and Mrs. Mary Lauterbach. Ms. Torres, an employee of the American Red Cross who is stationed at military bases, was raped by an installation doctor at Kunsan Air Base in South Korea. She told us how she received different levels of care by the various victim advocates and health specialists who were assigned to her case, including some who had little to no knowledge of the military's own prevention and response procedures.

Mrs. Lauterbach, the mother of Marine Lance Corporal Maria Lauterbach, told the subcommittee how she is still trying to get answers from the Navy Criminal Investigative Service and the Marine Corps on the facts surrounding her daughter's rape and subsequent death by a fellow soldier. These included the lax response by the Marines at Camp Lejeune to several red flags which may have helped protect Maria from her attacker.

At the first hearing, we also heard preliminary observations from the Government Accountability Office on its investigation into the Department of Defense's leadership and management in addressing the way it approaches and responds to sexual assault incidents in the military. Today, the GAO will testify again on the final results of its investigation, and I look forward to their recommendations to improve oversight and accountability of the department-wide programs.

I understand that the Department has taken the GAO findings and recommendations seriously, and has already begun to institute several changes to standardize and improve the training, education, and care of all soldiers in our nation's military. While I applaud these reforms, and hope to learn more about their implementation today, I believe that much more needs to be done to address long-standing cultural problems on the prevention side, and greater effectiveness and willingness to bring sex offenders to justice on the response side.

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. They continue today, and what all of the experts agree on, is that many more assaults are unreported.

Today, the Subcommittee will assess Dr. Whitley's office and 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 punish those committing these heinous crimes.

I hope we have an open and constructive dialogue here today, with the goal of empowering sexual assault victims to come forward to seek justice and to receive help and to ensure a climate in our military where sexual assault is in no way – either officially or unofficially – condoned, ignored, or tolerated.

I now yield to the Ranking Member of the subcommittee, Mr. Shays, for your opening statement. I want to thank him again for his leadership on these issues, and for the cooperation of his staff in working together with us on a bipartisan basis in preparation for these hearings.

Mr. SHAYS. Thank you, Mr. Chairman. And thank you again for holding this subcommittee hearing.

The subcommittee's continued focus on the problem of sexual assault in the military is just an essential effort. We must ensure all of our services members are protected from predators.

One of our witnesses today is Dr. Kaye Whitley, who testified before this subcommittee in 2006. When she was recalled for a follow-up hearing in July of this year, the Department of Defense refused to allow her to appear. I find this foolish and perplexing. Our question to DOD was, what authority grants them the right to prevent a Government employee from testifying before Congress and the American people? DOD has not answered this question, and we expect a response regardless of the fact that Dr. Whitley is present today.

During that June 2006 hearing, we also heard from Ms. Beth Davis, a former U.S. Air Force Academy cadet. She testified about being continuously raped by an upperclassman and a culture at the Academy that tolerated this destructive behavior. Unbelievably, Ms. Davis was discharged for having sex at the Academy, while her assailant remained at school. And it was not until the June 2006 hearing that Beth Davis received her only apology from the Air Force, years after the attack, an apology the Air Force provided under duress.

At the 2006 hearing, Dr. Whitley testified about the improvements and effectiveness of the sexual assault program implemented since Beth's ordeal, stating over 1 million service members and 5,000 victim advocates had been trained on sexual assault prevention and awareness. Dr. Whitley also said that there were new reporting standards for sexual assaults. I believe the Government Accountability Office, GAO, today will validate that these measures have been instituted.

However, at this 2006 hearing, we were also assured a Defense Task Force and comprehensive data base on sexual assault in the military were days away from being fully operational. Given their first meeting occurred 731 days after this statement, I hope Dr. Whitley will correct the record today and explain to us why it took the task force so long to have their first meeting.

Last month at another subcommittee hearing, we heard from Ms. Ingrid Torres, who discussed her ordeal not just as a victim but as a patient and recipient of services through the Sexual Assault Prevention and Response Program after being a victim. I hope the members of the Defense Task Force on Sexual Assault have a chance to interview Ms. Torres. I am confident she can provide them insight that will help protect the women who serve in defense of our Nation.

The American people, through their representatives in Congress, are determined to address the sexual assault problems in the military. This commitment is demonstrated through hearings, legislation and funding of governmental and nongovernment programs. Task forces have been established, GAO investigations have been commissioned, and reports published to address sexual assault. Now we need to see tangible results.

The hearing held by this subcommittee 2 months ago was a continuation of our ongoing efforts to curtail sexual assault in the mili-

tary. However, instead of partnering with Congress, senior figures in DOD chose to prevent, for reasons beyond our comprehension, Dr. Whitley from testifying. This is one of many reasons why DOD has no credibility with me when it comes to protecting our women in uniform.

The reluctance to allow Dr. Whitley's testimony is convincing evidence that DOD is still not serious about the problem of sexual assault. Why would senior political appointees in DOD impede a congressional hearing and allow contempt charges to be filed against a lifelong civil servant such as Dr. Whitley?

The new DOD leadership, Secretary of Defense Robert Gates and Secretary of Army Pete Geren, must give sexual assault in the military a higher priority. I have tremendous faith in Secretaries Gates and Geren, and it is not lost on me that the GAO has seen improvements in addressing sexual assault. In contrast, I also see a task force that did not meet for 731 days and the director of the sexual assault program being prevented from testifying before Congress.

There exist very real problems that we must get to the bottom of, not next year, not next month, not next week, but today.

I thank the witnesses for being here today, and I look forward to their testimony.

And again, Mr. Chairman, thank you so much for being on top of this issue.

[The prepared statement of Hon. Christopher Shays follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS

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House of Representatives
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Statement of Ranking Member Christopher Shays (CT-4)
Subcommittee on National Security and Foreign Affairs

"Sexual Assault in the Military; Part II"

September 10, 2008

Thank you, Chairman Tierney, for our Subcommittee's continued focus on the problem of sexual assault in the military. We must ensure all of our service members are protected from predators.

One of our witnesses today is Dr. Kaye Whitley, who testified before this Subcommittee in 2006. When she was recalled for a follow-up hearing in July of this year, the Department of Defense (DOD) refused to allow her to appear. I find this foolish and perplexing. Our question to DOD was--what authority grants them the right to prevent a government employee from testifying before Congress and the American people? DOD has not answered this question and we expect a response, regardless of the fact that Dr. Whitley is present today.

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Now we need to see tangible results.

The hearing held by this Subcommittee two months ago was a continuation of our ongoing efforts to curtail sexual assault in the military. However, instead of partnering with Congress, senior figures in DOD chose to prevent, for reasons beyond our comprehension, Dr. Whitley from testifying. This is one of many reasons why DOD has no credibility with me when it comes to protecting our women in uniform.

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The new DOD leadership--Secretary of Defense Robert Gates and Secretary of the Army Pete Gerren must give sexual assault in the military a higher priority. I have tremendous faith in Secretaries Gates and Gerren; and it is not lost on me that the GAO has seen improvement in addressing sexual assault.

In contrast, I also see a task force that did not meet for 731 days and the Director of the Sexual Assault program being prevented from testifying before Congress.

There exist very real problems that we must get to the bottom of...NOT NEXT YEAR...NOT NEXT MONTH....NOT NEXT WEEK...BUT TODAY.

I thank the witnesses for being here today and look forward to hearing their testimony.

Mr. TIERNEY. Thank you, Mr. Shays.

If our witnesses will excuse me for 1 minute, we have some housecleaning to deal with.

With unanimous consent, we are going to invite the Members to give an opening statement if they wish.

Mrs. Maloney.

Mrs. MALONEY. I didn't know that I would be allowed to.

Mr. TIERNEY. Well, it is not required.

Mrs. MALONEY. Well, first of all, I would like to thank both of you for this hearing. It is very, very important.

I have been working on this issue for many years, and Christopher Shays and I had several hearings on it in the last Congress. And I strongly believe that sexual assault and rape must be prevented and prosecuted in both civilian life and in the military.

And the FBI has told me that the most harmful crime to a human being, preceded only by murder, is rape, that it destroys lives. And I would like to place in the record an article that appeared in The New York Times magazine section that outlined the abuse of power, the culture that continues rape in the military. And I find it outrageous that brave women who are defending our constitutional rights overseas, that the most extraordinary military in the world cannot protect them from rape and the culture of rape.

I want to thank you both for being here. You are in a unique position to work hard on policies that can protect women from having their lives destroyed by this extraordinary harmful mental experience, and we need your help.

I looked at some of my papers and I found a letter that I wrote in 1984 that stated that it had been 16 years—now 20 years—since we have called upon the Department of Defense, the most effective military in the world, to put in place a tracking system so we can monitor the number of rapes and sexual assault in the military. And I am told that this tracking system is still not in place and is not expected to be in place until 2010.

This is absolutely, completely unacceptable. And I view it as a military who wants to sweep under the rug rape and violence against women and consider it as unimportant. We need to protect our soldiers just as much as our soldiers need to protect this country.

I would like to place, with your permission, in the record 17 reports that have been made in the past 20 years about sexual assault in the military, problems in the military, the culture, the chain of command, not keeping records—17 different reports.

I hope that we can finally get this behind us. I have been in Congress for seven terms now, and every single term we have had meetings with DOD, and they come in and they confirm to us, "We are going to be serious, we are going to take care of this, we are going to stop this, zero tolerance." But the rhetoric is not being turned into the reality of protecting our women and, in some cases, men in our military.

Just as winning a war, winning the peace, protecting our country, which DOD is the best in the world, they have to take that expertise and can't they put in place a tracking system? How hard is that? When you have 20 years to put it in place since it was first called for in 1988, then we put it in again in the 1990's with an

amendment in the DOD bill, it still is not in place. So when I see that I think that there is a lack of will to succeed or maybe the will to hide an ugly, harmful item from public view and from correction.

And today I congratulate you, Chairman, for calling this hearing. I think this is tremendously important. We need to protect the men and women in the military from sexual assault and a culture that may demean them. We have to put in place a reporting system, so crimes can be reported. And we have to stop this. The greatest military in the world can achieve this.

And I would just like to close to say that I come from a military family. My brother served in Vietnam. My father served in World War II. His father, his grandfather, his grandfather before all served in the military of this great country. So I feel very deeply and strongly, and I know that you can correct this. And I hope this will be the group that will make it happen, with the leadership of our chairman.

Thank you.

Mr. TIERNEY. Thank you, Mrs. Maloney.

Without objection, the article that was referred to in the gentlewoman's testimony, as well as the 17 reports, will be included in the record.

[The information referred to follows:]

Congress of the United States
Washington, DC 20515

April 15, 2004

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary,

We are writing because we are concerned about the Defense Department's response to the issue of sexual assault and harassment in the military. We understand that because of the many reports of sexual misconduct in Kuwait, Afghanistan, and Iraq, you have commissioned the *Department of Defense Task Force on Care for Victims of Sexual Assaults.*

We have doubts, however, that this investigation will yield tangible results. A review of 18 reports conducted on sexual misconduct in the military over the past 16 years shows that similar recommendations have been made in multiple reports, but as far as we know, have not been implemented. We are concerned that the problem of sexual misconduct in the military is repeatedly investigated, but recommendations for substantive change in the reports are often ignored.

We respectfully request a meeting to discuss the actions that the Department of Defense has taken in response to these 18 prior investigations, listed below. We would also welcome a discussion of DoD's plan for implementing any recommendations that come out of the current investigation.

Existing reports include *Sexual Harassment in the Military: 1988* (DoD, 1988); *Strategies to Eradicate Sexual Harassment in the Military and Civilian Environment* (DoD, 1991); *Hearings into Gender Discrimination in the Military* (House Armed Services Committee, 1992); *Women in the Military: The Tailhook Affair and the Problem of Sexual Harassment* (House Armed Services Committee, 1992); *The Tailhook Report: The Official Inquiry into the Events of Tailhook '91* (Inspector General, DoD, 1993); *Sexual Harassment in the Active Duty Navy: Findings 1991 Navy-wide Survey* (Naval Personnel Research and Development Center, 1993); *DOD Service Academies: More Actions Needed to Eliminate Sexual Harassment* (GAO, 1994); *Abuse Victims Study Final Report* (DoD, 1994); *Report of the Task Force on Discrimination and Sexual Harassment* (DoD Defense Equal Opportunity Council, 1995); *Sexual Harassment of Navy Personnel: Results of a 1993 Survey* (Naval Personnel Research and Development Center, 1995); *1995 Sexual Harassment Survey* (DoD, 1996); *Special Investigation of Initial Entry Training, Equal Opportunity and Sexual Harassment Policies and Procedures* (Army Inspector General, 1997); *Secretary of the Army's Senior Review Panel Report on Sexual Harassment.* Vol. I and II.(Secretary of the Army, 1997); *The Report of the Federal Advisory Commission on Gender-Integrated Training and Related Issues to the Secretary of Defense* (DoD, chaired by Nancy

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Kassebaum Baker, 1997); *Adapting Military Sex Crime Investigations to Changing Times* (Congress, National Academy of Public Administration, 1999); *Congressional Commission on Military Training and Gender-Related Issues - Final Report* vols.1-4 (Congress, chaired by Anita Blair, 1999); *Report of the Working Group Concerning the Deterrence and Response to Incidents of Sexual Assault at the U.S. Air Force Academy* (USAF, 2003); *Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy* (Congress, Tillie Fowler chaired, 2003).

In 1988, a survey commissioned by the Department of Defense entitled *Sexual Harassment in the Military: 1988* found that more than 90% of military sexual-harassment victims did not report their incidents, some because they feared they would be blamed. Fifteen years later, at the U.S. Air Force Academy, "a May 2003 survey of Academy cadets showed that 80.8% of females who said they have been victims of sexual assault at the Academy did not report the incident." *(Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy)* In June 2003, a separate investigation described the Air Force Academy as "a less than optimal environment to deter and respond to sexual assault or bring assailants to justice" (*Report of the Working Group Concerning the Deterrence and Response to Incidents of Sexual Assault at the U.S. Air Force Academy*). It appears that DoD did not act to improve the climate for harassment or assault victims in response to the 1988 findings.

The issue of inappropriate commander responses to reports of sexual assault is a significant complaint of those women currently filing complaints. The Denver Post reports that "today, leniency is still the rule, as military leaders continue to choose administrative punishments twice as often as criminal prosecution for those accused of sexual assault and domestic violence" (11/18/2003). This issue has been addressed in multiple reports but has not been satisfactorily resolved. Under current law, commanders have the authority to use their discretion in dealing with cases of sexual misconduct and abuse. The 1994 *Abuse Victims Study* performed by the Office of the Undersecretary of Defense for Personnel found "concerns and complaints of arbitrary and inconsistent punitive responses" by commanders to claims of domestic abuse and recommended that commanders "need more guidance on when and what types of legal or administrative action to take in abuse cases." In 2001, the *Report of the Commission on the 50th Anniversary of the Uniform Code of Military Justice*, published by the National Institute of Military Justice, reported that "[i]t has been recognized since the adoption of the UCMJ that the invidiousness of command influence strikes at the heart of the fairness of the process...The current system encourages disparate treatment of servicemembers...Widely varying punishments are inconsistent with the UCMJ's fundamental goal of standardizing and modernizing criminal sanctions in the armed forces and should be corrected." The importance of uniform standards of punishment was recommended once in 1993, 8 years passed, another investigation was done, the importance of uniform standards was again emphasized in the investigation's report, and three years later we still have victims of sexual assault in the military complaining of inappropriate care for themselves and inappropriate and variable punishments for their attackers. This is hardly an effective use of taxpayer dollars and does nothing to help victims of sexual assault in the military.

