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SEXUAL ASSAULT IN THE MILITARY: VICTIM SUPPORT AND ADVOCACY

HEARING

BEFORE THE

MILITARY PERSONNEL SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HEARING HELD
JANUARY 28, 2009

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SEXUAL ASSAULT IN THE MILITARY: VICTIM SUPPORT AND ADVOCACY

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
MILITARY PERSONNEL SUBCOMMITTEE,
Washington, DC, Wednesday, January 28, 2009.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 2118, Rayburn House Office Building, Hon. Susan A. Davis (chairwoman of the subcommittee) presiding.

OPENING STATEMENT OF HON. SUSAN A. DAVIS, A REPRESENTATIVE FROM CALIFORNIA, CHAIRWOMAN, MILITARY PERSONNEL SUBCOMMITTEE

Mrs. DAVIS. Good morning, everybody. We are delighted to be here this morning and to have you all here.

Before we get started, I just wanted to introduce the members of the Personnel Subcommittee. This is our first meeting, and we wanted to give you a chance to get to know them.

I am Susan Davis. I represent the area of San Diego, California. And our next ranking member is Dr. Vic Snyder. Vic is from Arkansas; Loretta Sanchez from California; Madeleine Bordallo from Guam; Carol Shea-Porter from New Hampshire; Dave Loebsack from Iowa; and Niki Tsongas from Massachusetts.

And Joe Wilson, who is the ranking chair on the committee, will introduce the Republican members.

Mr. WILSON. Thank you, Madam Chairwoman. And it is an honor to be here with you, and I look forward to working with you on behalf of the soldiers and sailors and Marines and airmen in our military, the men and women who, indeed, make it possible for us to have the freedoms that we enjoy.

I am grateful to be here with fellow members. With me is Congressman Walter Jones of North Carolina. Congressman Jones has very extensive military facilities in his district. Tom Rooney is our rookie freshman. We are very grateful to have him on board. Mary Fallin, the former Lieutenant Governor of Oklahoma; I want to thank her for her impending service on this committee. And we have a visitor who is here today, Mike Turner. Mike is the former mayor of Dayton, Ohio.

And I would like to point out that I am very grateful that I represent the Second District of South Carolina, which includes Fort Jackson, it includes Parris Island, the Beaufort Marine Air Station, also the Beaufort Naval Hospital. But I have to tell you that my greatest appreciation is that I have four sons serving in the military, so I appreciate seeing these uniforms in front of us today.

Thank you very much.

Mrs. DAVIS. Thank you.

And I also wanted to ask unanimous consent—we will have a few members joining us. So I wanted to ask unanimous consent then for the non-committee members who are participating, they will also be asking questions. Without objection? Hearing none, okay, thank you.

Today's hearing will be the first of a series of hearings the subcommittee will hold this year looking at sexual assault in the military. Sexual assault is a complex problem, where most, if not all, aspects are interrelated. Such a topic does not lend itself to a single hearing. So, as a result, we have chosen to hold multiple hearings on discrete topics so that the members and witnesses can have in-depth discussions about various issues to build towards a comprehensive understanding of the problem. This will help guide our deliberations on what can and should be done next.

Today we will be focusing on victim advocacy and support. Our next hearing will look at current and planned Department of Defense (DOD) programs to prevent sexual assault. I would like to say that we are encouraged by the level of commitment, resources, and expertise that the services are applying to prevention programs to educate service members and change cultural norms. And, finally, we will hold a hearing to examine how sexual assaults are prosecuted by the military.

No one can deny our responsibility to ensure that victims of a sexual assault receive all the support that can be provided following an attack. The Department of Defense has made significant improvements in recent years to the depth and breadth of services available after an assault since the implementation of a new policy in 2005. But the question we need to ask is, has enough been done? What more can be done?

This hearing will look at how the Department of Defense currently handles victim advocacy. We are very fortunate to have an impressive first panel. These are individuals who deal with the very real needs of victims of sexual assault.

Our first witness is Laura Watterson. In 2001, Laura was an airman on active duty when she was assaulted by a fellow service member. She will tell her story of what she had to endure, usually by herself, after the assault.

Laura, we thank you very much for your willingness to share your experience with us. We are humbled by your courage that you have displayed by coming forward. We know it is not easy, and many victims do not feel comfortable doing that. Thank you.

Next, we have three witnesses from the services. These are not policy wonks. These are people who have helped individual victims in the aftermath of an assault. I would like to thank the services for dispensing with their usual policies and procedures regarding rank and vetting to make these service members available to the subcommittee. Their participation—your participation—will add greatly to our understanding of what victim advocates do on a daily basis and what resources they need to do even more.

Captain Daniel Katka is a sexual assault response coordinator, or SARC, from the Air Force. He has worked as a SARC both in the United States and while deployed overseas, for both operational and training units.

Sergeant First Class Horwath has served as both a unit victim advocate and as a SARC in the Army, both here and while deployed. While serving in Iraq, he found himself performing the duties of both the SARC and as the first responding unit victim advocate.

And Chief Petty Officer (CPO) Tonya McKennie has served as a sexual assault victim intervention advocate for the Navy, both in the United States and while deployed.

Again, thank you all for being part of this hearing.

Our second panel will include two witnesses from the Department of Defense's Sexual Assault Prevention and Response Office (SAPRO), Dr. Kaye Whitley and Ms. Teresa Scalzo, as well as Robert Coombs, the public affairs director of the California Coalition Against Sexual Assault (CALCASA). And I will make more introductions later.

I want to reiterate that the purpose of this hearing is to focus on victim advocacy and support. Other issues will of course come up, but I would like to save in-depth discussions on prevention programs and prosecution for our later hearings, so that we can give each of the topics the attention and the discussion that they deserve.

Mr. Wilson, would you like to have a few words?

[The prepared statement of Mrs. Davis can be found in the Appendix on page 57.]

STATEMENT OF HON. JOE WILSON, A REPRESENTATIVE FROM SOUTH CAROLINA, RANKING MEMBER, MILITARY PERSONNEL SUBCOMMITTEE

Mr. WILSON. Thank you, Chairwoman Davis.

And, as we have begun, we have been joined by another subcommittee member, Congressman John Kline of Minnesota. Congressman Kline is retired, but of course he still is a Marine colonel, and very proud of it, as you can tell from his pin.

Today's hearing continues the work this subcommittee started several years ago to address the problem of sexual assault within the military. We began our efforts during Chairman John McHugh's tenure in response to increased reports of sexual assault at our military academies. In 2004, we required the Department of Defense to establish a task force to examine sexual harassment and violence in the United States Military Academy and the United States Naval Academy. We also asked for an assessment of the effectiveness of the corrective actions taken to address sexual harassment at the United States Air Force Academy.

We followed these initial steps by expanding the mission of the Task Force on Sexual Harassment and Violence at the military service academies to include all of our Armed Forces. We then focused attention on strategies to improve the Pentagon's response to sexual assault. As a result, we required the Department of Defense to implement a comprehensive policy for the prevention of and response to sexual assaults involving members of the Armed Forces.

In response to concerns we received from the field over the length of time it took to process forensic evidence, we required DOD to eliminate the backlog of the processing of forensic evidence collection kits and ensure that an adequate supply of rape kits are

available for all military installations. We also made sure that military personnel who use forensic evidence collection kits receive training to ensure evidence is collected properly.

Finally, working with the Congresswoman from California, Ms. Loretta Sanchez, we took an unprecedented and bold step to reform the Uniform Code of Military Justice (UCMJ) to establish a comprehensive and modern sexual assault law based on other federal laws and regulations that effectively addressed sexual assault.

These legislative actions point to this committee's consistent, thoughtful, and aggressive approach to addressing the issue of sexual assault in the military. Throughout this process, we have looked to the experts to help us find the right solutions, and we have worked with the Department of Defense to put in place policies that address both prevention and support for victims of this devastating crime. This has not been an easy task, but our commitment to protecting the health and welfare of our service members is unwavering.

To that end, it is my understanding that the purpose of today's hearing is to focus on the support provided by the military to victims of sexual assault and to assess whether DOD's programs meet the needs of the victims or not.

I sincerely appreciate the willingness of Ms. Watterson, who was a victim of sexual assault, to testify today. Although your experience took place prior to DOD's new, comprehensive policy, I hope you can give us your assessment of whether the current policies and programs would have helped you and where there still may be gaps.

I continue to hear in media reports and from various individual assertions that this system isn't working well enough. I look forward to the views of the members of the second panel. How do you measure the program's success? Where does the system fall short? Have you identified areas that need improvement? How can we help?

I hope that our discussions today will be informative and productive. My purpose today is to continue the dialogue towards improving the support services and care available for military victims of sexual assault.

With that, I would like to welcome our witnesses and thank them for participating in the hearing today. I look forward to your testimony.

[The prepared statement of Mr. Wilson can be found in the Appendix on page 59.]

Mrs. DAVIS. Thank you very much, Mr. Wilson.

And I want to mention that we have been joined by Mr. Patrick Murphy of Pennsylvania, who was part of the committee last year, has an esteemed military career, and also Ms. Jane Harman of California, who has been very passionate and interested in this issue. Thank you.

And now, Ms. Laura Watterson, would you please start? Again, welcome. We are delighted that you are here.

STATEMENT OF LAURA WATTERSON, FORMER AIRMAN, U.S. AIR FORCE

Ms. WATTERSON. Thanks.

I will just start off—this is very difficult. I don't usually come out of my bedroom, so coming all the way to the District of Columbia (DC) is a little—well, freaking me out. But, however, comfortable I may be, I think it is more important that I be here instead of worrying about my own problems, because this really needs to be done.

Mrs. DAVIS. If you could just get a little closer to the mike, that would be very helpful.

Ms. WATTERSON. Is that good?

Mrs. DAVIS. That is better.

Ms. WATTERSON. When I entered the Air Force, I seriously considered making it a career for myself. I wanted to travel, and I wanted to have a stable life and career. After I was assaulted, I no longer trusted anyone on base, and my career was no longer an option for me.

Because of my Military Sexual Trauma (MST) and Post-Traumatic Stress Disorder (PTSD) that resulted from it, I was forced to move in with my mother at the age of 30, because I could not take care of myself, keep a job, or feel safe outside, even in my own apartment. I lived on cereal and microwaveable dinners so I did not end up causing a fire because I forgot that I was cooking something.

I was so depressed that I actually quit smoking, because the task of actually picking up a cigarette and lighting it was just too much. Of course my doctors were happy about that. But I had crying fits that were so powerful I could not even get my head off of wherever it landed because of exhaustion. One time my head landed in my shoe. And it would leave me hoarse for three days, from crying so hard.

I have gained over 60 pounds, and I would go into violent rages. One time I ransacked the house to find every present I had ever given my mother, smashed them to bits, and dumped them on her bed. I would swear at her and throw things at her, as if I had Tourette syndrome. Any attempt at communication with me, I would just flip her off.

This behavior was—I had never treated my mother like this before. I didn't understand why this was happening, and it ruined my self-esteem that much further.

I have missed most family functions since being in the Air Force because I am unable to be around many people, especially people who are asking a lot of personal questions, like, oh, how is life, what are you up to, what are you doing? I mean, yeah, that kind of brings the family celebration down a little.

It has been only recently that I would even leave my bedroom. I used to have very good credit, and I was proud of that. Because of not being about to pay my bills because I couldn't keep a job—just recently I had an attempt to have my wages garnished.

I was too afraid to wear anything at all inviting, i.e., I would wear men's clothing, usually in all black in several sizes too big. I didn't want anyone to find me approachable. I am afraid of being assaulted again. I used to have my hair and makeup and nails matched every day, no matter what I was wearing, for years. Now, with the exception of today, I would only wear ChapStick and stick

my hair up in a bun. I rarely, if ever, even painted my nails. I don't have the energy to look good, due to depression.

I have had meltdowns in the supermarket because if I saw someone, especially if it was a man, I knew they were stalking me, and I would run from the grocery store.

My marriage to a man who I am still friends with ended due to my PTSD symptoms. I didn't realize why I was acting the way I was, and neither did he. Nonetheless, it ruined our marriage. That is probably the hardest part.

Excuse me.

I began therapy at the Veterans Affairs (VA) because I had lost everything as a result. I began to see patterns and realized that I needed to get my life back. I realized that there are many other people who need to be helped to get back on track, as well. And that is also why I am a victim advocate myself, out of my bedroom and out of my own pocket.

Part of my wellness is testifying today, forcing me to get out and do things that are challenging because they are more important. I will leave here today, but hopefully my message will not leave.

If I had a caring SARC representative, I believe that I would not have ended up in the mess that I have ended up in. I was never given a representative. When I called to have some assistance, no one came. It got to the point that I called the 15th Air Force commander, who was in charge of the entire western half of the United States and whose name was also in all of the sexual assault booklets and leaflets. And, since basic training, we had all been taught the same thing. I trusted in that.

I also trusted because I had friends, before I went in, "Aren't you afraid of the sexual harassment, like the whole Tailhook thing?" I was like, "No. With all this media, why would they—you know, they must be really careful about it now."

The 15th Air Force commander said, "Well, why don't you just keep it on base and have them take care of it?" They wouldn't. I reported it, as I was supposed to, to my supervisor, as well as his. They said it would be taken care of, and I trusted that.

Two weeks later, I was at work, and everyone was asked to stand up because there was going to be a pinning-on ceremony. That pinning-on ceremony was for the man who assaulted me to now outrank me and become a supervisor. He was rewarded. This is when I got very angry.

After fighting and calling everyone I could possibly think of, my commander finally called me into his office, with my supervisor here, the guy who assaulted me, my chair, and then his supervisor. So I was not even close to my supervisor or the one who should be protecting me or making me feel safe.

I was told by my commander that I need to understand that different people have different personal bubbles. For example, when you go to England, sometimes when you meet people over there and you shake their hand, they like to hold onto your hand while they are speaking, and, as Americans, because we don't do that, it is uncomfortable for us. And that is how he told me that I needed to get over what had happened.

That is when I began—I started drinking obscene amounts. Again, not knowing anything about PTSD, I started yelling at my

husband over the stupidest things and having absolute fits of rage. And, again, this is not me.

After this meeting I had with my commander, my SARC, or whatever he was called at the time, offered me therapy. I asked if it was going to be from someone on base or if it was going to be civilian. He told me it was going to be from someone on base. And from the treatment that I had gotten so far to try and help me, there was no way I was going to trust another military member to tell them how I felt and what was going on. So when I refused help, they had me sign a waiver saying that, because I refused treatment, I was not going to be eligible for any VA treatment or benefits. I, of course, did not realize that that was a load of malarky until several years later when I had to go to the VA because I couldn't handle my own life.

I was also told that punishment of my perpetrator was not my business. I think that is—I don't know for sure what the real rule is about that now, but it is definitely my business, because I trusted them in the first place to take care of it. And promoting him two weeks later is not fixing it.

All of the evidence that had been in my files about this was sanitized. This is a normal and way-too-often thing that happens with files, that things that are important that would have something to do with a claim are taken out of your files. So when you request them, over half of your file is no longer there. So trying to fight the VA to get benefits is next to impossible, because there is no proof anymore. Even if you reported it to the on-base police, even if you reported it to, like, anybody who would listen, like I did—nothing. This, again, makes us trust the government even less.

I would be afraid. Even when the phone rang, that could make me cry. A few months ago I was at a friend's house and her washing machine turned on, and I had a panic attack from that. I don't know why. I have panic attacks all the time for the oddest reasons, I am sure. As I get further in my treatment, I will figure out why certain things trigger me.