One recent investigation on this issue was commissioned by Congress in 1997. Congresswoman Carolyn Maloney introduced H.R. 1072, the "Commission on Military Justice and Fairness Act," in March 1997 in response to a sexual assault scandal at the Aberdeen Proving Ground in Maryland. Certain provisions of this act were included in H.R. 1119 which became Public Law 105-85. This law established a commission to investigate policies and procedures with respect to the military investigation of reports of sexual misconduct. The result was the report *Adapting Military Sex Crime Investigations to Changing Times* published in June of 1999.

We respectfully request that you meet with us to inform us of actions that the Department of Defense has taken in response to any and all recommendations made in the reports of these sexual misconduct investigations. We are specifically interested in what the Department of Defense has done in response to the following recommendations of the 1999 report:

1. *the establishment of a new program management office focused on sex crimes and domestic violence staffed by a trained cadre of specialists on sex crimes in each branch of the armed forces;*
2. *the Secretary of Defense strengthen and vigorously enforce guidance against command interference in MCIO investigations;*
3. *that qualified civilians and military personnel be equally eligible for leadership positions at all levels in the military criminal investigative organizations (MCIOs);*
4. *that the investigative organizations (MCIOs) require the inclusion of a specific block of sex crime instruction in basic investigator training and an advanced sex crime course for investigating agents.*

Thank you for your consideration of our request. We look forward to meeting with you not only to hear what you are doing to address sexual misconduct in the military but to better understand how we as members of Congress can help to resolve the problems associated with this issue.

Please have your staff contact Orly Isaacson with Representative Maloney at 202-225-7944 to arrange for a meeting and to answer any questions you may have.

Sincerely,

Carolyn B. Maloney

CAROLYN B. MALONEY
Member of Congress

Louise Slaughter

LOUISE M. SLAUGHTER
Member of Congress

Hilda L. Solis

HILDA L. SOLIS
Member of Congress

E. Towns

EDOLPHUS TOWNS
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CAROLYN C. KILPATRICK
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SHEILA JACKSON LEE
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C.A. RUPPERSBERGER
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BETTY MCCOLLUM
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RAUL M. GRIJALVA
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EDDIE BERNICE JOHNSON
Member of Congress

NYDIA VELAZQUEZ
Member of Congress

MAURICE HINCHEY
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DIANE WATSON
Member of Congress

SUSAN A. DAVIS
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MAXINE WATERS
Member of Congress

ZOE LOFGREN
Member of Congress

ANTHONY D. WEINER
Member of Congress

TAMMY BALDWIN
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CHARLES B. RANGEL
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TIM BISHOP
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JULIA CARSON
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MAJOR OWENS
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JIM COOPER
Member of Congress

BART GORDON
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JAMES LANGEVIN
Member of Congress

BUD CRAMER
Member of Congress

KAREN McCARTHY
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LYNN WOOLSEY
Member of Congress

SAM FARR
Member of Congress

CHRIS VAN HOLLEN
Member of Congress

JAY INSLEE
Member of Congress

LANE EVANS
Member of Congress

DANNY DAVIS
Member of Congress

BEN CHANDLER
Member of Congress

BOB ETHERIDGE
Member of Congress

LEONARD BOSWELL
Member of Congress

BOB FILNER
Member of Congress

CHARLES GONZALEZ
Member of Congress

JOE BACA
Member of Congress

LUCILLE ROYBAL-ALLARD
Member of Congress

RUBEN HINOJOSA
Member of Congress

PETE STARK
Member of Congress

SOLOMON ORTIZ
Member of Congress

JIM TURNER
Member of Congress

GARY ACKERMAN
Member of Congress

MICHAEL CAPUANO
Member of Congress

RICK BOUCHER
Member of Congress

ROBERT ANDREWS
Member of Congress

DAVID WU
Member of Congress

MIKE McNULTY
Member of Congress

PAUL KANJORSKI
Member of Congress

MIKE DOYLE
Member of Congress

NICK RAHALL
Member of Congress

TOM LANTOS
Member of Congress

JOHN DINGELL
Member of Congress

JOSEPH HOEFFEL
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CHRIS BELL
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LINDA SÁNCHEZ
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DENISE L. MAJETTE
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DARLENE HOOLEY
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NICK LAMPSON
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ARTUR DAVIS
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DENNIS KUCINICH
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ROBERT BRADY
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SHERROD BROWN
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WILLIAM DELAHUNT
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Member of Congress

CORRINE BROWN
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ALBERT WYNN
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STEPHANIE TUBBS JONES
Member of Congress

JIM McDERMOTT
Member of Congress

FRANK W. BALLANCE, JR.
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BARNEY FRANK
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MARTY MEEHAN
Member of Congress

EARL BLUMENAUER
Member of Congress

JUANITA MILLENDER-McDONALD
Member of Congress

BARBARA LEE
Member of Congress

ROSA DeLAURO
Member of Congress

MICHAEL HONDA
Member of Congress

DIANA DEGETTE
Member of Congress

CAROLYN McCARTHY
Member of Congress

Mr. TIERNEY. Mr. Turner, if you wish to make an opening.

Mr. TURNER. Thank you, Mr. Chairman.

I think you are going to hear today from almost all the Members who are here that they have had substantial work that they have done on the issue of sexual assault. They have received a number of complaints from personnel and family members that are service members that have indicated that there is a high need for attention to this. Our job, as you know, is an issue of oversight, legislative, funding authority.

And I am just really saddened that I have to attend a hearing today where Dr. Whitley is coming back to us after she was requested to testify on July 31st. And noting in our report here on July 10th, the committee received word that the Office of the Secretary of Defense would not permit Dr. Whitley to testify, the committee having issued a subpoena for her testimony on July 28th, yet you never appeared.

This is such an issue that, as Carolyn Maloney was saying, this is destructive to lives. And this is something where—there is no partisan issue here. There are no shades of issue here. This is where we should all be going in the same direction. And I just cannot imagine why we did not have the cooperation so that we could all work together and go in the same direction.

Maria Lauterbach, the Marine who was raped and murdered and buried in the backyard of another Marine after being burned in North Carolina, was from my district. Her mother, Mary Lauterbach, testified at that hearing. It would have been very nice of you to have heard her testimony, because in it she detailed a significant number of issues that arose in the handling of that case that I believe and she believed put Maria at risk, where there was not a recognition that she was at risk. And one of the questions I am going to have for you today is some of the written responses that I received from the Marines that indicated their view of the sexual assault as not having been a violent occurrence, when my understanding is that inherent in the definition of sexual assault is violence.

So there is clearly a problem within DOD, a number of areas that relate to policy that should be within your purview and your job and in the types of things that we need to address today.

Mr. Chairman, I just greatly appreciate your continued focus and efforts to give us an opportunity to try to impact the policy of DOD.

Mr. TIERNEY. Thank you, Mr. Turner.

And, Mr. Braley, you are recognized for 5 minutes.

Mr. BRALEY. Thank you, Mr. Chairman. I would ask unanimous consent that my written statement be included in the record, so I will keep my remarks as brief as possible.

Mr. TIERNEY. Without objection and with great hope.

Mr. BRALEY. I want to thank you and the ranking member for holding this followup hearing.

And even though the topic of today's hearing is sexual assault in the military, it is closely related to another problem, and that is domestic violence in the military. And as my colleague just pointed out, the problem we are dealing with here is the tolerance of violent acts against women in the military who defend us every day. And this, again, hits home personally with me, because at our

hearing in July of this year I spoke about the issue of violence against women serving in the military and how it is impacting me and the residents of the First District, where I live.

In July of this year, the body of Army Second Lieutenant Holly Wimunc, a young woman from Dubuque, IA, where my wife was born, was found near Camp Lejeune in North Carolina. Her husband, a Marine corporal, has been charged with her murder. Before her death, she had secured a temporary restraining order against him and had told authorities that he held a loaded handgun to her head. And she leaves behind two children.

And these tragic stories that we are talking about here today demonstrate the pervasiveness of sexual assault and violence against female members of the Armed Forces and demonstrate the urgent need for reform. That is why all of us here today are unanimous in our agreement that we need to do everything we can to ensure that victims of sexual assault, sexual harassment and violence have access to the resources and services they need, including well-trained and supportive commanders, independent advocates and qualified mental health providers.

And if this sounds familiar, it is because these are the exact same concerns we identified when this subcommittee held a hearing out at Walter Reed shortly after I was sworn in as a Member of Congress.

Mr. Chairman, I can remember to this day talking to General Schoomaker during that hearing on the subject of post-traumatic stress disorder. And I got him to admit on the record that PTSD is real. And I looked at him, and I said, "General, thank you for making that admission. Now you need to go back and communicate that down the entire chain of command so everyone you work with not only understands that is the position of the U.S. Army but believes it."

And the problem we have had with providing women the protection they need while they are serving our country is we can have the best written policies in the world, just like the ones I saw when I was in private practice representing victims of sexual assault and victims of sexual harassment in the workplace, you can have the best policies on paper; they don't mean a thing unless the people responsible for enforcing those policies believe they are important and are committed to making sure that the people you are trying to protect actually have someone advocating for them.

And when we were at Walter Reed, we had the same problem, that there were no independent advocates for people with disabilities to stand up and fight for them within the structure of the Department of Defense. That is why it is so critical that we take action to make sure these resources, these advocates are available. And your presence here today puts a punctuation mark on the need, and we thank you for joining us.

Mr. TIERNEY. Thank you, Mr. Braley.

Mr. Lynch, you are recognized for 5.

Mr. LYNCH. Thank you, Mr. Chairman.

I also want to thank the ranking member. I know he had a special role in this early on, when he was chairman of this subcommittee. I want to thank you both for your willingness to hold this hearing, and also I want to thank our witnesses for coming forward.

Very briefly, when you think about how highly we honor military service and how that service and sacrifice of American families accrues to our benefit here in this country and to think that there are men and women—a lot of men. I know the talk up here on this side of the panel has been mostly about women being assaulted, but based on the population in the military, obviously male, we have a huge number of male respondents to sexual assault claims. So I don't want that to be ignored.

But when you think about the service and sacrifice of our men and women in uniform, to think that there are American families that send their sons and daughters to fight this Nation's wars and to think that there are men and women who put on that uniform and make that tremendous sacrifice on behalf of us all and go into the service and then they are subject to sexual assault is just unthinkable. It is just totally unacceptable.

I notice also in reading your reports, the GAO reports, that a lot of the cooperation depends on the willingness of the commander to accept their role and responsibility in instituting these protocols. Now, we just have to have zero tolerance from top to bottom. I know that we have had significant improvement in our military academies because we have taken zero tolerance there. And I think we have to go forward with the same approach in every base, in every unit in the U.S. military. And there is just no other way.

This is a societal problem and perhaps—not perhaps—it is definitely a situation where folks have problems with sexual assault and come to the military with that baggage. And we have to rout it out. But, you know, we have that responsibility here. We owe it to American families that send their sons and daughters to war on our behalf, and we owe it to those soldiers, sailors, Marines and air men and women themselves.

So, with that, I want to thank you for your work on this issue. And I yield back the balance of my time. Thank you.

Mr. TIERNEY. Do you yield back, Mr. Lynch?

Ms. McCollum, do you wish to be recognized?

Ms. MCCOLLUM. Thank you, Mr. Chairman. Thank you for being so persistent to have the witness in front of us today.

This is an issue, as many on the committee have already stated, that we have spoken about time and time again, whether before a Members of Congress hearing about what was going on in our military academies and then especially in light of what we heard being reported out of Iraq.

I wrote Secretary Rumsfeld on it very simply and asked—I am paraphrasing what I asked him—but, "What is the program? Why are you not standing up as the Secretary of Defense and saying we have a zero tolerance program?" And in reading through the reports and in quickly reading through the testimony, I keep hearing reference to policies and "this is our policy" and "this is what our goal is." Not once in here, quickly—and maybe someone can point this out to us later on—do I see "zero tolerance."

That is what we ask of the private sector. That is what we ask of our schools to teach. That is what we should expect from one another: zero tolerance for any act of violence, especially sexual violence, zero tolerance for someone to commit the crime, zero toler-

ance for underreporting these crimes, zero tolerance for a commander not to take action.

So, Mr. Chairman, I look forward to hearing from the witnesses. Rather than something that I received in a July 9th letter, which I quote from—and I will enter this in the record so that it is fully present. At the July 9th letter that I received from the Under Secretary of Defense, "Secretary Rumsfeld met in May with combatant commanders to re-enforce his desire"—his desire, not his will, not his command—"his desire that they take immediate corrective action with respect to the climate of reporting systems and care and protection for victims of sexual assault." It goes on.

Mr. Chair, we are here again, and it is now September 2008, 4 years later, and we are still looking for the simple phrase "zero tolerance."

I yield back.

Mr. TIERNEY. Thank you.

Mr. Yarmuth, you are recognized for 5 minutes if you wish to speak?

You waive on that. Thank you.

Then the subcommittee will now receive testimony from the witnesses that are before us today.

Dr. Kaye Whitley is the director of the Sexual Assault Prevention and Response Office in the Department of Defense. She has the office that is self-described as the Department of Defense's single point of accountability for all sexual assault policy matters. Previously, Dr. Whitley served as senior director of communications for the Defense Prisoner of War/Missing Personnel Office.

We appreciate your testimony today.

Ms. Brenda S. Farrell—Ms. Farrell is the director of the Government Accountability Office's Defense Capabilities and Management team, responsible for defense personnel and medical readiness issues. Before her current assignment, she served as acting director for GAO's Strategic Issues team, overseeing work on strategic human capital, government regulation and decennial census issues. Over her 27-year career with GAO, Ms. Farrell has earned numerous awards, including one for sustained extraordinary performance.

Ms. Farrell, we greatly appreciate you being with us here today. We understand you are suffering from a bit of a cold, and if you break into a coughing fit we will all understand. We are indebted for all the hard work that you and your staff do, and we want to thank your staff for their work as well and for coming back a second time with your completed report.

We thank both of you. Everybody agrees this is a very serious issue, so we hope to conduct a constructive oversight hearing today to examine the root problems that are involved.

It is the policy of this subcommittee to swear you in before you testify, so I ask you to please stand and raise your right hands. And any people that will be testifying with you, we ask that they do the same.

[Witnesses sworn.]

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

Your full written statements will, of course, already be placed in the hearing record, so I ask you to keep your statements as close

to 5 minutes as you could. I noticed that you both have extensive written testimony, so to the extent that you can keep that down within 5 minutes, that would be good. We will try to be as lenient as we can, but we do want to have an opportunity for discussion with everybody.

Dr. Whitley, you are recognized.

STATEMENTS OF KAYE WHITLEY, DIRECTOR, SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE, U.S. DEPARTMENT OF DEFENSE; AND BRENDA S. FARRELL, DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

STATEMENT OF KAYE WHITLEY

Ms. WHITLEY. Thank you.