I believe that there are some good SARCs but not enough. The SARCs need to be on top of their game. A victim is not going to seek out help. They are going to do what I did; they are going to stay in their room and drink. They are not going to trust anybody else to go help them.

I also believe that a SARC should not be a dependent of a military member, because the way that they would run their case may be far too influenced on their fear that, if they go against the way the command is saying things should be done, that it could be detrimental to their spouse's career.

Excuse me just a second.

The SARC also needs to be able to have complete confidentiality. The things that a victim says and does with their SARC needs to be completely confidential. It was maybe a month or two ago that a victim's SARC was subpoenaed to testify against their own victim. And, of course, they had no choice. Just like you are doing now, let the MST victims be involved in the training of SARC personnel. They know how it feels. They know what needs to be changed.

And commanders also need to be accountable, when it comes to the rapist. We have plenty of rules that are not worth the paper that they are printed on. For example, if somebody has done a sexual assault, it is supposed to stay in their record. They are supposed to sign up as—I am sorry, I am blanking out the name, but whatever the civilian thing is that a sex offender has to register under, that is a rule. I have very little—in fact, I don't think I have ever seen that done, now that I am even do advocacy work for people that are still in. The next base they go to, that file does not follow them, so the next command does not know that they have done it. They are put in the same situation, and they know that they can get away with it.

I do not believe a lot of the rumors and the little two-bit ideas that most people have about, "Well, it is the alcohol. Well, then maybe women shouldn't be in the military. Well, well, well." I believe it is due to the consistent and rewarded attitudes of misogyny, thinking that women and also men—there are plenty of men who have been sexually assaulted that I have worked with as well. They need to be able to be safe, feel like they have been taken care of. And when you find out that a person who has sexually assaulted you, did it at the last base, where is the safety?

I felt like I was entering the band of brothers as their sister. I was then an outcast, alone and challenged on everything I did.

There is also the Troops to Teachers Act. So a person who has sexually assaulted a member, when they get out of the Air Force or Coast Guard, whatever, so they get to go be Troops to Teachers, and their file does not follow them because they have not registered as a sex offender. So they get to be in schools with children as a sex offender.

More often than not, the reason—is that for me?

Mrs. DAVIS. No, keep going.

Ms. WATTERSON. Oh, okay. I am like, "Am I talking too long?"

Mrs. DAVIS. If you can try and summarize, that would be helpful, because we will talk to the other witnesses, and we may have a vote coming up as well.

Ms. WATTERSON. Oh, okay, sorry.

Mrs. DAVIS. But that is all right. We really are anxious to hear all that you have to say. Go ahead.

Ms. WATTERSON. Okay. I will quit for now then and let somebody else speak. I will answer any questions you guys have.

Mrs. DAVIS. All right. Thank you so much for your presentation. We will have some questions. And I think also what we want to do is have a chance to really engage together to understand what is different today, what of that that is different works and what of that doesn't. How you can add to that discussion, we will be very happy to hear about that. Thank you again.

Captain Katka, if you and the other witness want to introduce yourselves and tell us a little bit about your experience with the sexual assault program, that would be very helpful. I understand that you don't have a long testimony but that you would just like to let us know where you fit into all these pieces.

STATEMENT OF CAPT. DANIEL KATKA, SEXUAL ASSAULT RESPONSE COORDINATOR, U.S. AIR FORCE

Captain KATKA. Yes, ma'am, thank you.

Good morning. And thank you, Chairwoman Davis and subcommittee members, for your interest in the issue of sexual assault. My name is, as stated, Captain Daniel Katka, and I am stationed at Lackland Air Force Base, San Antonio, Texas, where I am honored to have the opportunity to be a sexual assault response coordinator.

I have had the privilege to be in the Air Force for 20 years now. I enlisted in 1988 and commissioned in 2002. I have served as a squadron section commander for large units, as a military training flight commander for over 1,500 personnel. And, in those duties, I dealt with numerous personnel issues, to include sexual assault. Those experiences led to my desire to become directly involved in the care and advocacy of sexual assault survivors, for courageous people like Ms. Watterson.

Thank you for sharing.

In 2007, I was honored to be chosen as one of Lackland's two SARCs. Supporting Lackland's sexual assault survivors is my top priority. Air Force SARCs report directly to the installation vice wing commander. And reporting to the vice wing commander ensures top-level support and immediate access when needed.

I also work directly with the Sexual Assault Response Team, or the SART, comprised of first responders from the chaplaincy, investigators, the Judge Advocate General (JAG), and the medical communities. The SART team meets monthly to review cases and discuss ways to improve response procedures.

I recruit, screen, train, and supervise 70 victim advocates who are military and DOD civilian volunteers. Air Force victim advocates receive 40 hours of training to provide immediate and ongoing survivor support. Victim advocates and SART members are trained to understand restricted and unrestricted reporting options.

The local San Antonio civilian community is also involved in supporting Lackland survivors. The local rape crisis center works with our survivors who prefer to receive one-on-one or group counseling off-base. We also have an outstanding partnership with a local civilian hospital for survivors who desire a sexual assault forensic exam. When utilizing the rape crisis center or the local hospital, survivors' restricted reporting option is still protected.

The majority of the reports made at Lackland are from trainees, which encompasses the Air Force's youngest demographic. Training is essential to informing Lackland's nearly 50,0000 personnel about sexual assault. Lackland is the Air Force's largest training base, with the only Air Force basic military training center and numerous technical training schools. Every basic trainee receives a four-hour sexual assault awareness class. Airmen are presented an additional two-hour follow-on class during the introductory week of their technical school.

To ensure our permanent personnel receive necessary sexual assault training, Lackland has over 200 sexual assault prevention and outreach representatives who conduct briefings and distribute awareness products.

The annual Sexual Assault Awareness Month also presents an opportunity to educate the base. We have had numerous activities to heighten awareness—base walks and runs targeting the younger population; leadership luncheons; Take Back the Night vigils; banner campaigns at base entrances; and strategically placed information booths at highly frequented locations, such as the Base Exchange.

The experiences I have had at Lackland prepared me for the SARC mission abroad, as well. One of the most rewarding opportunities I had was to deploy as a SARC in support of Operations Iraqi and Enduring Freedom at Al Udeid Air Base in Qatar. Most Air Force SARCs are DOD civilians, but, to ensure contingency and deployment capability, 30 are military members.

In the area of responsibility (AOR), it is vital to have a robust sexual assault training and awareness program to ensure all know, regardless of military branch, that the SARC is there to support them. With strong base leadership support, I provided Sexual Assault Prevention and Response (SAPR) information at weekly in-processing briefing, reinvigorated monthly case review meetings, trained new SART members, and started new awareness campaigns using base organizations such as the Airman's Group, First Sergeants Association, and the Desert Chiefs Group. I also supported Al Udeid's geographically separated unit, Eskan Village in Saudi Arabia.

It is a profound privilege for me to be here today, Chairwoman Davis. And it is very important that we have these kinds of hearings, to keep our most important resource in the forefront of our minds, and that is our human resource. Thank you very much.

[The prepared statement of Captain Katka can be found in the Appendix on page 61.]

Mrs. DAVIS. Thank you very much, Captain.

And if we can, as quickly as possible because we do have a vote on and we want to hear from both of you quickly. And then we will come back and have the questions.

STATEMENT OF SGT. FIRST CLASS MICHAEL HORWATH, SEXUAL ASSAULT RESPONSE COORDINATOR AND VICTIM ADVOCATE, U.S. ARMY

Sergeant HORWATH. Good morning, Chairwoman Davis, Congressman Wilson, subcommittee members. I am Sergeant First Class Michael Horwath. I have been in the Army for 22 years, currently assigned to Fort Hood, Texas, with the Fourth Infantry Division, Fourth Combat Aviation Brigade.

I have been working with the sexual assault program with the Army since 2004, after graduating from the Defense Equal Opportunity Management Institute, and I have been assigned to Fort Hood as an equal opportunity advisor. At that time, the program manager had mandated that all the equal opportunity advisors would become a part of this program, either as a victim advocate or a sexual assault response coordinator. Having had close ties to a victim of sexual assault and having a teenage daughter at the time, I was more than happy to step up and become a part of this community.

We spent most of 2004 coming up with programs to push awareness to the soldiers. We were using a draft copy of the Army Regulation 600–20, Chapter 8, Army Command Guidance. We pushed that as hard as we could, got the soldiers aware of the program. We did a lot of sexual assault surveys to find out what the awareness levels of the soldiers were.

In 2005, I deployed to Camp Taji, Iraq, where I was assigned as the camp's sexual assault response coordinator. I was responsible for 4 brigades, 52 tenant agencies. It was double duty for me because most of the tenant agencies didn't have victim advocates, so I was required to respond to as their victim advocate. I was also required to respond for any sexual assault on camp that was reported to an alternate agency.

Upon redeployment back to Fort Hood in November of 2006, I started working hand in hand with the contracted civilian Sexual Assault Response Team. I would fill in for them when they needed SARC help, I would fill in for them when they needed trainers, and I would work with them as a liaison between the military commands and themselves.

In 2007, I was selected as a first sergeant to go be redeployed to Camp Taji, Iraq; continued my collateral duty as a SARC while I was over there this last time; returned in November of this year and have continued working hand in hand with the civilian team that works the Fort Hood sexual assault response since then.

I have a 21-year-old daughter and a 19-year-old son, both who are active-duty Army, both deployed right now. And I am comforted and confident that this program is there for them; that, if something as traumatic as a sexual assault was ever to happen in their life, that this program that I have been a part of for the last four years would be there to see them through, to help them overcome the trauma that would take place in their life and get them back to their day-to-day business of being soldiers.

I want to thank you all for allowing me to be here today to share my observations of how this program has evolved and grown over the past four years. I am extremely proud of the contributions I have been able to make with it, and I think it will just continue to become a better and better thing to make soldiers' lives easier when something as horrible as this happens.

Mrs. DAVIS. Thank you very much.

And, Chief McKennie, we will come back to you, of course, after we come back, but if you could give us a brief introduction, that would be great.

STATEMENT OF CHIEF PETTY OFFICER TONYA D. MCKENNIE, VICTIM ADVOCATE, U.S. NAVY

Chief Petty Officer MCKENNIE. Good morning, Chairwoman Davis, Ranking Member Wilson, and distinguished members of the Military Personnel Subcommittee.

I am Navy Chief Petty Officer Tonya McKennie. I enlisted in the Navy in 1988, and my rating is aviation electronics technician. I am qualified as both an air warfare and surface warfare specialist. And I am also married to a Navy chief, and we reside with our son, Jeffrey Devonte, in Chula Vista, California.

I currently serve as my command's training legal chief petty officer for Fleet Logistics Support Squadron 30 at Naval Air Station North Island, California. I also serve as the command's sexual assault victim intervention advocate. The program that we use in the Navy is called SAVI. It is spelled S-A-V-I, and it stands for Sexual Assault Victim Intervention.

Throughout my 20-year Navy career, I have been assigned at several duty stations, ranging from Florida; Maine; California; Japan; Guantanamo Bay, Cuba; and I have deployed to Italy with a U.S. Naval Patrol Squadron (VP), VP–11. My sea duty assignments include Persian Gulf deployments onboard the USS *Kitty Hawk* and USS *Carl Vinson*. In 2004, I reported to the USS *Ronald Reagan,* where I not only served as a production control maintenance chief for 350 technicians but also a sexual assault victim intervention advocate.

After two successful deployments during Iraqi Freedom and Enduring Freedom aboard the Ronald Reagan, I reported to my current command. And I must say that, as I have continued to work with SAVI, it has been one of the most rewarding aspects of my Navy career. My work as a victim advocate has been absolutely awesome, and I plan to continue this as long as I can.

I thank you for the opportunity to share my experiences with you today, and I look forward to your questions.

Mrs. DAVIS. Thank you very much. I appreciate all of you being here.

We will return in probably about—we just have one vote, so within 10 minutes.

Thank you very much.

[Recess.]

Mrs. DAVIS. I want to thank you all for being here. We are going to go on the clock, essentially.

The members, we have five minutes to ask a question and also to hear from you, and if possible, we may have an opportunity to get into some exchange really. And I would invite you all to chime in when you think it is appropriate.

Ms. Watterson, clearly the system did not keep you safe. And I know that you believe it doesn't keep other members of the military safe today either.

But the time that we are talking about was prior to some new policies that had been in place and with the work that you have done in your advocacy. I wonder if you could speak to a few instances, perhaps, where you think the system today would have served you better. And in those cases when you don't think anything that has been done would really have made a difference—I think you alluded to some of that in your testimony—but if you could go back and talk to us a little bit about that, that would be very helpful.

Ms. WATTERSON. Well, one big thing is the confidentiality so that the victims do feel safe and able to tell them that, you know, "I have insomnia, I am," you know, "throwing up all the time, I am drinking a bottle of Jack Daniels a night." You know, all of that kind of stuff. They need to be able to feel safe that they can tell someone about that so they can go get treatment.

And in my experience with working with active duty and also working with veterans recently, there is a big problem with many, many, many bases and commanders who have tried to brush off what the mandates and the laws are that have already been put in place.

There is one commander, for example, who treated me like I was an absolute idiot. He was completely cocky about the whole thing. And I read off the mandates, like, this is what you should be doing for your troops and you are not doing it at all. And you are allowing other people—for example, I had one that was a male victim of MST and they were not protecting him as well. They were allowing people to walk by him and call him a fag, they were allowing people to beat him up because they were saying that he was a fag. He was being administered psychiatric drugs by his peers and not a medical professional. It was his peers. And he was still in training. He hadn't got—it wasn't basic training but the training for his job; that was where he was.

And it was—it was disgusting and it has been—I have had to call the Inspector General (IG), and I asked these troops and things like, "Have you talked to your IG yet"?

"What is an IG?"

"Well, have you talked to your SARC yet?"

"I don't think so."

And a lot of the SARCs, they have the initial meet and "how are you doing" and "da, da, da" and that is it. They don't call to check up and see how you are doing and let us make sure you get into the hospital and make sure your meds are correct. Basically to take care of them, make them feel like they have someone, because most of them, their families are very far away. And especially in training they probably don't have any friends either.

But that is a large thing.

The SARC needs to be able to have enough power to fight the commander when the commanders are ignoring and basically mocking the system that has supposedly been put in place. That is a huge, huge problem.

Mrs. DAVIS. I would actually like to turn to our folks here as well and see.

Could you respond and help us with that as well because I think there is a big question of whether the SARC comes to a commander and says, Listen, we have got a problem here and nothing happens.

What kind of authority do you have to follow up?

Captain KATKA. Yes, ma'am. We report directly. At my base we report directly, and in the Air Force, to the vice wing commander, essentially the second on the base, which helps tremendously by the way.

And so we are able to kind of go and interact with commanders, of course not tell them what they must do, but recommend highly with the vice—their understanding that the vice wing commander is who we report to. So it helps us tremendously in advocating for the survivor and whatever her or his needs are.

Sergeant HORWATH. We are very similar, ma'am. We do a monthly sexual assault review board, and we report everything that goes on, that is involved in the program, goes to the senior movement commander at whatever installation we happen to be on. For me,

that happens to be the division commander, and it is reported up through there. And if there were any instances of anything like that going on, it would immediately come down. There is a lot of focus on command emphasis right now.

Mrs. DAVIS. Quickly—I am out of time—I just want to get your response quickly.