Mr. Chairman, Ranking Members Shays and other members of the subcommittee, I am pleased to be here today to update you on the Department of Defense's progress in our crusade against sexual assault. Thank you for your statements, and, more importantly, thank you for your support.

Today I stand before you not only as the director of the OSD Sexual Assault Prevention and Response Office but as a woman who is passionate about caring for the victims of this crime. I have been here since SAPRO's inception 3 short years ago, and in that time DOD has fundamentally changed its approach in sexual assault prevention and response. We are proud of the progress that we have made so far, but we know that we can always do more to exceed our goals of offering the best care and support services for our victims while simultaneously preventing this terrible crime from occurring.

In this statement, I would like to highlight some of our accomplishments, as well as some of our challenges. And my written statement submitted for the record contains significantly more detail, but I hope this overview will serve to provide a starting point for our discussions today.

In 2004, the Under Secretary of Defense for Personnel and Readiness established the Department of Defense Care for Victims of Sexual Assault Task Force, which was quickly followed by the standing up of the Joint Task Force on Sexual Assault Prevention and Response. Within 1 year, that task force was able to get a DOD directive, or a policy, published. It is almost unheard of in the Department of Defense to get a policy published that quickly.

That policy and our program centers around three key things: the care and treatment for victims, prevention through training and education, and system accountability. This new policy revolutionized the Department's sexual assault response structure. And in June 2005, we further advanced our policy by instituting restrictive reporting, which allows victims to confidentially access medical care and advocacy services.

But at the heart of this policy is a system that respects the privacy and needs of the victim. And in October 2005, that task force transitioned into the office that I represent today. Care and treatment for victims became the foundation of our program.

As you know, sexual assault is the most underreported violent crime in our society. And we know that in our lifetime, one in six women and 1 in 33 men will be a victim of sexual assault. Well, we believe it is also underreported in the military, and we know it not only affects the health and stability of our warfighters, it has a negative impact on our mission readiness.

So our policy created a unique framework for an expanded and thorough response system. We have a 24-hour, 7-day-a-week support network at all military installations and even for the deployed units worldwide. Sexual assault response coordinators and victim advocates are available to provide consultation and support so that our military members can understand their options and get the care and the support they need.

Victims have two options for reporting the crime. By offering this confidential reporting option, we expect more and more victims to come forward. Since June 2005, we have had more than 1,800 restrictive reports, and that tells me that is 1,800 people that would not have come forward otherwise.

Although immediate care and support of our victims is essential, it is equally important to focus on the prevention of this crime. And in 2005 we initiated an aggressive and wide-reaching education agenda. Mandatory sexual assault prevention and response training is required of every service member at multiple stages throughout their career. And for the past 3 years, we have focused on making military service members aware of the program, their reporting options and the kinds of assistance that is available for victims.

The Department's program provides baseline training for all military personnel. As soon as an individual enters the military, regardless of rank, we educate him or her about sexual assault, about our policies, our programs and our prevention strategies. To date, the services have provided sexual assault prevention and awareness training to more than 1 million active-duty and reserve service members. And moreover, the services have expanded their training programs to adapt training curricula to their unique needs.

No civilian institution, State government or city has ever undertaken a mandate to prevent sexual assault in a population as large, diverse and geographically distributed as ours. As we develop our prevention strategy, we are literally at the leading edge of what social science and public health can tell us about what works. By educating our members when and how to act, we may be able to turn bystanders into actors who can prevent sexual assault. Our prevention efforts come from renowned experts who have dedicated their lives to sexual assault prevention and response.

Our aggressive training and outreach program coupled with the new option of restrictive reporting sends an important message: The Department cares about its members. And we believe our service members are hearing us. After 3 full years of policy implementation, we are seeing more victims making reports and accessing care.

While we are extremely concerned when even one sexual assault occurs, we see the increase in victim reports as a very positive indicator of growing confidence in our program. We believe the increase in reports is a validation of the need for the ability to privately ac-

cess medical care and advocacy services. And we believe that these military members would never have sought services had they not had the ability to select how and when to engage our support system.

We have several oversight mechanisms in place to oversee and evaluate whether our policy is being implemented effectively, including the Sexual Assault Advisory Council chaired by Dr. Chu, the Under Secretary of Defense For Personnel and Readiness. The Department takes a cross-service team to installations and to the academies to assess the programs there. We have two annual reports that we make to Congress. And we have recommendations from several oversight bodies, including the recent GAO report.

Sexual assault prevention and response efforts are coordinated throughout the Department and conducted in partnership with the military service programs, the military criminal and legal offices, and other Federal partners, including the Department of Veterans Affairs.

Care for victims, prevention through training and education, and system accountability—these are the three cornerstones of our program. And I have only skimmed the surface of a comprehensive but young and evolving program. We have accomplished remarkable progress in a short timeframe, and we know our work is not complete.

In the future, we will no doubt meet additional challenges, but we will continue to work Congress, the GAO and other oversight bodies as we continue to refine the Department's sexual assault program.

Thank you for your time, and I would be happy to address any of your concerns.

[The prepared statement of Ms. Whitley follows:]

STATEMENT

OF

DR. KAYE WHITLEY
DIRECTOR
OFFICE OF THE SECRETARY OF DEFENSE (OSD)
SEXUAL ASSAULT PREVENTION & RESPONSE OFFICE
(SAPRO)

BEFORE THE

COMMITTEEE ON OVERSIGHT AND GOVERNMENT REFORM SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON
SEXUAL ASSAULT IN THE MILITARY: Part II

SEPTEMBER 10, 2008

FOR OFFICIAL USE ONLY
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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
NATIONAL SECURITY AND FOREIGN AFFAIRS SUBCOMMITTEE

EXECUTIVE SUMMARY

The Department of Defense's capacity to deal with sexual assault has been significantly updated in the past three years with the institution of a new policy on sexual assault, which was drafted with input from experts from both the civilian and military communities. In addition, the Sexual Assault Prevention and Response Office (SAPRO) was created to serve as the single point of responsibility on this matter for the Department. SAPRO aggressively tracks the reporting and disposition of sexual assaults and summarizes DoD and Military Service initiatives in an annual report to Congress. S APRO also assists command and supervises the climate at all three Military Service Academies and documents yearly findings in a separate Congressional report.

The Department of Defense Sexual Assault Prevention and Response policy has three cornerstones:

- *Victim Care.* Every military installation in the world -- both in garrison and deployed -- now has a Sexual Assault Response Coordinator (SARC). Each SARC trains and oversees one or more Victim Advocates who help victims understand their reporting options and pathways to medical and mental health care. Victim Advocates serve a variety of functions, but their most important job is immediate support and assistance to victims in crisis. In addition, the Department has instituted Restricted Reporting, which allows a Service Member victim to confidentially access medical care and advocacy services without reporting the crime to standard law enforcement or command channels. In calendar year (CY) 2005, 435 victims made confidential reports. In CY2006, there were 756 Restricted Reports and in CY 2007, there were 705. The Department strongly believes that these 1896 individuals would not have accessed care had it not been for the new Restricted Reporting policy.

- *Prevention through Training and Education.* All Military Services have implemented sexual assault awareness training at strategic points in an active duty member's accession, development, and deployment. Training programs are tailored to the unique mission and culture of each Military Service. In addition, the Department is working with national experts to develop an effective prevention strategy. In July 2007, the Sexual Assault Prevention and Response Office (SAPRO) worked with the National Sexual Violence Resource Center (NSVRC) and a team of experts from the military and civilian communities to produce recommendations on developing an effective prevention strategy. On July 14, SAPRO assembled a panel of social scientists to fine-tune those recommendations into a comprehensive strategy document. We anticipate that our strategy document will be drafted by the end of the fiscal year.

- *System Accountability.* In addition to the SAPRO office, the following entities are either examining the effectiveness of DoD's policy and programs or recently examined it: the Sexual Assault Advisory Council, the Defense Task Force on Sexual Assault in the Military Services, the Government Accountability Office (GAO), and the DoD Inspector General.

Congress has been the Department's partner in forging a unique approach to combating sexual assault. This testimony addresses both GAO and Congressional concerns.

Introduction

Mr. Chairman, Ranking Member Shays, I am pleased to be here today to update the National Security and Foreign Affairs Subcommittee on the Department of Defense's (DoD's) progress in our crusade against sexual assault. Our goal today is to ensure the Members have a clear understanding of where we came from, where we are, and where we are going. Make no mistake; the Department will use every available resource in our efforts to eradicate this behavior within our Services. One assault is one too many.

First, let me express my thanks to the Services for their resolute dedication to support the Department's Sexual Assault Prevention and Response policies and programs. Together we have created a program unprecedented by any other organization, both civilian and military.

Next, I'd like to briefly address how I came to this position at SAPRO. I am no stranger to the military community. For 26 years I was an Army wife. It has always been my goal to be a productive member of the military community. I've always wanted to be a leader, a listener, and a friend to other military wives and women. Initially, I worked with other spouses to build support systems, organize community events, and develop scholarship funds for military family members. I went on to get my Doctorate in Counseling and Human Development focusing on Women's Studies. As part of my training, I provided mental health counseling for military service members and their families. I have since served in a variety of positions inside and outside the Department. At the core of my professional life is a strong desire to serve others.

Today I stand before you not only as Director of the Office of the Secretary of Defense (OSD) Sexual Assault Prevention and Response Office (SAPRO), but as a woman who is

passionate about the cause of caring for the victims of this crime. I have been here since SAPRO's inception three short years ago. In that time, the Department of Defense (DoD) has fundamentally changed its approach in sexual assault prevention and response. We are proud of the progress we have made so far, but we know we can always do more to exceed our two goals of offering the best care and support services for our victims while simultaneously preventing this terrible crime from occurring.

HISTORY

Care for Victims of Sexual Assault Task Force

Our program began in 2004, when former Secretary of Defense Donald Rumsfeld directed the Under Secretary of Defense for Personnel and Readiness, Dr. David S.C. Chu, to undertake a 90 day review of all sexual assault policies and programs among the Services and DoD, with particular attention to any special issues that may arise from the circumstances of a combat theater. On February 13, 2004, the Undersecretary of Defense for Personnel and Readiness established the Department of Defense Care for Victims of Sexual Assault Task Force, an eight member task force. That Task Force published a report with a series of recommendations and findings. Although each Service has programs in place to care for victims of sexual assault and hold offenders accountable, the Task Force expressed a need to have consistency of excellence across the Service programs to deal with sexual assault. Thus, one of the major recommendations focused on the Department's need for a single point of accountability regarding sexual assault policy.

Joint Task Force on Sexual Assault Prevention and Response

The Department's leadership concurred and authorized the Joint Task Force on Sexual Assault Prevention and Response (JTF-SAPR). Within three months of being stood up, the JTF-SAPR created a comprehensive sexual assault prevention and response policy centered around three key themes: care and treatment for victims, prevention through training and education, and system accountability. This new policy revolutionized the Department's sexual assault response structure. In June of 2005, the Department further advanced its groundbreaking policy by instituting Restricted Reporting which allows victims to confidentially access medical care and advocacy services. At the heart of the policy is a system that respects the privacy and needs of the victim.

Sexual Assault Prevention and Response Office

In 2005, the JTF-SAPR transitioned into SAPRO, the Sexual Assault Prevention and Response Office, which is responsible for policy and oversight.

CARE AND TREATMENT FOR VICTIMS

Sexual assault is the most underreported violent crime in society. National studies indicate that as many as 8 out of 10 sexual assaults go unreported in the civilian sector– largely because victims are fearful of the life-changing events and loss of privacy that often come with a public allegation. The potential costs and consequences of sexual assault are extremely high. Sexual assault not only affects the health and stability of our war fighters, it has a negative impact on mission readiness.

Likewise, a 2002 civilian study found that most sexual assaults against females were NOT reported to the police by the victim. According to the study 18% of rapes are reported by the

victim, 24% of attempted rapes are reported by the victim, and 16% of sexual assaults are reported by the victim.[1]

In a 2006 Defense Manpower Data Center survey on sexual assault, most military survey respondents indicated that if they experienced unwanted sexual contact they did not report it to authorities. Of the 6.8% of women and 1.8% of men in the survey who reported an unwanted sexual contact, only 21% of women and 22% of men ever reported the crime to an authority. However, 86% of women and 17% of men in the survey who reported did so within 3 days. Research indicates that victims of sexual assault who get into care quickly are likely to have better outcomes. Research also shows that rape victims who don't report their victimization to an authority rarely seek treatment. One of the chief barriers to reporting – or in other words – one of the primary things that keeps sexual assault victims from coming forward in both the civilian and military communities – is the fear of how that victim will be perceived by others. Consequently, we introduced a reporting system that allows victims to make a choice about how they report the crime of sexual assault. Our policy encourages victims to make an Unrestricted Report – that is a report to military law enforcement and command -- that allows the Department to investigate and hold perpetrators accountable. However, should victims feel unready to participate in the military justice system, they may choose to make a Restricted Report. This option enables victims to receive medical care, mental healthcare, and other support services without initiating a criminal investigation or alerting their command structure. This flexible reporting system is designed to

[1] Rennison, Callie. Rape and Sexual Assault: Reporting to the Police and Medical Attention, 1992 - 2000, BJS (2002)

respect the needs of victims and encourage them to get care quickly. Victims who initially make a Restricted Report may change their minds and participate in an official investigation at any time.

Our policy also created a unique framework for an expanded and thorough response system. We have a twenty-four hour, seven day a week support network at all military installations and for deployed units worldwide. Sexual Assault Response Coordinators (SARCs) and Victim Advocates are available to provide consultation and support so that our military members understand their options and get the care and support they need. We believe the response structure we have institutionalized will continue to instill trust and confidence in Service Members who are victims of sexual assault and spur them to come forward for assistance. As more victims gain confidence in the system, it is our hope that more victims will switch to Unrestricted Reporting, which will ultimately increase offender accountability.

The Department's leadership is working hard through its oversight capabilities to refine and improve policy. It is our vision that the professionals in military's programs will not only help victims, but also help commanders establish a climate within their units that is sensitive to the needs of victims. Ultimately, we stand a better chance of treating and retaining our highly trained people if we get them into care as soon as possible.

Increased Access to Care

Encouraging victims of sexual assault to gain access to care as soon as possible may minimize short and long term health effects. While the details of medical and mental health assessment and treatment are beyond the scope of the new DoD Policy implemented in 2005, the Sexual Assault

Prevention and Response Office and the Military Services work cooperatively with both the DoD medical community and the Department of Veterans Affairs to facilitate continued access to care when it is desired by the Service Member.

While one incident of sexual assault may last only a few minutes, its effects can last throughout the lifetime. Fortunately, most people are quite resilient. Some may need little assistance beyond an initial sexual assault forensic examination and treatment for injury and disease prevention. Others however, may need much more care. Sexual assault can change how one views the world, how one views others, and how one views him or herself. Mental health problems, both in the short and long term, are real and prevalent consequences of sexual assault. An attack can bring about mental illnesses, such as posttraumatic stress disorder, depression, and substance abuse problems. These silent, often invisible consequences of sexual assault not only impact an individual's functioning, they also impact the military unit to which she or he is assigned. Getting our people the care they need so they can resume their duties and family life, is of utmost importance to the Department.