Chief Petty Officer MCKENNIE. Well, the Navy where I am affiliated in San Diego, all of our SARCs are civilian personnel so they are not normally subject to military intimidation and have free rein and have a lot of leeway in being able to deal with any commanding officers and any military personnel. So in my experience, we do not have that problem.

Mrs. DAVIS. I think we will want to follow up with that a little bit more and see how we might be able to hold them accountable in a career sense as well.

Thank you.

Mr. Wilson.

Mr. WILSON. Thank you, Madam Chairwoman, and thank you all for your service and past service.

Chief Petty Officer McKennie, I understand that the option for restricted reporting for sexual assault may be encouraging victims to come forward who in the past have been reluctant to report. From your experience, do victims often change from a restricted to an unrestricted report, and what factors would enter in?

Chief Petty Officer MCKENNIE. Ranking Member Wilson, sir, I have not had any experience in dealing with any of the victims that did desire a restricted report. However, for some individuals who come out of restricted series to unrestricted series, they have a year to decide by policy to come from restricted to unrestricted, and any evidence that had been gathered for them on their behalf during that time would be available, sir.

Mr. WILSON. And again, thank you for your personal service. It was very inspiring.

Sergeant Horwath, please walk us through how a victim advocate and a Sexual Assault Response Coordinator provides assistance to a victim once a victim requests help.

Sergeant HORWATH. Sir, once we receive the initial report, it will come up to the Sexual Assault Response Coordinator. We immediately take the victim, and if they need immediate medical attention, we take them to the medical care provider. Once we get them there, the victim advocates will show up.

We work it so that the victim advocate in the Army, at least, in my brigade and the division, we ensure that the victim advocate is not from the same battalion as the victim in case they do want to go restricted. Once we have got them through the portion where they would make their choices of whether they want to continue on with it and do a forensic exam and so on, then it is a matter of the victim advocate is there to be that person's go-to, the victim's go-to person. We ensure that they go to their appointments. We ensure that they have a battle buddy to get them where they need to be, and from there it is just a matter of ensuring that they get counseling and the treatment that they need. And we stay with them through it until they come to us and ask us to no longer participate.

Mr. WILSON. And the person knows how to access you and the team?

Sergeant HORWATH. In a deployed environment, we make a point of doing large campaigns. We will put up posters with the sexual assault response team's photos on it; it will have the SARC; it will have all of the victim advocates. We put them up in the dining facilities. We put them up in the laundry area. They are basically all over the camp so the folks know how to get to us if they need to.

Mr. WILSON. Thank you very much. And Captain Katka, you were deployed as a sexual response coordinator. How did you ensure that the victim advocates available were trained in your AOR?

Captain KATKA. Yes, sir. In the Air Force, if you go through victim advocacy training, you receive what is called a special experience identifier in your personnel record, or better known as SEI. So when a deployed person goes overseas or SARC goes overseas, they can run—they can request that a personnel record is run on the people on the base, and those who have had that special experience identifier in their record will be noted, and then that SARC will know that person is a trained victim advocate.

Additionally, when a SARC goes into the AOR—or at least in my experience, I also put a bulletin to the base: If there are any experienced victim advocates here, trained victim advocates, please come see me if you would like to serve, if for some reason if their experience identified didn't get updated in the system.

Mr. WILSON. As a former JAG officer, myself, in the National Guard for 31 years, I am impressed with the ability to have restricted and unrestricted reports. How do you find that system working?

Captain KATKA. It is working fantastic, in my opinion. Last fiscal year 2008 we received 43 percent, in Lackland now, not in the AOR. I had 43 percent of our cases were restricted reporting cases. In the AOR, I had eight cases in four months, and three of those were restricted. It worked fantastic to be able to speak to a survivor and say, "You think about what you would like to do," and he or she—it brought them solace.

Mr. WILSON. I think it is very impressive to protect the privacy of individuals, and so I want to commend you on your helping to promote the policy and educate and inform the personnel of the availability. So again, I am very grateful.

And respecting the chairwoman's five-minute strict rule, I yield back.

Mrs. DAVIS. Thank you.

Dr. Snyder.

Dr. SNYDER. Thank you, Mrs. Davis.

Ms. Watterson, I missed the year, the date of the incident that led to all of the problems that you have had, that you described for us today.

Ms. WATTERSON. What was the last part you said?

Dr. SNYDER. I missed the date of the incident that led to the discussion that you gave us. What was the year or date of the assault?

Ms. WATTERSON. Oh, of my assault? I just remember it was in 2001. And I only remember that because it happened before September 11th. It was a good year.

Dr. SNYDER. Sergeant First Class Horwath, you mentioned Taji, and it has been several years since I have been there, but it is a bit like a boomtown, all kinds of personnel coming through, multiple services, even different nationalities of services, lots of private contractors, civilian local workers.

How does this system work in that kind of environment?

Sergeant HORWATH. The system, as for how well it works, it works fantastic. The process of the system is the report comes in, goes to the Sexual Assault Response Coordinator, is delegated down to a victim advocate for the advocacy portion. The SARC would then report up to the next level, which for me at Taji would have been Multinational Division Baghdad and then goes to Multinational Forces Iraq where it is put into the database.

Dr. SNYDER. Can an Air Force personnel end up with an Army advocate?

Sergeant HORWATH. It is possible, sir. I would not turn anyone down for advocacy. I advocated for civilians, military, male, female, contractors.

Dr. SNYDER. Tell me about the contractors. How did that work?

Sergeant HORWATH. With the contractors, the way we worked—and this is from my personal experience—was we gave them advocacy service, got them to the counselors because they fall under the program for all medical and processing while they are over there.

Dr. SNYDER. So if something happened to them at Taji, and so they come and see you or one of——

Sergeant HORWATH. Yes, sir. They will come to us. We were fortunate in that the agency they were contracted to also had a program internally. So we achieved the advocacy portion for the victim, and then the contractor processed it once the victim was comfortable with going back.

Dr. SNYDER. Have you ever been aware of situations where a higher ranking officer than the three of you sent down word of—to change your normal kind of process or procedure with regard to a specific individual who makes an allegation of sexual assault?

Sergeant HORWATH. No, sir. I am not.

Dr. SNYDER. Does your system, as it is working now, which you think is working very well, does it have those kinds of protections in it if you have got—does somebody have the ability to order you to back off?

Sergeant HORWATH. Starting at the division up to the core, at each echelon there is a program manager. If I felt I was being pressured in any way by a senior level commander, I would go to the program manager, and it would be pushed up to the next echelon as high as it needed to go.

Dr. SNYDER. Captain and Chief Petty Officer, do you want to respond to that question?

Captain KATKA. I have not received any pressure to reveal any kind of information or change procedures from a command. I think the closest I could maybe give an example of is one time a colonel was wondering about a case, and I said, "Sir, do you have the need to know?" And he goes, "You know what? You are right. I don't have the need to know." And it was as simple as that. He knew exactly what the policy was.

Chief Petty Officer MCKENNIE. I can also comment on the same, sir. I have not received any pressure. I have had an incident where I was asked for information and I immediately responded it was—they were not on the "need to know" list and I immediately talked with my Sexual Assault Response Coordinator and received no other problems after that.

Dr. SNYDER. Thank you, Madam Chairman.

Mrs. DAVIS. Thank you.

Mr. Jones.

Ms. Bordallo.

Ms. BORDALLO. Thank you very much, Madam Chairwoman. I appreciate your leadership, and I look forward to working with you on this subcommittee this term.

I want to say I appreciate the testimony from all of our witnesses this morning, particularly to you, Ms. Watterson. It takes a great deal of courage to come to testify before Members of the U.S. Congress on a situation like you went through. And I want to thank you for your advocacy work. There is no better advocacy experience than to be a victim yourself. And I am sure you will find that out as you go along your way in this direction.