The Department has highly qualified medical and mental health providers both at home and in deployed installations. DoD policy encourages the Services to fully prepare their healthcare providers with scientifically-validated assessment and intervention techniques for problems stemming from sexual assault. In some locations, the Department trains Sexual Assault Nurse Examiners and physicians to assess and treat victims. In other locations, the Department contracts with local nurses and physicians to provide these vital services. Mental health providers in psychology and social work graduate training programs in the Department receive experience with

treating victims of sexual assault. They are also often taught the latest interventions by leaders in the field of mental health care for sexual assault.

Sexual assault is not just a military problem: it is a societal problem. Many recruits come to us with a history of sexual assault. According to research, this means two things. First, they are more likely to experience another sexual assault at some time in their life than someone not previously sexually assaulted is. Second, these people stand to experience higher rates of mental health problems when exposed to combat. I should note for the record that we do not screen for a history of sexual assault upon entry into military service. Rather, this information comes to us from anonymous studies of active duty forces.

Nevertheless, combat exposure doubles the risk for posttraumatic stress disorder for those people who were victims of a prior sexual assault. Despite that recent finding published this year, we have been screening for physical and emotional problems associated with exposure to hostilities for several years. Screening is conducted on all Service Members before, during and after operational deployment, including all active duty, National Guard, and reservists. Members who screen positively for traumatic exposure are referred to their primary care provider for a more in-depth assessment of their needs. Our medical providers fall within the Restricted Reporting channel. Consequently, should a victim of sexual assault disclose the incident during a medical encounter or screening appointment, the victim's ability to make a Restricted Report remains intact.

The Department is currently working hard to expand the medical and mental health treatment opportunities for victims of sexual assault. The Defense Center of Excellence for

Psychological Health and Traumatic Brain Injury has been working closely with SAPRO to ensure that sexual assault treatment programs are in the portfolio of care being researched and expanded under their purview. The Department has always had mental health treatment available for victims of sexual assault. However, our capacity to provide such treatment is currently being expanded, as the Department recruits and employs more mental health care providers.

In addition, the Department has been working with the Department of Veterans Affairs (VA) on a variety of initiatives. VA has been providing treatment to victims of sexual assault and sexual harassment for the past several years. Consequently, anyone who served on active duty may receive care at a VA health care facility for military sexual trauma. In addition, SAPRO has arranged for VA to accept our Restricted Reporting documentation as evidence that a Restricted Report was made for compensation claims. SAPRO and VA's Military
Sexual Trauma program often collaborate on a variety of projects to educate both military and civilian personnel about the reporting and treatment options available for victims. VA also participates in our Sexual Assault Advisory Council.

As mentioned previously, not all of our victims are ready to come forward – even with our confidential reporting option. While we continue to build a climate of confidence and demonstrate our commitment to care, we also provide information about the SAPR program via a variety of channels. Military OneSource offers a communication channel that helps us educate and inform our military community about the crime of sexual assault, reporting options, and care benefits. SAPRO recently met with OneSource and updated the training to their telephone operators to better assist and assess victims of sexual assault, should one call for assistance. In addition, SAPRO recently re-

wrote the on-line materials available for victims of sexual assault. OneSource is available to all military Service Members, including Guard and Reserve Members who are no longer activated.

We have over two hundred Sexual Assault Response Coordinators and Victim Advocates deployed in Iraq and Afghanistan at any given time. We owe a great tribute to our SAPR personnel there, as they have made this program work for our victims. The battlefield is a complicated environment and we face many challenges getting services to victims when hostilities are underway. USCENTCOM and the military services have filled in most of the gaps. However, from a policy standpoint, we know that we can provide more guidance for deployed personnel. We are currently examining how our policy is working in joint environments, including deployed locations, with a focus on response and training.

PREVENTION THROUGH TRAINING AND EDUCATION

Again, we have created a framework for an integrated sexual assault response capability worldwide, with the intent of providing everyone, everywhere equal access to the same support systems and response personnel. However, taking care of victims is just one front on our war against sexual assault. Clearly, preventing the crime is of equal – if not greater – importance. In 2005, the Department initiated an aggressive and wide-reaching education agenda. Mandatory sexual assault prevention and response training is required of every Service Member at multiple stages throughout their careers.

For the past three years, the Department has focused on making military Service Members aware of the program, their reporting options, and the kinds of assistance that is available for

victims. The Department's program provides baseline training for all military personnel. As soon as an individual enters the military, regardless of rank, we educate him or her about sexual assault, our policies and programs, and prevention.

Pre-deployment training provides Service Members advance information on our OCONUS programs. As part of the deployment checklist, Service Members must undergo sexual assault prevention training before departure. Training includes refresher training on our policies, detailed information on the program in their deployed location, and explains some of the cultural differences of host countries.

The Department's policy has detailed guidance for commanders. Each service has implemented additional training to augment a commander's ability to address this crime and hold military units together. Due to the traumatic nature of sexual assault and the complexity of the issue, the Services typically opt to provide commanders with SAPR training before assuming command. Training is focused on assisting the needs of a sexual assault victim, addressing the rights of the accused, and maintaining good order and discipline within their units.

We also have rigorous training geared toward sexual assault responders, including Sexual Assault Response Coordinators, Victim Advocates, healthcare personnel, investigators and Judge Advocates. The training topics are specific to each responder's role, and ensure that each responder is competent to fulfill their responsibilities with effective victim response or offender accountability.

Awareness training only takes us so far. Most all of our military people know that sexual assault is a crime, that it is incompatible with military service, and that it is a gross violation of their obligation to protect their fellow warriors from harm. Nevertheless, sexual assault continues to happen, both in the military and the civilian community as well. Therefore, just knowing something is wrong is not a deterrent. A full-blown prevention effort is actually much more complicated than "Just say no." Rather, prevention is comprised of a number of initiatives. Please recognize, however, the Department is on a path for which there is no map. A prevention program of the size and scope needed for the military is unprecedented. No civilian institution, state government, or city has ever undertaken a mandate to prevent sexual assault in a population as large, diverse and geographically distributed as ours. As we develop our prevention strategy, we are literally at the leading edge of what social science and public health can tell us about what works.

By educating Military Members when and how to act, we may be able to turn bystanders into actors who can prevent sexual assault. Our program works on a variety of levels, from small to large:

- On the individual's knowledge and skill;
- On the behavior of military community organizations that provide services; and
- On large organizations and government policy

These levels, together, create a spectrum of sorts --a spectrum of opportunity for individual and organizational change. These levels are known as the Spectrum of Prevention, and this is the framework that guides our efforts in this area. When change occurs simultaneously on each level of this spectrum – to the individual, to the community, to the government – the effects begin to interact and become stronger through the synergy of the efforts working together.

Our prevention efforts come from renowned experts who have dedicated their lives to sexual assault prevention research. In July 2007, the Department convened a Prevention Summit with over 100 leading military and civilian advocacy experts. At the Summit, we discussed policy initiatives and ways to prevent this crime. On July 14, SAPRO assembled a team of social scientists, experts, and representatives from the Military Services to refine our DoD prevention strategy. Our plans involve a complete survey of the scientific literature pertaining to prevention of sexual assault, a comprehensive strategy document, and a powerful social marketing strategy. The DoD Prevention Strategy will not only educate our people on the crime of sexual assault, it will also show them in concrete examples how they can intervene safely on someone's behalf.

The Department conducted a worldwide SARC Conference in June of 2006, training more than 350 professionals from installations worldwide. Last week, we conducted our second worldwide Sexual Assault Response Coordinator conference which focused on supporting victims through the military justice process. We know from experience that the best way to hold an offender accountable for sexual assault is to have a victim willing to participate in the legal and investigative processes. Victims are more likely to stay with the process if supported every step of the way. Speakers included leadership and subject matter experts in sexual assault policy, victim care, PTSD, toxicology, military justice, investigations, and victim's rights.

To date, the Services have provided sexual assault prevention and awareness training to over one million active duty and reserve Service Members. Moreover, the Services have expanded their training programs to adapt training curricula to their unique needs.

Our aggressive training and outreach program, coupled with the new option of Restricted Reporting, sends an important message: The Department cares about its members. We believe our Service Members are hearing us. After three full years of policy implementation, we are seeing more victims making reports and accessing care. While we are extremely concerned when even one sexual assault occurs, we see the increase in victim reports as a very positive indicator of growing confidence in the program. We believe the increase in reports is a validation of the need for the ability to privately access medical care and advocacy services. We believe that these military members would never have sought services had they not had the ability to select how and when to engage our support system.

SYSTEM ACCOUNTABILITY AND OVERSIGHT

We have several mechanisms in place to oversee and evaluate whether our policy is being implemented effectively.

Sexual Assault Advisory Council (SAAC)

Dr. Chu, the Under Secretary of Defense for Personnel and Readiness, chairs the Sexual Assault Advisory Council (SAAC), which includes representatives from the Department of Defense as well as various federal agencies, including the Department of Veterans Affairs (VA) and the Department of Justice (DOJ). In recent meetings, Dr. Chu tasked our Sexual Assault Prevention and Response Office and the Se+rvices to examine areas in which our policy needed to be modified to more effectively address this crime. Consequently, we are currently working to resolve challenges that have been identified. For example, we are working to find solutions to overcome

the challenges we face in implementing Restricted Reporting in states such as California that have mandatory reporting laws for sexual assault.

Policy Assistance Teams (PATs)

In order to determine best practices and update our policy accordingly, we continue to develop ways to assess implementation of our policy. This year, the Department plans to expand its assessments and conduct visits to military installations to further evaluate the progress of the Services' programs. As a method to assess best practices, we created Policy Assistance Teams (PATs). PATs will consist of SAPRO staff and Service personnel who will evaluate policy implementation; assist commanders with execution; provide commanders with immediate feedback; and revise and improve current policy. In addition to Policy Assistance Teams, SAPRO and the Services are reviewing high-profile cases and case level data to determine program implications.

Defense Task Force on Sexual Assault in the Military Services (DTF-SAMS)

The Defense Task Force on Sexual Assault in the Military Services (DTF-SAMS) was initially the Defense Task Force on Sexual Harassment and Violence at the Military Academies (DTF-SHVMA). It was created by the NDAA for FY04 and issued its report in June 2005. That task force was extended by the National Defense Authorization Act for FY05. After DTF-SHVMA completed its mission, its name was changed to DTF-SAMS and the mission was changed to an examination of sexual assault in the Armed Forces. It will assess and make recommendations on key areas in sexual assault prevention and response. DTF-SAMS has been constituted and held its first organizational meeting in May. The first official meeting is scheduled for 11-15 August. During the course of its work, DTF-SAMS will visit a number of installations. We welcome the

work of the Task Force and the recommendations it will bring forward at the conclusion of its work. It is important for us to know whether the policies and programs we have put in place are working; if they can be improved; and if there are things that we missed. We will carefully evaluate every recommendation of the Task Force and make necessary changes in a timely manner.

Data Reporting

An important part of accountability and oversight is the collection and analysis of data to track progress and identify problem areas early on. The Department continues to aggressively track the number and disposition of sexual assaults occurring annually within the Department. Each year on March 15, the Department and Services forward their data as well as a comprehensive review of our efforts in an annual report to Congress. This past year, we conducted an assessment of the climate at all three Military Service Academies. That report was delivered to Congress last December. We are proud of the quick and thorough changes that the Academies have instituted to make their institutions safer.

While the Department has always complied with the sexual assault reporting requirements set forth in Section 577 of the Ronald Reagan National Defense Authorization Act for FY05, our program efforts clearly demand a more detailed view of sexual assault as it occurs across the DoD. Consequently, we are currently working to develop a data collection system that will allow for greater study and analysis of sexual assault.

Department of Defense Office of the Inspector General

The Department of Defense Office of the Inspector General currently has two open investigations regarding sexual assault. The first is an evaluation of DoD sexual assault response in the areas of operation of Operation Enduring Freedom and Operation Iraqi Freedom. The second is an audit of DoD and DoD contractor efforts to prevent sexual assault and harassment against contractor employees within those same areas of operation. We have appointed a point of contact for each investigation from our Sexual Assault Prevention and Response Office and are coordinating with the DoD IG on these investigations. In tandem, we are examining these areas to determine whether policy modifications need to be made.

COORDINATION

Coordination with the Services

Sexual assault prevention and response efforts are coordinated throughout the Department and conducted in partnership with the military service. One primary example of coordination is demonstrated in the four SAAC subcommittees, each of which has a co-chair from the SAPRO office and a co-chair from a Service.

SAAC Subcommittees

The policy and accountability, research, training, and outreach subcommittees function as working groups to identify and address issues with regular progress reports to the SAAC. The subcommittees include SAAC members, or their agency designated representatives.

The Policy and Accountability Subcommittee examines the effectiveness of current sexual assault prevention and response policy and examines accountability. It is developing policy standards and has addressed issues pertaining to contractors and civilians, foreign nationals, challenges due to civilian rape reporting laws, changes to the Uniform Code of Military Justice (UCMJ), and differences between domestic violence and sexual assault policies.

The Research Subcommittee oversees data collection, develops and monitors the SAPRO research agenda, and provides guidance for research studies and data analysis.

The Training Subcommittee reviews sexual assault training and prevention methods and ensures policy requirements are met. It also looks for gaps in training, identifies areas for training policy improvements and explores new and innovative training methods.

The Outreach Subcommittee evaluates the effectiveness of current and recent outreach methods and develops outreach plans to reach internal and external stakeholders more effectively.

Coordination with Military Criminal and Legal Offices

Department policy designates the Sexual Assault Prevention and Response Office as the single point of responsibility for sexual assault policy matters, except for legal processes under the Uniform Code of Military Justice and criminal investigative policy matters. Jurisdiction of legal processes is assigned to the Judge Advocates General of the Military Departments. Criminal investigative policy matters are assigned to the DoD Inspector General (DoD IG). On January 15, 2008, the policy subcommittee of the Sexual Assault Advisory Council hosted a meeting including

representatives from the legal and investigative community to ensure that no gaps exist. As a result, the committee recommended collaborative work with the OSD Office on Legal Policy to ensure that the victim witness liaison is engaged early enough in Unrestricted Reports to provide sufficient support to victims. We have followed through on that recommendation and will monitor whether the gap has been addressed as part of the Policy Assistance Team visits.

COORDINATION WITH OTHER FEDERAL AGENCIES

Relationship with the Department of Veterans Affairs

We work closely with VA to address sexual assault in the military. VA is represented on the SAAC and the DoD/VA Joint Executive Council. Recently, SAPRO and VA coordinated to allow a Victim Reporting Preference Statement to serve as evidence of sexual assault reporting for claims purposes. Victims must acknowledge their choice of an Unrestricted or Restricted Report in writing in the Victim's Preference Statement, which lists the exceptions that apply to Restricted Reporting and how that reporting option may limit the ability to prosecute the offender. During this process, the Sexual Assault Response Coordinator or Victim Advocate advises the victim of the reporting options available to him or her, explains the benefits and limitations of each choice, and documents the reporting option the victim selects.

We participate with VA as members of the Interagency Working Group on Violence against Women. Recently, we worked with VA to address challenges that are faced by victims who make Restricted Reports and then later apply for disability. SAPRO and representatives of the VA Military Sexual Trauma team often train together and have taught at military and VA conferences. For example, a member of the SAPRO staff trained at the VA conference on Military Sexual

Trauma and a member of VA's MST team will teach at DoD's upcoming worldwide SARC conference.

Relationship with Other Federal Agencies

In addition to VA, the SAAC has representatives from the following federal agencies: the Department of State, the Department of Justice, the Centers for Disease Control, and the Department of Health and Human Services. A representative from our Sexual Assault Prevention and Response Office is a member of the federal Interagency Working Group on Violence Against Women and participates in monthly federal networking calls which include representatives from numerous federal agencies.

CONCLUSION

Care for Victims. Prevention through Training and Education. System Accountability. These are the three cornerstones of our sexual assault prevention and response program. Given the dedication of the professionals that work in this program across the Department, I have no doubt that we are well on the way to meeting our goal of reducing the number of sexual assaults and eventually eliminating this crime from the military.

Although I have only skimmed the surface of a comprehensive but young and evolving program, I hope I have answered many of your questions. We have accomplished remarkable progress in a short time frame but we know our work to eradicate sexual assault is not complete. In the future, we will no doubt meet additional challenges but we will continue to work with Congress, the GAO and other oversight bodies continue to refine the Department's sexual assault program,

and ultimately create a benchmark for the nation. Thank you for your time. I would be happy to answer any additional questions you might have.

Mr. TIERNEY. Thank you, Dr. Whitley.

Ms. Farrell, please.

STATEMENT OF BRENDA S. FARRELL

Ms. FARRELL. Chairman Tierney, Mr. Shays, members of the subcommittee, thank you for the opportunity to be here today for this follow-on hearing to discuss issues related to DOD and the Coast Guard's sexual assault prevention and response programs. My remarks today draw from GAO's recently issued report that examine DOD and the Coast Guard's programs conducted at this subcommittee's request.

Sexual assault is a crime that is fundamentally at odds with the obligation of men and women in uniform to treat all with dignity and respect. Nonetheless, incidents of sexual assault are not a new concern. In 2004, following a series of high-profile sexual assault cases involving service members, Congress directed the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual assaults involving service members, including an option that would enable service members to confidentially disclose a sexual assault incident. Though not required to do so, the Coast Guard has developed a similar policy and program.

My main message today is that although DOD and the Coast Guard have taken steps to respond to congressional direction by developing and implementing programs to prevent, respond to and resolve sexual assault incidents involving service members, DOD and the Coast Guard do not know what is working well or what is not working with their respective programs.

My written statement is divided into three parts regarding policy, visibility and oversight.

The first addresses the extent to which DOD and the Coast Guard have developed and implemented policies and programs. 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 statement addresses visibility over the reports of sexual assault. GAO found, based on responses to our nongeneralizable 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 male and female service members indicated that they had been sexually assaulted within the preceding 12 months. Of these 103 service members, 52 indicated that they did not report the sexual assault incident. We also found that factors that discourage service members 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. Importantly, some noted that

a report made using the restricted option would not remain confidential.

The last part of my written statement addresses the extent to which DOD and 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. GAO's 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 decisionmakers determine whether initiatives are achieving their desired results.

Mr. Chairman, our report made 11 recommendations to DOD and the Coast Guard for improving implementation and oversight of the programs. DOD and the Coast Guard concurred with our recommendations, and we shall monitor implementation of those recommendations.

In summary, Mr. Chairman, a number of implementation challenges that, left unchecked, could undermine DOD's and the Coast Guard's effort—importantly, without an oversight framework in place to evaluate the effectiveness of its programs, DOD and the Coast Guard will be unable to determine what works well and what is not working well in order to make adjustments accordingly.

Thank you, Mr. Chairman. That concludes my statement.

[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

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MILITARY PERSONNEL

Actions Needed to Strengthen Implementation and Oversight of DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs

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

GAO-08-1146T

September 10, 2008

GAO
Accountability·Integrity·Reliability
Highlights

Highlights of GAO-08-1146T, a testimony before the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives

MILITARY PERSONNEL

Actions Needed to Strengthen Implementation and Oversight of 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 policy. This statement addresses implementation and oversight of DOD's and the Coast Guard's programs to prevent and respond to sexual assault incidents. Specifically, it addresses the extent to which DOD and the Coast Guard (1) have developed and implemented policies and procedures to prevent, respond to, and resolve reported sexual assault incidents; (2) have visibility over reports of sexual assault in the military; and (3) exercise oversight over reports of sexual assault involving servicemembers. This statement draws on GAO's report on DOD's and the Coast Guard's Sexual Assault Prevention and Response programs issued on August 29, 2008 (GAO-08-924). For this work, GAO reviewed legislative requirements and DOD and Coast Guard guidance, analyzed sexual assault incident data, and obtained through surveys and interviews the perspective of more than 3,900 servicemembers on sexual assault matters.

GAO made 11 recommendations to improve implementation of DOD's and the Coast Guard's programs. These include, for example, reviewing and evaluating guidance and training, and improving oversight of the programs. DOD and the Coast Guard concurred with the recommendations.

To view the full product, including the scope and methodology, click on GAO-08-1146T. 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 the program in deployed and joint environments; (2) most, but not all commanders support the programs; (3) required sexual assault prevention and response training is not consistently effective; and (4) 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 nongeneralizable 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. There were also concerns that reporting an incident would negatively affect their careers or unit morale and that a report made using the restricted reporting option would not remain confidential.

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. GAO's 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. DOD provides information on reports of alleged sexual assaults annually to Congress. 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 data that would 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. 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 for this follow-up hearing to discuss issues related to the Department of Defense's (DOD) and the Coast Guard's programs to prevent, respond to, and resolve reported incidents of sexual assault. 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, in 2004 Congress 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 and the Ranking Member 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] Also, on July 31, 2008, we testified before the subcommittee on our preliminary observations on DOD's and the Coast Guard's Sexual Assault Prevention

[1]For purposes of this testimony, we use "military services" to refer collectively to the Army, the Air Force, the Navy, and the 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).

and Response Programs.[3] Further, on August 29, 2008, we issued a comprehensive report that expanded upon the preliminary observations we discussed during the July hearing that examines implementation and oversight of sexual assault prevention and response programs for the active duty servicemembers in DOD and the Coast Guard, including during deployments.[4]

My testimony today summarizes the findings and recommendations of our comprehensive August 2008 report. Specifically, in my remarks today I will discuss 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 conduct our work, 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 installations we visited. Our survey is the first since 2006 to obtain the perspectives of selected

[3]GAO, *Military Personnel: Preliminary Observations on DOD's and Coast Guard's Sexual Assault Prevention and Response Programs*, GAO-08-1013T (Washington, D.C.: July 31, 2008).

[4]GAO, *Military Personnel: DOD's and Coast Guard's Sexual Assault Prevention and Response Programs Face Implementations and Oversight Challenges*, GAO-08-924 (Washington, D.C.: Aug. 29, 2008).

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 August 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 steps, in response to congressional direction, to develop and implement policies and programs to prevent, respond to, and resolve reported sexual assault incidents, and the Coast Guard has taken similar steps on its own initiative. However, we found that DOD's guidance may not adequately address some important issues, such as how to implement the program in deployed and joint environments. We also found that implementation is hindered by (1) the lack of support from some commanders, (2) training that is not consistently effective, and (3) limitations on access to mental health services. Further, based on responses to our survey and a 2006 DOD survey, we found 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. DOD and the military services provide information on reports of alleged sexual assaults annually to Congress in accordance with statutory requirements. 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, 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. Importantly, we also found that while DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assaults involving servicemembers, both lack an oversight framework—including clear

objectives, milestones, performance measures, and criteria for measuring progress—to guide their efforts. DOD also lacks key information needed to evaluate the effectiveness of the department's sexual assault prevention and response program. GAO made 11 recommendations to improve implementation of DOD's and the Coast Guard's programs. These include, for example, reviewing and evaluating guidance and training, and improving oversight of the programs. DOD and the Coast Guard concurred with the recommendations.

Implementation of Sexual Assault Prevention and Response Programs Is Hindered by a Number of Factors

DOD has taken positive steps to respond to congressional direction by developing and implementing policies and a program to prevent, respond to, and resolve reported sexual assault incidents involving servicemembers, and the Coast Guard has on its own initiative taken similar steps. However, DOD's guidance may not adequately address some important issues, and implementation of the program is hindered by several factors. To their credit, DOD and the Coast Guard have issued guidance for preventing and responding to reports of sexual assault and have established offices to oversee sexual assault matters.[5] The military services and the Coast Guard have also established and staffed key positions to manage programs at installations and require servicemembers to receive periodic training on their respective sexual assault prevention and response programs. However, DOD's guidance may not adequately address some important issues, such as how to implement the program when operating in deployed or joint environments. Program officials we met with overseas told us that DOD's guidance does 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 are more widely dispersed than they are in the United States, which can make responding to a sexual assault challenging. For example, at one installation we found no criminal investigative presence, and program officials told us that it can take 48 hours or longer for the criminal investigative organization with jurisdiction to respond to some sexual assaults. Further, we identified a number of factors that hinder implementation of the programs, including the following.

[5]Department of Defense Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Oct. 6, 2005), Department of Defense Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures* (June 23, 2006), and Commandant Instruction 1754.10C, *Sexual Assault Prevention and Response Program (SAPRP)* (Dec. 20, 2007).

While Most Commanders Support the Programs, Some Do Not

At the installations we visited, we generally found that commanders—that is, company and field grade officers[6]—had taken actions to address incidents of sexual assault and were generally supportive of sexual assault prevention and response programs. However, at some of these installations we found evidence that not all commanders supported the program. Further, we found that implementation of the programs may be hindered at some installations where key program coordinator positions are a collateral duty. DOD's guidance calls for commanders and other leaders to advocate a strong sexual assault prevention and response program, and the Coast Guard's guidance similarly calls for commanders and other leaders to ensure compliance with Coast Guard policies and procedures. At the installations we visited, commanders told us that they set a zero tolerance policy for incidents of sexual assault, communicated the respective policies at command briefings, understood their roles and responsibilities in supporting the programs, and understood the need to protect victims. The results of our nongeneralizable survey supported these statements; at the 14 installations where we administered our survey, the percentage of servicemembers who indicated that they thought their direct supervisor (military or civilian) would address sexual assault, should it occur at their current location, ranged from 91 to 98 percent. However, we also found evidence that some commanders did not support the programs. For example, at 3 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, some program officials told us that commanders do not support the programs because they do not understand them or do not consider sexual assault matters to be a priority in the military. Program officials also told us that they lacked the resources to promote the programs and raise servicemembers' awareness of sexual assault matters. Further, some key program coordinators, such as Sexual Assault Response Coordinators or Employee Assistance Program Coordinators, lack the time and resources to devote to the programs. Neither DOD nor the Coast Guard has performed a systematic analysis to evaluate their processes for staffing key program coordinator positions, and thus both are hindered in their ability to ensure that key installation-level program officials can effectively perform their duties in implementing the programs.

[6]Company grade officers encompass the ranks of O1-O3 and field grade officers encompass the ranks of O4-O6.

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 survey, interviews, and discussions with servicemembers and program officials revealed that most 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 also found that neither DOD nor the Coast Guard has systematically evaluated the effectiveness of the training provided to date. Some servicemembers told us that the training they received was not engaging and, therefore, they did not pay attention, and others said that servicemembers do not always take the training seriously. For example, while the majority of respondents to our survey indicated that they had received required sexual assault prevention and response training and would know how to report a sexual assault using the restricted reporting option, as table 1 shows, the percentage of servicemembers we surveyed who indicated that they would not know or were not sure of how to report a sexual assault using the restricted reporting option, despite having received the training ranged from 13 to 43 percent at the seven installations we surveyed in the United States and from 13 to 28 percent at the seven installations where we administered the survey overseas.

Table 1: Percentage of Selected Servicemembers Who Reported Receiving Required Sexual Assault Prevention and Response Training and Also Reported They Would Not Know or Were Not Sure of How to Report a Sexual Assault Using the Restricted Reporting Option

Installation	Percentage of selected servicemembers who reported having received required training and also reported that they would know how to report a sexual assault using the restricted reporting option	Percentage of selected servicemembers who reported having received required training and also reported that they would not know or were not sure how to report a sexual assault using the restricted reporting option
United States	**Percentage**	**Percentage**
Camp Lejeune	68	32
Fort Bliss	81	19
Fort Drum	84	16
Integrated Support Command Portsmouth[a]	60	40
Lackland Air Force Base	87	13
Marine Corps Base Quantico	57	43
Naval Station Norfolk	78	22
Overseas		
Al Udeid Air Base	85	15
Balad Air Base	82	18
Camp Arifjan	83	17
Camp Ramadi	87	13
Camp Stryker	72	28
Logistics Support Area Anaconda	82	18
Naval Support Activity Bahrain[b]	78	22

Source: GAO.

[a]Includes servicemembers from Yorktown Training Center, Virginia.

[b]Includes Coast Guard members under the operational command of U.S. Central Command.

Servicemembers who have not received the required training or who have received training that is not effective may not know how to mitigate the possibility of being sexually assaulted or how to seek assistance if needed, and they are at risk for not knowing how to report an assault in a way that does not limit their option to seek treatment while maintaining confidentiality.

Access to Mental Health Services May Be Limited

DOD and the Coast Guard 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 logistical challenges of operating overseas or in geographically remote locations, and servicemembers' perceptions of a stigma associated with mental health care—can affect whether servicemembers who are victims of sexual assault can or do access mental health services. Further, we could find no indication that either DOD or the Coast Guard has performed an analysis to aid in addressing barriers to mental health care specifically for victims of sexual assault. To their credit, DOD and the Coast Guard screen servicemembers for mental health concerns, such as post-traumatic stress disorder, which can afflict victims of sexual assault. Officials at some of the installations we visited told us that one barrier to ensuring that victims of sexual assault receive mental health care if they desire it is the lack of adequate resources and staff at some installations. Some mental health care officials we spoke with overseas said that the shortage of providers can make it even more difficult for servicemembers to seek mental health care, for any reason, in overseas locations or geographically remote locations in the United States. However, we did find that the military services were taking steps to address this challenge. For example, DOD has established a memorandum of understanding with the Public Health Service to enable its uniformed providers to work in military treatment facilities. Perceptions of stigma may also discourage servicemembers from seeking mental health care following a sexual assault, but DOD recently took steps that may encourage servicemembers to do so by successfully advocating a revision to Standard Form 86, Questionnaire for National Security Positions.[7] Under the revision, applicants no longer need to disclose certain noncourt-ordered mental health care treatment received in the preceding 7 years if it was (1) strictly marital, family, or grief related, as long as it was not related to violence committed by the servicemember, or (2) strictly related to adjustments following service in a military combat environment. Further, in an April 2008 memorandum from the Secretary of Defense, DOD noted that professional care for mental health issues should not be perceived as jeopardizing an individual's security clearance.[8] However, officials with DOD's Sexual Assault Prevention and Response Office told us that it is unclear whether these

[7]Standard Form 86, *Questionnaire for National Security Positions*, is a governmentwide form applicable not only to DOD servicemembers and civilians who occupy sensitive positions but to individuals who occupy sensitive positions across the federal government.