I would like to direct my question to any one of the sexual assault response coordinators. I believe that you are all active duty, but I am wondering how this system of coordinators works for members in the National Guard. Have you heard any stories from colleagues about implementation in the National Guard? Oftentimes the support systems are designed for active duty without thought of the Guards.

So I will begin with you, Captain.

Captain KATKA. Well, ma'am, I can't speak for the Air Force, of course. I do know that if a survivor, if someone is in the National Guard and they are on orders, they receive all of the same exact care in regards to the restricted reporting that an active duty member would there on orders.

But in terms of the Guard and what their way ahead is and things like that, I don't know if I can speak officially to that other than to say that I believe—and you may qualify this in future panels with future leaders—I believe that there is a Guard, a separate Guard SARC course to respond to those.

Ms. BORDALLO. Sergeant.

Sergeant HORWATH. Ma'am, I have personally been involved with training the National Guard SARC at Fort Hood a couple of times when they come in to processing through for deployment. They go through the exact same sexual assault response coordinator's course and unit victim advocates course that active duty soldiers do.

Chief Petty Officer MCKENNIE. I have not had any personal experience with working with National Guard. There is a community solutions, a civilian component available in California that I could refer them to if I could not provide any assistance to them.

Ms. BORDALLO. Well, I feel if there are any rules or regulations in place at this current time that we have to include the National Guard. They are out there fighting with us shoulder-to-shoulder. So I would be interested to hear about programs and see that they are getting the same treatment.

To all of the witnesses, from your experiences, what lessons learned can and should be applied to improve sexual assault victims' support in the military?

Are all of the rules now from Ms. Watterson, from the time she was in, apparently there weren't all of these rules and regulations. Now many new ones are in place. Are they enough or do you see anything that should be included?

Captain KATKA. Well, ma'am, there is always room for improvement, to be sure. And although we have come a long ways from the time of Ms. Watterson, I do believe that we have work to do. Perhaps—and this is from my experience and again, maybe future panels may be able to answer this better than a layman's position in regards to the legal issues. When a victim comes forward in an unrestricted setting where he or she says, You know what? I want to go forward. I want an investigation, whatever. They sign the paper.

Unfortunately, it is tough, as we all know, for a survivor to come forward and go through the litany of interviews. It is estimated that 25 to 35 times from start to finish through court and such you will have to tell your story. That is extremely draining and perhaps retraumatizing and revictimizing.

In that setting, right now it is difficult once that ball gets rolling for that survivor to say, You know what? I want to stop. I am tired. I don't want to do this, family issues, as we heard from Ms. Watterson, and what have you.

And again, I wish I had solutions. You know, we are taught in the military to come with a problem and a solution—and this, again, maybe this should go to other panels with regards to legal. So that can be an issue because there have been times in my personal experience where an individual originally had signed under restricted and then later on as they go through it is tough on them saying I really wish I could put the brakes on it, and it can be difficult.

Ms. BORDALLO. So that is understandable. So this happens not just in the military but in other cases as well. But you do feel there could be improvement.

Sergeant, do you have any comments to make on that?

Sergeant HORWATH. Ma'am, I believe it is an ever-evolving thing that we are working with. The Army, in my personal experience, a lot of programs focus, and re-focus. This program will do the same, and it will continue to do that and focus in the areas as I have seen it do already. When we find something that is lacking, we change focus and attack that also. And I believe this program will continue to do the same.

Chief Petty Officer MCKENNIE. The Sexual Assault Victim Intervention Program in the Navy has afforded me a great opportunity to be very successful in supplying the support and guidance for those victims that I have dealt with. It is a good solid program. But as other programs, it is always evolving, and there are more things to come. I am sure of that.

But as in use right now, it has really afforded me a great opportunity to—and the resources that are available under this program have been supreme in the recovery and restoration of many victims that I have worked with.

Ms. BORDALLO. Thank you very much. I hope as we go forward when the rules and regulations are in place that we perform them in the strictest ways.

Mrs. DAVIS. Mr. Rooney.

Mr. ROONEY. Madam Chairman, first of all, I want to say to Ms. Watterson, you know, I was nervous for you when you testified. I think you showed a lot of courage. And as a former prosecutor at the Federal level and State level in Florida and as a former judge advocate, your testimony here—and I know everybody agrees with me, and I know you have probably heard this a million times already today in coming up here—it is so vitally important that you continue to tell your story and, you know, try to pave the way for in the future so other victims don't have to deal with what you are having to deal with. So I thank you for that, and I really appreciate your testimony here today.

My question as a former judge advocate in the 1st Cavalry Division at Fort Hood, Texas, what is the process, just for the good of the group here, with regard to a situation like Ms. Watterson went through and coordination with the military police (MPs) and with the judge advocates, staff judge advocate and we are sort of looking at the other end of this spectrum. What is supposed to happen to the person who commits the assault? And I know in your story, obviously, it didn't work the way it was supposed to work. But with regard to the branches sitting at the table, what coordination do you all do with the military police and the staff judge advocate in a normal case?

Chief Petty Officer MCKENNIE. That is a very good question, Congressman Rooney.

In the Navy as an advocate when I am dealing with a victim, my first and sole duty, of course, is to advocate for the victim. So the only interaction that I would ever have on behalf of the victim is to just put—be there for support and guidance while they are doing any interviews or going through the process, the legal process that they need to go through.

So my interaction is solely focused on the victim themselves. So no dealings with the perp. Not my concern. My concern is that victim, and that is who I am there for.

Sergeant HORWATH. Speaking from personal experience, as a victim advocate against the same thing as CPO McKennie said, I focus on the victim as a Sexual Assault Response Coordinator. It is my job to have coordination with the JAG, the MPs. It is a point of the training that I go through. It is a point of something I have to do every time I set up a new sexual assault response team. I have to make those contacts, and I have to be able to receive that information. And I will be the one as the Sexual Assault Response Coordinator who will back-brief the victim on any information that is passed back to me through the JAG office, the Criminal Investigation Division (CID) office, the MP office. And it all comes through me as the SARC and will go directly to the victim from there. And I have never had any contention whatsoever with any of the agencies that I have worked with.

Captain KATKA. Sir, in the law enforcement realm, there are checklists. If a survivor would present themselves or a case would be, you know, investigated, there is a checklist for the investigator

in security forces to call the SARC. We are actually on the top line. They would call us. We would ask them to not interview that survivor until our victim advocate gets there so that they can—have solace to know that somebody is there with them.

In terms of the legal sides of it, the Air Force assigns what is called a victim/witness assistance program representative. That person is a liaison to tell that survivor everything that is going to happen should this go to court, or if it doesn't, what would it look like if the commander is going to assign judgment or punishment to the perpetrator or what have you.

So that person is assigned to that survivor specifically.

And myself, as the coordinator, is intimately involved with that victim witness program representative. So we kind of form this kind of hug, if you well, with this survivor so he or she is fully aware of everything that is going on.

Mrs. DAVIS. Ms. Sanchez.

Ms. SANCHEZ. Thank you, Madam Chairman.

As you know, we have been working on this issue for so many years now, and I think a lot of the task forces and the changes in the law, I hope, are helping. But I continue to receive information from victims and from people in the forefront that with respect to having somebody there in the field with everybody, that it is different between the services.

For example, with respect to the Navy, I think you all sort of move around in a grouping and you get on a ship and you are there for however many days, 90 days, 3 months, what have you. So everybody sort of understands who the person is that is kind of in charge of taking care of things if some victim should emerge and everybody knows who to go to and you have the support system to help with that.

But for example, with the Army, in particular, if someone is in combat, in the combat zone, let us say Iraq, we are filling positions with reservists, with National Guard, with pieces of volunteers from other units, that it is not necessarily true that an advocate is stationed or in a zone with a particular person. It is not that well known who that person would be or there is not that much emphasis placed on it because you are in a war zone, and other things are going on.