[8]Secretary of Defense Memorandum, "Policy Implementation—Mental Health Question, Standard Form (86), Questionnaire for National Security Positions" (Apr. 18, 2008).

steps will encourage servicemembers who are victims of sexual assault to seek mental health care and whether the revisions apply to servicemembers who have been sexually assaulted and seek mental health care.

Survey Data Suggest That Occurrences of Sexual Assault May Exceed Rates Reported

We found, based on responses to our nongeneralizable 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. We recognize that the precise number of sexual assaults involving servicemembers is not possible to determine, and that studies suggest that 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. 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[9] during the prior 12 months, the majority chose not to report it. At the 14 installations where we administered our survey, 103 servicemembers indicated that they had been sexually assaulted within the preceding 12 months.[10] Of these, 52 servicemembers indicated that they did not report the sexual assault. Notably, respondents to our survey revealed a number of reasons that discouraged servicemembers from reporting a sexual assault incident. Commonly cited reasons by survey respondents at the installations we visited included (1) the belief that nothing would be done; (2) fear of

[9]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.

[10]Of these 103 servicemembers, 85 were female, 14 were male, and 4 did not indicate a gender on the survey.

ostracism, harassment, or ridicule by peers; and (3) the belief that their peers would gossip about the incident. There were also concerns that reporting an incident would negatively affect their careers or unit morale and that a report made using the restricted reporting option would not remain confidential.

While DOD and the Coast Guard Have Established Some Mechanisms for Oversight, They Lack an Oversight Framework

While DOD and the Coast Guard have established some mechanisms for overseeing reports of sexual assaults involving servicemembers, both lack an oversight framework, and DOD lacks key information needed to evaluate the effectiveness of the department's sexual assault prevention and response program. DOD's instruction charges the Sexual Assault Prevention and Response Office (within the Office of the Deputy Under Secretary of Defense for Plans) with identifying and managing trends and establishing program evaluation, quality improvement, and oversight mechanisms to evaluate 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 their desired results.[11] However, neither DOD nor the Coast Guard has developed an oversight framework that includes clear objectives, milestones, performance measures, or criteria for measuring progress. While DOD and the military services provide information on reports of alleged sexual assaults annually to Congress in accordance with statutory requirements, its 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, because some of the data collection elements are not clear, some data included in DOD's annual reports to Congress are open to misinterpretation and may not provide the information needed to facilitate congressional oversight or understanding of victims' use of the reporting options. In addition, the military services are not providing DOD with installation- and case-specific data beyond those statutorily required for inclusion in the department's annual report. Without such data, DOD lacks the means to fully execute its oversight role. Congress also lacks visibility over extent to which sexual assaults involving Coast Guard members occur. While the Coast Guard voluntarily provides the data to DOD for inclusion in its report, this

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

information is not provided to Congress because there is no requirement to do so. To provide oversight of DOD's program, in 2004 Congress directed the Secretary of Defense to establish the Defense Task Force on Sexual Assault in the Military Services to undertake an examination of matters relating to sexual assault in which members of the Armed Forces are either victims or offenders. Although DOD considers the task force's work to be an important oversight element, the task force only began its review in August 2008. 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 and oversee the programs.

Recommendations from Our August 2008 Report

In our recently issued report, we suggested that Congress may wish to improve oversight of sexual assault incidents in the Coast Guard by requiring the Coast Guard to annually submit to Congress sexual assault incident and program data that are methodologically comparable to those required of DOD. We also made a number of recommendations to improve implementation of sexual assault prevention and response programs and improve oversight of the programs in DOD and the Coast Guard. With regard to DOD, to improve program implementation we recommended that the agency review and evaluate its guidance for the prevention of and response to sexual assault, to ensure that adequate guidance is provided to effectively implement the program in deployed environments and joint environments; evaluate its processes for staffing and designating key installation-level program positions, to ensure that these individuals have the ability and resources to fully carry out their responsibilities; review and evaluate its training, to ensure that the military services are meeting requirements and to enhance training effectiveness; systematically evaluate any factors that may prevent or discourage servicemembers from accessing mental health services following a sexual assault; and emphasize to all levels of command their responsibility for supporting the program, and review the extent to which resources are available to raise servicemembers' awareness of sexual assault matters. To enhance program oversight, we recommended that DOD develop an oversight framework to guide continued program implementation and evaluate program effectiveness; take specific steps to improve the usefulness of its annual report to Congress as an oversight tool; direct the service secretaries to provide installation-level incident data to the Sexual Assault Prevention and Response Office; and direct the Defense Task Force on Sexual Assault in the Military Services to begin its examination immediately, now that all members of the task force are appointed. With regard to the Coast Guard, we recommended that it evaluate its processes for staffing key installation-level program positions, to ensure that these

individuals have the ability and resources to fully carry out their responsibilities, and that it develop an oversight framework to guide continued program implementation and evaluate program effectiveness. In written comments on a draft of our report, both DOD and the Coast Guard concurred with all of our recommendations.

Concluding Observations

In closing, we want to recognize 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; limited support from some commanders, and limited resources for the programs; training that is not consistently effective; limited access to mental health services; and the lack of an oversight framework—could undermine the effectiveness of their efforts. Left unchecked, these challenges could undermine DOD's and the Coast Guard's efforts by eroding servicemembers' confidence in the programs and thus decreasing the likelihood that sexual assault victims will turn to the programs for help when needed, and by limiting the ability of DOD and the Coast Guard to evaluate the overall successes, challenges, and lessons learned from their programs.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to answer any questions you may have at this time.

Contacts 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. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. 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; Amanda K. Miller; and Cheryl A. Weissman.

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Mr. TIERNEY. Thank you, Ms. Farrell. We appreciate the succinctness of your testimony here today.

We are now going to proceed under the 5-minute rule for questioning of the witnesses.

And, Dr. Whitley, while I don't want to beat a dead horse, as the saying goes, I do want to just clear some things up. You were served with a subpoena to testify before this committee?

Ms. WHITLEY. Yes, sir.

Mr. TIERNEY. And you understood the impact and the import of that subpoena?

Ms. WHITLEY. Yes, sir.

Mr. TIERNEY. And it was addressed to you individually, is that not right?

Ms. WHITLEY. Yes.

Mr. TIERNEY. And with whom did you consult when you received that subpoena?

Ms. WHITLEY. Well, sir, what actually happened, there was discussion——

Mr. TIERNEY. So with whom did you consult when you received——

Ms. WHITLEY. Mr. Dominguez, sir.

Mr. TIERNEY. Mr. Dominguez, who is the Under Secretary?

Ms. WHITLEY. Yes. I did not know that I was not going to testify until we had pulled up in front of the Rayburn building, and then I was issued the order that I would not be testifying.

Mr. TIERNEY. And that was on the day of the hearing?

Ms. WHITLEY. Yes, sir.

Mr. TIERNEY. And it was at that time that Mr. Dominguez told you that?

Ms. WHITLEY. Yes, sir.

Mr. TIERNEY. So you had come fully prepared to testify that morning?

Ms. WHITLEY. Absolutely, sir.

Mr. TIERNEY. And you felt pressured by your employer, your supervisor to not appear?

Ms. WHITLEY. I was given a direct order to stay in the van and return to the Pentagon.

Mr. TIERNEY. That is interesting. And we will have to deal with that situation. You do understand, however, for future times, when a subpoena is addressed to you personally, it is your personal responsibility, notwithstanding a superior's indication of what their desire might be, to respond to this Congress?

Ms. WHITLEY. Yes, sir, I understand that very clearly now.

Mr. TIERNEY. OK. Well, I am sorry that you were put in that position. I am also sorry that you didn't take the personal initiative to consult counsel and to act on that. So you didn't have a lot of time to act on this, Mr. Shays is saying. So we appreciate that, and that is the first we have known of that.

So thank you for clearing that up. And we are glad you are here with us today, and hopefully we will get some information that will help us move forward on a policy basis.

Ms. WHITLEY. Thank you.

Mr. TIERNEY. In the General Accountability Office report, it said the Department of Defense guidance may not adequately address

some issues, such as how to implement the program when operating in deployed or joint environments. It said it doesn't take into account the unique living and social circumstances that can heighten risk for sexual assault or where resources are more widely dispersed.

Let me ask you first, have you or your staff visited bases that might be remotely located or overseas?

Ms. WHITLEY. No, sir, we have not done that yet.

Mr. TIERNEY. So never since the time that the staff has been created have you done any onsite visits?

Ms. WHITLEY. No. Oh, wait. I am sorry. We have done some. Not to deployed areas such as Iraq or Afghanistan, but we have done policy assistance visits at other locations.

Mr. TIERNEY. How many staff do you have?

Ms. WHITLEY. I have seven permanent positions and some contract support. There are a couple of those that are not filled at this time. So I think I have five.

Mr. TIERNEY. And the size of your annual budget?

Ms. WHITLEY. The annual budget for the office is roughly $3 million.

Mr. TIERNEY. So is it staff and resources, is that the basis for the reason that you have not been able to set up a consistent schedule of visiting bases and installations?

Ms. WHITLEY. I think the way I would like to address that is one of the things that we are finding as our office stood up is we were going to be a small policy office, and once the policy was written we would monitor the policy and do some oversight. But what we are finding, especially as we get recommendations from the GAO and the Defense Task Force and as we go out, we are finding that we are needing more resources, more people, more money so that we can expand our program. And we are planning for that and we have budgeted for that in the future.

Mr. TIERNEY. OK. You understand—I don't want to seem like a wise guy. You mentioned that you were on a crusade to get this right, but it seems to some—I hope you understand—it might be more like a slow walk than a crusade. I mean, you have been stood up now since 2004 under the statute, and it seems to be a long time to come to the realization that you just don't have enough people to oversee and manage the oversight of this.

When did you first come to that realization, and what did you do about it?

Ms. WHITLEY. It has been gradual. And also, sir, keep in mind that the services, when we implemented our policy, they literally were given a policy that they had to implement and they had to take the money from other programs. And they are still not fully funded to operate the sexual assault prevention and response without taking from other funds.

Mr. TIERNEY. So, in essence, the Department has not set up a clear plan for the different services to implement?

Ms. WHITLEY. Well, we have, and we have budgeted—we have POM for fiscal year 2010 for enough money to run the programs for all four services.

Mr. TIERNEY. OK. And what oversight mechanisms do you have in place now?

Ms. WHITLEY. Well, we have the Defense Task Force, which has just stood up and will be going out and looking at our programs.

My office does what we call policy assistance visits, and we have people from the service programs go with us, and we go into the field and talk to the people that run the programs. We have just recently started those. And what we are measuring at this time is if the policy is implemented correctly, if there are any gaps in the policy, what a particular installation needs assistance with, because it is still fairly new to them and some of the concepts are still fairly new.

Mr. TIERNEY. Did it ever occur to you at any point in time to ask the General Accountability Office for a study earlier than the one that we asked them to do? If you were short on staff and resources, that might have been a resource?

Ms. WHITLEY. Well, sir, since the inception of our program, we have had a lot of oversight, in terms of—as well as the Department of Defense Task Force, the IG. We are really grateful for this most recent report, and the Department concurred with every single recommendation, and we have already begun steps to implement them. I am grateful for some of the things that they highlighted because it does give me the backing I need to make changes in the program that are needed.

Mr. TIERNEY. OK. Have you done a survey or any instrument—have you used an instrument like that in the course of your work?

Ms. WHITLEY. We have the Defense Manpower Data Center survey. They do a survey every 2 years on gender relations. Is that what you are asking me?

Mr. TIERNEY. And the nature of that, but that is the extent of it?

Ms. WHITLEY. Uh-huh, uh-huh.

Mr. TIERNEY. Thank you.

Mr. Shays, you are recognized for 5 minutes.

Mr. Turner, then you will be recognized for 5 minutes.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. Chairman, I certainly hope that you do followup on all the issues of the subpoena not being fulfilled. I greatly appreciate the manner in which you have asked the questions and that this be addressed.

One of the things inherent in our democracy is a government that is responsible to the people. And being responsible to the people goes just right to the issue of oversight, because Congress has the responsibility for oversight. And one of the ways we do that is we call members of the bureaucracy forward and we ask them questions to account to the policy and the laws of this country. And when the bureaucracy doesn't respond, the democratic processes are breaking down. But when the military doesn't respond, when DOD isn't responding, it is even a greater concern that everyone has, because that is certainly the one agency where history would tell us that there has to be an absolute responsibility and responsiveness to the democratic institutions or we could all lose our liberty.

So your not having responded to the subpoena is a very, very serious issue, and I appreciate the chairman following up on it. And

certainly the callousness in which you were directed not to attend is a significant issue.

In my opening, I mentioned that Maria Lauterbach was from my community, the Marine who was raped and killed. In your statement, you indicated that you saw your office as a policy position, and I am going to read a bit from your written statement. You have, "Within 3 months of being stood up, the JTF-SAPR created a comprehensive sexual assault provision and responsive policy centered around three key themes: care and treatment for victims, prevention through training and education, and system accountability."

I have a policy question for you. It is one that has really troubled me from the Maria case. And that is that when the Marines came forward with their statement to our country about what had happened to Maria, they seemed to indicate that they had no knowledge that she was at risk for further violence by seeming to indicate that they did not believe that rape was inherently violent. So I sent them a series of questions hoping that, upon clarification, I would get a different response from the Marines that would let me know that they don't hold that position. Unfortunately, what I got just made me more concerned.

I asked this question, "Doesn't a rape accusation inherently contain an element of force or threat?" They give me the definition of "rape" in the Uniform Code of Military Justice. They say, "'Rape' is defined as the sexual intercourse by a person executed by force and without the consent of the victim." They then go on to say this following sentence. Well, first off, let me indicate that they give a paragraph where they say that there were two sexual encounters alleged, one of which was alleged to be rape. Then they give me this sentence, "Lauterbach never alleged any violence or threat of violence in either sexual encounter." That is obviously very troubling to me, that they would say an alleged rape, that the victim never alleged any violence or threat of violence in the rape.

Could you give me your thoughts on that statement?

Ms. WHITLEY. Well, I did go out to Quantico to get a briefing on that case. Whenever there is a case such as that, our office goes to look to see if we can figure out what went wrong in the process and is it something that would be an implication for our policy.

One of the things I have been told is that I should be very careful discussing the case because of the trial, and I would not want to say anything or do anything publicly that could keep us from holding that offender accountable.

But I think what I would like to know, I would like to take the case apart from beginning to end and see what happened every step along the way after she reported the sexual assault——

Mr. TURNER. Before my turn expires, I understand that and I understand your concern. That is very, very valid. But that has nothing to do with my question.

My question is, do you find it troubling that they could say that an act of alleged rape——

Ms. WHITLEY. Oh, absolutely.

Mr. TURNER [continuing]. Did not have an allegation of violence or threat of violence?

Ms. WHITLEY. Absolutely. I agree with you, sir.

Mr. TURNER. Great. Thank you.

Now, upon getting this, I wrote to Secretary Gates, expecting DOD to be engaged and say, wait a minute, this isn't DOD's view, this is outrageous, this is not what we should be, A, putting in writing, but, B, we shouldn't be having people in management positions that would give this answer.

So I am going to ask to you, in your position with policy, what do you think should be done from your agency with respect to managing the policy response of the Marines that have put in writing this belief that a rape allegation could be made without any violence or threat of violence indicated?

Ms. WHITLEY. Well, I find that rather alarming, and I have not heard the Marines say that. They did not say that to me. But I will certainly followup with them, because there should have been some alarm there.

One of the most difficult things for the people in the field when they are working with domestic violence or sexual assault victims is the safety issue and the safety planning that needs to take place whenever someone reports a sexual assault.

Mr. TURNER. Great. I will send this to you. And you and I are going to be meeting also later——

Ms. WHITLEY. Today, yes, sir.

Mr. TURNER [continuing]. Individually, and I will give you a copy of this. And I would prefer your assistance in seeing what we can do to get to the bottom of why the Marines would ever put something like that in writing or ever even mean it.

Ms. WHITLEY. Yes. Thank you.

Mr. TIERNEY. Thank you, Mr. Turner.

Mrs. Maloney.

Mrs. MALONEY. Thank you.

Thank you very much for your testimony and for being here today.

I would like to ask Dr. Kaye Whitley, why do you think your superiors did not want you to testify?

This committee had to threaten to subpoena four of your superiors to come and testify before they allowed you to come and testify about your work. From your resume, you are a very accomplished woman. I congratulate you on your hard work.

And I can't think of any reason except that your testimony might show that they haven't done anything. That there have been 18 different reports since 1988; we have called for, for 20 years, a data base to be put in place. It is still by all accounts not in place, will be put in place in 2010. And in this latest GAO report, they talk about in 2004 setting up this task force on sexual assault in the military, yet, according to GAO, they did not begin to review and do work until August 2008.

So do you believe it was because DOD has not addressed this problem, has not done anything about it, has ignored it, swept it under the rug, has let men and women overseas protecting our constitutional rights and the security of our country—that DOD has been so ineffective in protecting their personal safety and rights in terms of sexual assault? Why do you think it is that they would not let you testify?

Ms. WHITLEY. Well, Mrs. Maloney, I was not privy to the discussions that took place as to whether or not I would or would not testify.

I do know that they felt I was down here on the Hill a lot. I am, by the way, willing to meet with any staff member, any Congressman, any Senator on this subject, and I am down here a lot doing that. And I think they thought that was the best forum for me to interact.

But I was not privy to the actual discussions. I am very open, I am very transparent. I will be happy to answer——

Mrs. MALONEY. I know you are. But what this Congress was not asking for is meetings, we are asking for results. And I would like to focus on the questions of getting this data system in place.

So, Ms. Farrell, the GAO's report and testimony indicates that SAPRO, the sexual assault program, is not able to conduct comprehensive cross-service trend analysis of sexual assault incidents, even though they are responsible for identifying and managing trends.

What obstacles prevent the SAPRO office from conducting this type of analysis?

Ms. FARRELL. Several obstacles prevent SAPRO from conducting such an analysis. In fact, when this request came to GAO, part of the request was for us to look at a trend analysis to say what is working well and what is not working well.

One of the problems that we noted in our January 2008 report, as well as the one that was just issued, is the lack of common terminology for, say, "substantiated cases" that impacts on what is being put into the individual systems and then has that snowball effect of what type of analysis you can do.

In the case of "substantiated cases," there is various interpretations of that by the academies. The Navy Academy has a very broad interpretation. It can be anything from a report that has been in process of being investigated, it can be one that has already have a guilty verdict. It is a number of obstacles.

Mrs. MALONEY. I see this is something we should review more, and I would like to followup with a meeting with you.

But how in the world can SAPRO fulfill its oversight role without this information, Dr. Whitley?

Ms. WHITLEY. Well, we do a report to Congress every year that we deliver on March 15th that has aggregate numbers of sexual assault.

Once again, as the program is growing and emerging, we, like GAO, are figuring out we need to be able to look at this data in a lot of different ways. The way we collect data, at this point in time, we provide matrixes to the services, they fill them out, they bring them to us, we add them up, and we meet the requirements of the NDAA. But we know we need a better system.

Mrs. MALONEY. Well, in the DOD response to the GAO report, the Department is—they said that they were currently drafting a letter for the SECDEF signature, ordering the military services to provide installation data to SAPRO.

Has this letter been drafted? Has it been signed? Are the services complying?

Ms. WHITLEY. They are complying, and we are receiving data by installation.

Mrs. MALONEY. Has the letter been drafted?

Ms. WHITLEY. I believe the letter has already been sent.

Mrs. MALONEY. Could we get a copy of that letter?

Ms. WHITLEY. Uh-huh.

Mrs. MALONEY. My time has expired. Thank you.

Mr. TIERNEY. Mr. Yarmuth, you are recognized for 5 minutes.

Mr. YARMUTH. Thank you, Mr. Chairman. I have very little voice so I am just going to ask one question. I think all of us are concerned about what appears to be a reluctance of commanders and others in the hierarchy to take this seriously and to participate in the oversight of these issues. Is there a history of the military using this compliance or the cooperation and your efforts part of the promotion process and evaluation process? And if not, should it explicitly be made part of it?

Ms. WHITLEY. Well, I don't think it is explicitly a part of it. But a commander in the military service is given a lot of responsibility. And we have a lot of faith in their judgment in handling a crime that happens in their unit.

I will go on record to say what we are finding as we go out—and the GAO will confirm—when you go to an installation or to a program, the program is only as good as that commander and the sexual assault response coordinator. Those are two key people. They have to work closely together in order for the program to be effective and to work. But at this time it is not part of any evaluation of a commander.

Mr. YARMUTH. Would that seem to make sense, to make it part of the explicit responsibilities?

Ms. WHITLEY. What I would fear, I think we should hold commanders accountable and we should hold them accountable for the program. The danger and the challenge is sometimes that may be misinterpreted as holding them accountable for the numbers. And we certainly do not want to do anything so that commanders would feel that they had to drive the reporting of sexual assaults underground. So I think if they are held accountable when we do our evaluations they should have a good program in place, they should have a good relationship with the SARC, they should have a prevention strategy.

But as far as the numbers of sexual assaults that really would not—if you have high numbers, that may mean they have a good program and that there is confidence in the system. If they have low numbers, it may mean people are afraid to come forward, or it could be quite the opposite. It is very dangerous to draw any kinds of conclusions from the numbers of sexual assaults. So that would be what I would say, that we have to hold them accountable for the program.

Mr. TIERNEY. Does the gentleman yield?

Mr. YARMUTH. Yes.

Mr. TIERNEY. Dr. Whitley or Ms. Farrell, what accountability mechanisms do you even have if you find the commanders are not implementing the program or they are sort of undermining it or they are just ignorant of it after training? What are your mechanisms for enforceability?

Ms. WHITLEY. That report would—we write reports and it would go to Dr. Chu and then he would probably work that with the military side of the house.

Mr. TIERNEY. OK. Thank you. Yield back, Mr. Yarmuth.

Mr. Platts, you are recognized for 5 minutes.

Mr. PLATTS. Thank you, Mr. Chairman. I want to first commend you and Ranking Member Shays for the last session and this session, staying very focused on this topic, and the importance of doing right by our men and women who are serving us so proudly in our Nation's Armed Forces, and that we stand by them if they are victims of sexual assault and do everything we can to prevent that.

I have, I guess, a concern, having sat in on hearings last session and this session that while we're making headway, it certainly doesn't seem to be as quickly as we would like or as thorough and comprehensive. And that's troubling given the seriousness of this—and other Members have talked—we're talking about criminal acts here. That's what sexual assault is and it should be created as such.

I know in last session, one of the hearings we had representatives from the academies testify, senior officials. Only one of those individuals, even though they were talking about what they were doing to combat this issue, only one referenced this issue and these acts as crimes, which is, I think, one of the challenges in the military is that we're maybe not yet fully appreciating what the civilian society has come to fully appreciate, that these are criminal acts and the perpetrators need to be treated as such, as criminals.

My specific question, Dr. Whitley, is on the issue, kind of a followup to what the chairman just asked. In the response when there isn't cooperation, and my understanding you've met with GAO and their work and the investigations they've done and have made some specific recommendations, is it accurate that to this very day, many of your recommendations or some of your recommendations have not been acted on by various branches?

Ms. WHITLEY. We have all begun the process of acting on all of the GAO recommendations. We concurred. I think the services concurred and made some comments, but we have all begun the process of acting——

Mr. PLATTS. But my understanding is you made specific recommendations and that certain branches of the military have refused to act on those recommendations.

Ms. FARRELL. I think you're referring to what we just discussed about the installation-level data. We thought that would be beneficial to SAPRO to do a trend analysis, to not compare the installations, but to see where there are problems and discover what the root of those problems so that actions could be taken. It is our understanding from the comments back to GAO on that specific recommendation, the services had objections to it.

Mr. PLATTS. And—and that your reference, Under Secretary, to what may happen, but I guess what has happened is what I'm after. Has there been an effort on the military side to go down and say, you know, these are not just recommendations, but these are issues that you need to address and comply with? Or is it still in limbo that there may be a discussion on the military side to bring

those installations in line with everybody else? Because one of the things I think we're after is consistency across the board, whether it is Army, Navy, Marines, Air Force, that everybody is on the same page, treating these crimes and trying to prevent these crimes in the same manner to the best of our ability.

Ms. WHITLEY. Yes, sir. I think that was one of the primary reasons for the creation of the office I represent is to get that consistency of excellence across all of the services. At this point all of the services are fully on board with implementing the GAO recommendations and we've started the process.

Mr. PLATTS. So when you say, "are on board with implementing," so at this point there is no refusal to implement recommendations you've made?

Ms. WHITLEY. I'm not aware of any.

Mr. PLATTS. I hope that's accurate and continues to be the case, because this issue needs to be given, I think, the highest priority when we're asking these men and women to go into harm's way in defense of our Nation that we do right by them. Again, thank you for your testimony.

Mr. Chairman, thank you again to you and Ranking Member Shays.

Mr. TIERNEY. Thank you Congressman Platts.

Mr. Shays, you are recognized for 5 minutes.

Mr. SHAYS. No, no, Ms. Harman.

Mr. TIERNEY. Ms. Harman, are you prepared?

Ms. HARMAN. Thank you, Mr. Chairman and ranking member, for letting me participate in this panel again. I appreciated the chance to be here on July 31st, I missed Dr. Whitley; I'm glad she's here today. And I'm very glad that the DOD has corrected a boneheaded decision by Michael Dominguez, the Deputy Under Secretary for Personnel, to block your appearance and counsel you to defy a subpoena of Congress, a huge mistake. And obviously higher levels overrode that decision. I'm happy to see you again.

Dr. Whitley is known to me. I've met with her numbers of times. This issue is a passion of mine. I think that we are in every way failing women in the military if we don't act and take stronger measures. I commend SAPRO for the efforts you're making. However, I believe you don't have the jurisdiction and the clout in the DOD to get the whole job done. And I think that the comments by the GAO are useful, but I don't think that SAPRO will be able to self-correct.

I wanted to let our colleagues know, Mr. Chairman, that yesterday I attended an Army roll-out of a program that I think has enormous promise. It is called the "I Am Strong Campaign." It is described in today's Army Times and it is the brain child of Army Secretary Pete Geren, our former colleague whom I served with on the Armed Services Committee and supported totally by the military side of the Army. George Casey apparently is there today at a 4-day work session to discuss the program.

What the program is intended to do is to create zero tolerance for sexual assault and rape in the Army, which is a million people strong, and to make this program fully effective over 5 years. This is what we need. And it will include massive reorganization of the training programs in the Army so that recruits, both women and

men, and their supervisors understand what the bright red lines are. And it should result in a higher prosecution rate which has been the big problem, at least to me, as one who with you has studied this problem for years. So I want to put out there that part of DOD is moving swiftly and has senior leadership behind the effort. And I want to do everything I can to be helpful.

The other thing I want to mention, Mr. Chairman, is that H. Con. Res. 397, which Mr. Turner and I have introduced, which will again call on DOD to have a real strategy here, is being introduced today in the Senate and it will be offered today on the Senate floor as an amendment to the Defense authorization bill which is pending on the Senate floor. So there is at least hope that Congress in the other body will start to take action, and I hope we will soon too.

My question for Dr. Whitley, if I have time remaining, I can't really see the clock, is what do you know about the "I Am Strong Campaign" and what are your views of it?

Ms. WHITLEY. I think it is an outstanding campaign. The Department—we are also releasing one in the fall that is similar to that's called the "My Strength Campaign." I think it's an outstanding way to get at the young men and women. If you take apart our data, you will see that the largest number of cases are the 18- to 24-year olds. And we are looking at ways to go for that target population and we're working with a group called Men Can Stop Rape. And we're going to take it—look at it from the male side, I am strong, my strength is not for hurting. And the Army campaign is very similar. We will be rolling out one that will work very well with that one in fiscal year 2009, this fall.

Ms. HARMAN. Well, just to comment on that, I am pleased that you are doing that and I was aware that you were taking more action next year. The good news is the Army is taking more action yesterday. And we don't have any days to waste. The stories of the suffering of military women are intolerable. As Pete Geren said, this is immoral, it is repugnant, it is inconsistent with military values. And he feels this is the challenge of our time, identical to the challenge the military had to integrate on the basis of race in the mid-20th century. It succeeded there and it has to succeed now. I hope there will be a lot of progress before 2009.

Thank you, Mr. Chairman, again for letting me participate.

Mr. TIERNEY. Thank you, Ms. Harman.

I will just use the Chair's prerogative for a little editorial note here. Mrs. Maloney was testifying earlier about some 20 years of activity in this area, of insisting on things get going, so let's hope that the Army and Department of Defense is going to step up here and we are not just being given another 5-year program that kicks the can down the road.

Dr. Whitley, were you aware of this program that the Army was doing? Was your office the initiator of that program or what was the relationship?

Ms. WHITLEY. Well, we work very closely with all the services, and last year we held a prevention summit with all of the services. And each of the services are working on their own prevention strategies. The Army got out ahead of the pack and came up with a

wonderful idea. We are working with them as well as the other services and with the "Men Can Stop Rape."

And Ms. Harman, what I mean by next year is October 1st, so fiscal year, so something very similar will be rolling out for all the Department of Defense this fall.

Mr. TIERNEY. Thank you.

Mr. Shays, you are recognized for 5 minutes.

Mr. SHAYS. Thank you, Mr. Chairman, for having this hearing. Ms. Whitley, I am struggling with not that you disobeyed the subpoena, particularly given that you were prepared to testify and you were told you were not to testify, you know, just evidently an hour or so before you were to testify and you actually were in the vehicle. Was there some dialog in the vehicle that led to your—their deciding that you shouldn't testify?

Ms. WHITLEY. No, sir, not really. We pulled up in front of the building and Mr. Dominguez said, "You will not be testifying," and asked me did I understand that he was giving me a direct order.

Mr. SHAYS. And he called it an order.

Ms. WHITLEY. Uh-huh, yes.

Mr. SHAYS. Did he explain to you why?

Ms. WHITLEY. No, sir.

Mr. SHAYS. Did you say "Yes, sir" or did you try to basically ask why?

Ms. WHITLEY. I really didn't have a lot of time. And as an employee of the Department of Defense for almost 18 years, I have always followed orders from my superiors, so I thought that was the best course of action.