So I would like to get some comment in particular from you, the Army, as to what are the challenges with respect to having these special advocates or special counselors assigned. What is the commitment to that? What could we do better to ensure that if someone is in Iraq—because we have had—I think now I want to say almost 600 reported assaults in Iraq or more at this point, the last number I checked. Given the difficulties of Afghanistan or Iraq, in particular, how are you coping with that and what are the mechanisms or the procedures you have used to identify that, the fact there is somebody to turn to if an assault takes place?

Sergeant HORWATH. Ma'am, I can only speak with my personal experiences working with the 4th Infantry Division. The policy is in place. There will be two unit victim advocates per battalion and a SARC for every brigade. When we deploy out, the SARC is the one who oversees the program. I have had several small units that have detached and gone on to different forward operating bases

(FOBs) where they were away. I make it a point of my job as the SARC to contact whatever group is running that and find out who their victim advocate is and making sure that the chain of command and the soldiers are aware of it.

Again, we do poster campaigns. We put it out as much as we possibly can. I can't make a soldier come forward and report, but I can definitely throw it in their face if there is someone available for them.

Ms. SANCHEZ. What is the mix going on with respect to the Air Force in this? Because again, I think I am more familiar with—the Navy is more stable in respect to that. What do you see in the Air Force happening?

Captain KATKA. With respect to advocacy in the AOR, ma'am?

Ms. SANCHEZ. Yes. Down all the way to the airman or airwoman who might be involved.

Captain KATKA. Yes, ma'am.

There is a challenge, I will admit to you, in the forward operating bases. The GSUs, the Geographically Separated Units, and I will speak to that experience.

Ms. SANCHEZ. And that is what I would like to hear about and any comments you might have as to how we might make it better.

Captain KATKA. I will try.

In the base I was at, we had victim advocates without problem because it was such a large installation. But I also supported the geographically separated unit in Saudi Arabia. I think perhaps about 300 airmen were on that Army installation. So victim advocacy—the spirit behind the victime advocate program is volunteerism, all right, to keep people who really have a passion for this program to ensure those are the people who are serving us not for a performance report rating or what have you.

So when we set up the GSU or when the GSU is there, if we don't have any volunteer victim advocates, it can be difficult to fill that victim advocate slot over there. We don't assign. We don't make people do victim advocates in the Air Force.

What I did when I was over there before I left is I found out a month or two prior to me leaving who was going to be coming into that GSU, and I found out people's names, very frankly. And I called back to those bases and I asked them or I asked the SARC, "Could you ask those people if they would like to volunteer to be a victim advocate in that arena."

Fortunately, it worked out. We got three or four victim advocates for that GSU in the next rotation. And I have made up a continuity binder for my successor to understand this is what I did. I highly encourage you to do the same. And that is how we began.

Ms. SANCHEZ. Do you see that the volunteers—because this is based on volunteer. Do you see that it is mostly women stepping forward to volunteer?

Captain KATKA. Yes. At Lackland on my main base, we have approximately 65 to 70 victim advocates. We have about 15 that are male.

Mrs. DAVIS. Ms. Fallin.

Ms. FALLIN. I, too, appreciate your coming to testify. It has been very interesting. Madam Chair and I were co-chairs in the Women

in Military Task Force, so we appreciate having another hearing on this important issue.

Ms. Watterson, I appreciate your testimony today, and I know it is very difficult to come forward but just would like to encourage you to keep telling your story so you can help other women as they go through this process, and hopefully your healing will continue to carry forth.

I had a question for you. After listening to all of the testimony today by various officials and our victim advocates, do you feel like since your incident in 2001 that we have made progress in the military in establishing procedures and advocates and programs that you would find today more helpful than what was available to you back then?

Ms. WATTERSON. To be honest, no. I have seen a lot of new mandates and a lot of new, you know, whatever, but the fact is that the majority of what I have seen and dealt with and heard from other survivors is that nothing has changed. They are still using the McDowell checklist, which basically they can turn it around and make it look like the person is lying. And so someone who comes forward and wants to report it could be charged with conduct unbecoming, filing false charges, and if either the victim or rapist or assaulter is married, they can be charged with adultery.

That is a big reason why people do not come forward. And other women will see what happens to one woman about what happens about them, basically getting their lives torn apart just because they went forward and asked for help. They get stalked by the friends of the perpetrator. I don't see any change.

Ms. FALLIN. I appreciate those comments, and I hope the men and lady here will listen to those comments and hopefully make improvements on that.

But the one I have been listening to, I feel like there has been progress made. And I appreciate the steps that you have taken in your various divisions, but I do want to ask some of the things that she brought up earlier today.

She talked about if someone has been accused of sexual assault or rape that they might be moved to another military base. Is that what I was understanding you to say earlier?

Ms. WATTERSON. They have the option of either changing jobs, changing bases, and they also have the ability to get out of the military on an administrative discharge.

Ms. FALLIN. You were saying that the files do not follow them. If I could ask you to comment on that, on the procedures, that if someone is accused of assault and if there has been something that has happened, do you move them to another base? Does their file follow them, or what is their procedure in that?

Chief Petty Officer MCKENNIE. Yes, Congresswoman Fallin.

In the cases that I have dealt with of victims, there has been an opportunity for either to be moved. In some cases that I have dealt with as a victim advocate when I have made the needs and wants of the victims that I have been dealing with known, they have had an opportunity to being moved to a different department or division away from the perpetrator. In other instances, the perpetrator has been moved off the facility completely.

It is always, in my experience in dealing with the victims I have worked with, it has always been the command's intent to make the victim as comfortable and be supportive as they possibly could.

Ms. FALLIN. Let me ask you about that real quick. So you are saying that the victim can request to be moved during the process of determining guilt or the other person accused could be moved?

Chief Petty Officer MCKENNIE. I apologize, ma'am.

I make those needs and wants made available to the Sexual Assault Response Coordinator, and they make a recommendation to the command. It is an opportunity to them available. However, the command does have final approval over who will be moved.

Ms. FALLIN. So it is optional. And the reason I ask—and I see the Lauterbachs are here and I had an opportunity to meet with Mrs. Lauterbach on her daughter's case where she lost her life because she and her accused were kept in the same battalion, if I remember right; and that wasn't moved and she ended up losing her life. And so it is an important point that we do all that we can to separate the victim and the accused. And I know everybody has the right to due process, to be found guilty or not guilty. But if there is a situation where the accused feels like their life is threatened—excuse me, the victim, I should say—they should have those options of being moved.

Let me ask you about the sexual assault.

Mrs. DAVIS. We going to come back and have another round. Thank you very much.

Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you, Madam Chairman.

I want to follow up on that very question that the Congresswoman asked because when I was hearing about what happened to the victim, I kept wondering what was happening to the alleged perpetrator. So what I heard on that testimony, that it is not necessarily so that the alleged perpetrator is removed.

And I also wonder about the damage for the victim losing—having to be the one to request the transfer, losing the friends, the security and the comfort of the job, the familiarity of the routine and allowing the perpetrator to stay in place.

So I wanted to ask that question also. Is this something that the commander must do, or is it still optional? I know that you probably recommend that they be separated. But I didn't quite understand what actually does happen. Is there something in stone, something codified that says this is what they have to do, they have to be separated? And who leaves? Is it up to the victim about whether he or she stays and the alleged perpetrator has to leave?

Could you go a little bit further on that? And I think, Captain, if you will tell me what happens in the Air Force, please.

Captain KATKA. Let me speak to a recent case.

Recently—and I won't speak in specifics because it is still going on—a young lady presented and she asked that she be removed as the survivor. She is the survivor. As the Sexual Assault Response Coordinator in concert with the mental health provider, we were both able to write letters recommending to her functioning community that she go to a base of her choice to be around family members for support.

And so she got what was called a humanitarian reassignment. And it was all predicated on her assault.