Mr. SHAYS. I wrestle with the fact that in our 2006 hearing, June 2006, Mrs. Maloney asked you about the Defense Task Force for Sexual Assault and you said it would be meeting the next month, and it didn't. It didn't meet the month after, it didn't meet the month after that, it didn't meet the month after that, it didn't meet the month after that, didn't meet the month after that, it didn't meet the month after that, did meet the month after that, it didn't meet the month after that. It didn't meet for 731 days. Why?

Ms. WHITLEY. When I testified at that hearing, that was the information that I was given when I came into the hearing, that it would be stood up. That task force is congressionally mandated and it will oversee and evaluate the program for which I am responsible. So I—that's another thing that I was not privy to any of the discussions about the delays in the task force. One of the——

Mr. SHAYS. You know what, you testified under oath that it would be meeting. I would——

Ms. WHITLEY. That's what I was told.

Mr. SHAYS. Well, that's fine, but it didn't.

Ms. WHITLEY. Right.

Mr. SHAYS. And I'm struck by the fact that you had an obligation to make sure that the record would be clarified. Do you know why it didn't meet?

Ms. WHITLEY. My understanding is they had a difficult time getting the right people on the jobs and getting them cleared. I was not—as I said, I was not privy. One of the things that——

Mr. SHAYS. I understand that you—I view you as being in charge of sexual assault in the military.

Ms. WHITLEY. Uh-huh.

Mr. SHAYS. Are you in charge?

Ms. WHITLEY. I am, but the Defense Task Force is similar to the GAO. So I would not have any interaction with the GAO as to when—where they went or how they started their investigation. The Defense Task Force is similar to the GAO in that they will be evaluating the program for which I am responsible. So——

Mr. SHAYS. So let me be clear so I understand. This is a task force that, from your standpoint, is evaluating how you're doing?

Ms. WHITLEY. Yes, sir.

Mr. SHAYS. OK. And so the fact that it wasn't set up to look at what you were doing, your view was, well I'll just keep doing my job?

Ms. WHITLEY. Yes, sir.

Mr. SHAYS. OK. Well, you know, I think it would have been—I would be very conscious, if I was giving testimony before Congress, that if something I said was going to happen didn't happen, that I would make sure that they know that it hadn't happened. I don't know. Was there a point where you ever thought about it, like a year later, my God this thing hasn't met, I said it was going to meet?

Ms. WHITLEY. As I said, I wasn't privy to the discussions about why——

Mr. SHAYS. The problem I'm having is that it sounds like you're weak. It sounds like if you're not privy, then so be it. And we don't want someone weak in this office. We want a change agent. We want someone to shake it up. We want someone to get in trouble. We want someone to have to come to us, to say, "You know what, I'm so aggressive they are going after me," and then we would look to protect you. We don't want you to be passive. It almost has a feeling like you're being abused, ironically, in a different way.

We need to sort out really—the fact that you were ordered not to testify is not only dumb and foolish, it raises huge questions as to why. Did they think you would be too transparent? Did they that you would just speak the truth? Did they think that you wouldn't be persuasive enough?

I can tell you Mr. Dominguez was not persuasive. He came across a bit arrogant, as I saw it, so I think we've got a problem. And unfortunately you're going to have to pay some of the penalty, because you can't be out of the loop, you can't be passive. You need to be aggressive. And I will tell you why. Every time I think of Beth Davis being kicked out of the Academy because, "she had sexual activity in the Academy when she was raped and the person who raped her was allowed to stay," I find it beyond comprehension. She needs someone who will shake things up.

Mr. TIERNEY. Thank you, Mr. Shays. We're going to wind this up with one last round of questions for those that want to. I think Mr. Shays makes an excellent point here, one that we've been sort of subtly trying to convey. And I think his directness is well served here. If you're not privy to whether or not the task force is going to be stood up and you're not out there fighting to get it stood up, understanding how integral it is to this legislation and to your role, then probably you need to find out why you're not doing that part of your job.

If you're not even consulted on whether or not you're going to testify and then have no opinion about whether you testify, and have no conversation with anybody about whether you are going to testify, that raises some serious concerns on that, on how you see your job, but also how they treat this job, the lack of seriousness with which they treat this whole operation. This is evidence I think of the deeper culture problems that we have with the issue itself on this area.

I'm just going to go quickly through. You have reports on the General Accountability Office about problems with the implementation of the programs; they are hindered because the program coordinator position is sometimes seen as a collateral duty. Would you agree with that on some occasions?

Ms. WHITLEY. Absolutely.

Mr. TIERNEY. Well, if you agree with that on some occasions, you would expect you would have done something about it, you would have spoken up about it, you would have gone to your superiors and said this isn't working. If they lack resources dedicated to the program, you would have fought for those programs. If they lacked commander understanding, you would have fought to try to implement something to make sure they understand. If they don't consider it a priority, you would have been fighting to make it a priority. I have a sense that your superiors are just OK with all that. And they are happy to have you there not rattling the saber and just going on for that.

If you're not systematically evaluating the effectiveness of the training that's provided, they seem to be OK with that. You shouldn't be. You shouldn't be. And we shouldn't be 4 years into this operation to find out why this hasn't been done yet. Why haven't you systematically evaluated the effectiveness of the training program to this point in time?

Ms. WHITLEY. It is very difficult to evaluate. I don't think anyone in the civilian world knows how to evaluate the effectiveness of training in sexual assault. We can evaluate the implementation of the training, and we are doing that.

Mr. TIERNEY. Ms. Farrell, do you think that GAO can find a way to do that?

Ms. FARRELL. Our concern about the effectiveness of the training centered from our interviews and the survey respondents that disclosed. They did not understand how to use the restrictive option, although most of the service members we surveyed had taken the training and it ranged, from installation to installation, from at least half to at least 90 percent or less. There was a wide variety that did not understand how to use the restricted option. The problem with that is if they do not understand what the restricted option offers them, they could mistakenly report it to someone else and thus lose their rights to keep that incident confidential and not trigger an investigation.

So our concern about the effectiveness is not related to the numbers that are necessarily being sexually assaulted, but indications from our survey and our one-on-one interviews with 100 service members showed that quite a number of the service members did just not understand the reporting options. That's what we would like to see them focus.

Mr. TIERNEY. So what you did was a systematic evaluation of whether or not the training program was effective, right?

Ms. FARRELL. Yes.

Mr. TIERNEY. So I would expect, Dr. Whitley, that if you don't think you have the resources to do that—and seven people doesn't seem like quite enough to go about that aggressively over that period of time—then it would be your position as the head of this program to fight for that.

Ms. WHITLEY. Uh-huh.

Mr. TIERNEY. To make that recommendation. There is a shortage of mental health providers, the General Accountability Office thought. Do you agree with that?

Ms. WHITLEY. Yes.

Mr. TIERNEY. What have you done about that?

Ms. WHITLEY. Oh, I have met with the OIPT and the senior counsel.

Mr. TIERNEY. Who is the OIPT?

Ms. WHITLEY. It's a group that meets about the Wounded Warrior Program. We made a presentation, as Mr. Braley was discussing, to try to draw a connection or to prove that there is a connection between sexual assault and PTSD, and that early intervention can go a long way to delaying those or minimizing the symptoms of PTSD. And I did that in hopes of getting some funding under Wounded Warrior for the sexual assault program.

Mr. TIERNEY. And that's it—what else? Have you thought about the larger question of just there being a shortage of people in that mental health area?

Ms. WHITLEY. We have met with the director of health affairs and we work very closely with Health Affairs and DOD and we've made them aware of that.

Mr. TIERNEY. Have there been funding recommendations made to Congress that you've initiated for resources?

Ms. WHITLEY. We have just recently put in our POM, as I said earlier for fiscal year 10, we've asked for full funding for our program—for Army, Air Force, Navy, Marine Corps, Guard and Reserve programs.

Mr. TIERNEY. Now where do we stand on your development of a proper framework of setting out clear objectives and milestones, performance measures and criteria for assessing your operation?

Ms. WHITLEY. We have a strategic plan and it is almost completed.

Mr. TIERNEY. Ms. Farrell, have you seen that program yet?

Ms. FARRELL. No, we have not. But I believe they have been working on it since we issued the report. So we would look forward to seeing that, to see if it does contain the elements that we've discussed in the report.

Mr. TIERNEY. Would you share that with Ms. Farrell?

Ms. WHITLEY. Absolutely.

Mr. TIERNEY. Ms. Farrell, will you then give us your assessment when you can?

Ms. FARRELL. Certainly.

Mr. TIERNEY. Thank you. Mrs. Maloney.

Mrs. MALONEY. Thank you very much, Mr. Chairman. I'd like to reference Congressman Shays's comments about recruit Beth

Davis. She was raped, undisputed, and booted out. Yet her rapist stayed and probably got a promotion. We need to reverse this trend and this treatment.

Ms. Farrell, your written testimony indicates that the victims' advocates office and criminal investigation offices in the Defense Department reports incidents of sexual assault differently, which negatively affects the reports provided to Congress and others. I would like to request that you further expand in writing this information and provide it to the committee, because I think it's very important.

Your testimony also mentions the confusion caused by double-listing incidents as restricted and unrestricted. Would you please explain to us how this problem arose and how it affects the Defense Department annual report?

Ms. FARRELL. It goes back to what we were discussing when we began the questions about the different use of terms among the services, and that affects how they report the data which ends up with Congress. The duplication can be from—you mentioned the victims versus the criminal investigators. The victims' advocates report their data based on the number of victims. That's who they see, so that the data is reported by the number of victims. Whereas the criminal investigators in some cases report the number of incidents that could involve multiple victims. So you could have a duplication of incidents, you could have a duplication of victims in that manner. It goes back to the inconsistency in the terminology, and how the data is being collected and the methodology to filter through that and report it to Congress.

Mrs. MALONEY. Well, Ms. Farrell, what would you require from the services or other Defense Department offices to obtain the necessary data? What would you require, what elements would you require? You mentioned it should all be in the same form, but what are the specific elements or actions or incidents that you would require?

Ms. FARRELL. I think this goes back to that strategic framework, what's the goal? A report is not going to do Congress or SAPRO or GAO, add any value to the discussion, unless the goal is clear first of what the office is trying to achieve. And then from that comes what's the data——

Mrs. MALONEY. I believe the goal both from 1988, 1994 and many of the requests from Congress is to create a comprehensive data system that tracks the number of sexual assault to females and males in the military. Whether there was any action to follow-up, whether the rapist got promoted and the woman raped got booted out. This is the type of thing that is reported to us and we want the scientific data to follow that up. So what would you request, knowing that as the goal?

Ms. FARRELL. I don't think that DOD could produce the data that you're talking about. The type of data would be down to the installation level, making sure that everyone is using consistent definitions to report up in terms of incidents that include the number of victims, whether the victim is a service member or a civilian. There's confusion sometimes in that regard of—but it would have to be very specific elements of victims, incidents, where the inci-

dent took place. Consistency of terminology is critical in order to get the type of information that you are requiring.

Mrs. MALONEY. And I would like to ask Ms. Farrell first, and then Dr. Whitley, why has it taken so long? Why can't we set up this data system? Why can't we achieve zero tolerance? I finally agreed with Secretary Rumsfeld when he said zero tolerance. Why haven't we been able to achieve this and why has it taken so long?

Ms. Farrell first, and then Dr. Whitley.

Ms. FARRELL. Well, from GAO's perspective it goes back to what's the goal. And there is not a plan that is result-oriented to get the services to a zero tolerance policy actually implemented that way. There's not clear goals with long-term objective milestones to measure the progress. So that for us, you need a comprehensive integrated framework that would bring all this together with specific actions to measure the progress to reach the goal.

Mrs. MALONEY. Dr. Whitley.

Ms. WHITLEY. And we are going to have that. And in terms of the data base we have met. Because of the GAO report we have pulled all of the legal investigators together and we are working to—all of those process definitions that give us a difficult time in interpreting the data, we are going to standardize those definitions for the DIBERS data base which is the criminal data bases. We also were just awarded moneys from the end-of-the-year funds to start a more comprehensive data base. We are finding as we get more and more reports from the GAO and the Defense Task Force from the academies that we do need a better and more comprehensive way of looking at the data so we can slice and dice it any way and use it for program and policy implications, and we have started that process to get that type of data base.

Mrs. MALONEY. Well, it is almost common sense that you have uniform terminology, that you have this data base. But we've been working on this for well over 20 years. Why has it taken so long? Dr. Whitley?

Ms. WHITLEY. I can just say we have made progress on that in just the last few months in getting those definitions standardized. And each service, they have three different criminal investigative offices.

Also we did not start collecting data aggregately until 2004. So we've only been doing this for the last 3 years. The first year we called up the three service and asked them, How many reports of sexual assault did they have? The second year we were putting the policy in place, they reported the numbers to us and we reported them aggregately and so on. So we have—we do have the money in place for a comprehensive data base at this time and we do have the legal and investigative side of the house on board with standardizing the definitions.

Mrs. MALONEY. My time has expired. Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you, Mrs. Maloney. I want to wind this up by saying I think one of the reasons I suspect that people didn't want you to talk to Dr. Whitley is that they thought that they could be slicker and gloss over what appears to me to be an abject failure of this system to work so far. As a single point of accountability for the Department of Defense sexual assault policy, it isn't

happening. And I think that's something that perhaps your superiors didn't want us to know.

It isn't happening in large part because they don't seem to be putting the kind of seriousness and importance in this issue and its resolution that needs to be put there. And we would hope that in your office you would begin to start purring some pressure upward on this thing if you're not getting the pressure downward. We don't really want GAO to have to do your job. All of these things that GAO has done with things with this department, with this particular office, should have been implementing right along, and it shouldn't take 3 to 4 years to do it.

So your superiors, they have fallen down on the job. You can certainly do better as we have seen here. And even though you're understaffed with seven people and a few contractors or whatever, maybe you should fight for more resources so that you can do all the things that Ms. Farrell and her staff's report indicate ought to be done.

Clearly after 20-odd years, Mrs. Maloney says this is not where we should be. And that's the job of this committee to ask the questions why. I think we have some answers why right now and the principle one is they don't think it's serious enough, they are not taking this seriously at the Department of Defense. And we are going to keep on this issue with oversight and keep measuring this, and with the good offices of General Accountability Office to help us out as our investigatory arm, keep following this until the members of our service can get the feeling that when they in duty to their country, sacrificing their lives and their health, that we're going to be standing there for them to make sure that these types of incidents don't go on.

I know in your heart this is what you want to do also. I know you're a good person. I know you're well qualified, and I know your intentions are there. We need to ask you to steel up a little bit and get ready to push back on that and we'll take care of your superiors on this, including their conduct in instructing you not to testify.

Ms. WHITLEY. Yes, sir.

Mr. TIERNEY. That will not be dropped either. I think you were put in an awful situation on that. You were probably in no position to do something about it yourself. Certainly, believe me, we are.

Ms. Farrell, thank you and your staff. Are your staff members here who helped you with this?

Ms. FARRELL. Yes. Marilyn Wasleski, and Pawnee Davis, and Cheryl Weissman, those that are left from this. They have moved on to other assignments.

Mr. TIERNEY. Our appreciation goes to you and the three ladies with you. Thank you very, very much for your service and the work that you do. We appreciate it. This meeting is adjourned. Thank you.

[Whereupon, at 11:38 a.m., the subcommittee was adjourned.]

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