Now, in other instances, I work in a training base and so there are training units where men and women obviously are together. And if there is an assault, and we will use a male-female, a male assaulting a lady, there will be an automatic "no contact" order given. Now as a SARC, I can't—I am not an authority in terms of this is what will happen. I am only a recommender. I am a liaison to the command. I help the command understand the survivor's situation, their mental well-being and things of what is important.

So I recommend to them the no contact order, but it is just automatic that the survivor—or excuse me, the offender will be moved from that squadron into another squadron.

It is hard to move perpetrators because they need to stay, often, to be brought up on charges, so on and so forth, at the base that they are assigned to. And quite honestly, in my experience, the victims have always wanted to be the ones to be moved in terms of the permanent party division so they could be around other families members at other continental United States (CONUS) locations. So I hope that helps.

Ms. SHEA-PORTER. But ultimately it still is not a rule. It is a recommendation. And you hope they act upon their recommendation.

Captain KATKA. Ultimately, but future panels may help you understand that better.

Ms. SHEA-PORTER. And Sergeant, do you have anything to add to that? What is your experience where you are, please?

Sergeant HORWATH. For the Army, there is an automatic flag placed on the perpetrator, which means they cannot move just because of the difficulty it would make in going forward with the prosecution if you moved the perpetrator around. It is optional for the victim. If they would like to be moved, we work with them. We work with the command as much as possible and we will move them around. I have never been refused to move a victim. It has always been made available.

With the exception of redeployment, we will move them within theater if they are over in Iraq or Afghanistan. They have moved them around, but they don't redeploy them automatically.

But the flag stands for the perpetrator to ensure the individual is there to be investigated and put through the processes that have to come forward.

Ms. SHEA-PORTER. Sergeant, I want to ask you, I realize you have different sets of circumstances, but the rate of rape continues—at least reported rape—continues to climb in spite of these programs, and the Army has a much more significant problem than, say, the Navy does. And to what do you attribute that, and can you tell me that when recruits come into the Army, are they allowed to have anything on their record whatsoever that would suggest that he or she could be a risk to other troops?

Sergeant HORWATH. Ma'am, I have never ever been a recruiter. I am not aware of anything that would be looked at. I have no knowledge of that.

My personal belief on the reason that you are seeing higher number of reports is because the program is working. The soldiers are being made aware of the program, they know that we are there to

help them, and they are coming forward in higher numbers and reporting situations that may have gone non-reported for a number of years.

Ms. SHEA-PORTER. So you think there is a higher reporting of rape, Captain?

Captain KATKA. Yes, ma'am. I think it may sound contradictory, but I think it is a good story. I think the higher our rates go up, we hope—and it is anecdotal, of course—but we hope it is because young men and women are feeling more comfortable to come forward so obviously the numbers would be higher.

Ms. SHEA-PORTER. Same to you, Petty Officer.

Chief Petty Officer MCKENNIE. I believe that the training that the Navy provides and the continuous training that we do every year, it does instill a confidence in our sailors to come forward and report any type of sexual assault.

Ms. SHEA-PORTER. Ms. Watterson, do you feel the same? Let me thank you for being here and sharing your story. Do you agree with that that we have better reporting now?

Ms. WATTERSON. From what I have seen and what I have dealt with honestly, I don't think so. I don't—I just don't think so.

Ms. SHEA-PORTER. That is the purpose of the committee, to keep looking.

Mrs. DAVIS. Ms. Tsongas.

Ms. TSONGAS. Thank you all. I appreciate very much your testimony, Ms. Watterson. As others have said, it has taken great courage, and we learned very much from it.

Among other things, I think it reminds us, one, the assault in and of itself is horrible but our response to it can really aggravate that circumstance and how important it is, as we go forward, that we recognize our obligation to put in place mechanisms that have real teeth.

One of the things as I listened that I am concerned about is the chain of command structure in the military works to our advantage in many instances, but it seems to me that in this area it is one which really works against our being able to respond in a way that is truly meaningful.

So I have just a couple of questions.

In terms of the reported assaults, do you keep any track of how often the assault is by a superior? I know that in the military academies, for instance, we heard reports of one upper classman, one class up could make a difference in a woman's willingness to report it, take it on in some way.

So do you keep track, you know, keep records of how often it is a superior of any kind that is involved in assault as a perpetrator?

Captain KATKA. Yes, ma'am. We have in our tracking database ranks of both the subject and the survivor so we know exactly what the rank breakout is.

Ms. TSONGAS. Can you quantify percentages at all?

Captain KATKA. I would say approximately the survivors' status is—73 percent of the survivors are about E–1s through E–3s, and then the offender status is 54 percent E–1 through E–3. So obviously the leftover would obviously be of the higher rank of the E–3.

Ms. TSONGAS. That would be how much? My math isn't great.

Captain KATKA. I am not good at public math either.

Ms. TSONGAS. How about for you?

Sergeant HORWATH. Ma'am, the Army uses a self-reporting system. All sexual assaults that are reported goes into one database, so they do have it available. It does have the rank of the alleged victim and of the perpetrator, so it is tracked throughout the Army. As far as statistics, I do not have any available with me.

[The information referred to can be found in the Appendix on page 91.]

Ms. TSONGAS. I would like to see those, if possible.

How about the Navy?

Chief Petty Officer MCKENNIE. As an advocate, I do not track members, and the Sexual Assault Response Coordinators track and keep files of any victims that happen in our area. I am not aware of any formula or percentage data that they have available to them.

Ms. TSONGAS. If there is any way of getting that data, I would appreciate it.

[The information referred to can be found in the Appendix on page 91.]

Ms. TSONGAS. The other question I have is I happened to attend a session last year for those who are returning, wounded warriors who are returning, and happened to go over and speak to some of the women, several of whom who had been victims of sexual assault although that was not why they were in this setting. And one of them did comment to me that while she was in Iraq she felt more afraid of her fellow soldiers than she did of the enemy. So that told me that we have a serious problem, especially in the theater of war, and that whatever we are doing clearly to deal with the victim, those who are victimized, we really haven't put in place sufficient mechanisms to sort of alert women, help them figure out self-defense mechanisms to empower them in some way as we go forward. And I think that is particularly important in the chain of command context. That is just a statement.

I am wondering what you all have as leverage with your commanders if they refuse to take action after you have gone up the chain of command in reporting what you think should be appropriate action. If they do nothing, what can you do?

Captain KATKA. Could you explain the nothing? Nothing against the perpetrator? Nothing to help the survivor?

Ms. TSONGAS. Maybe against the perpetrator.

So, for example, the story of the soldier who gets promoted in the face of your reporting, but what you can do to have a commander take this very seriously?

Captain KATKA. What we could do is—what we would do is we would interact with that commander, and obviously that commander would be aware of what happened.

Now, I should point out that the interaction with commanders for a Sexual Assault Response Coordinator is going to be with the survivor's commander primarily. It wouldn't be with the perpetrator's. We are very survivor centric. We are victim centric. So everything that supports her, that is what we would take care of.

In terms of the perpetrator's commander, admittedly very little interaction.

But to help the survivor, obviously we would ensure that we would talk with our vice wing commander if necessary. That is base level commander, and we would bring it up to his attention to see if he needed more mentoring, if you will, from one commander to another.

I hope that helps.

Mrs. DAVIS. Mr. Johnson.

Mr. JOHNSON. Thank you, Madam Chairman. I applaud you for holding this hearing today on this very important subject.

Ms. Watterson, I want to convey to you my deep respect for having the courage to take on this kind of cause and to share your experience publicly.

And every one of you at the table, I want to thank you for your service to the Nation.

I will say, being—my background is in law. I have practiced law for 27 years. Most of that time I was a criminal defense lawyer, but also for 12 years of that time I was a magistrate court judge. And I find that it is bad when we have a culture in the military of "boys will be boys" kind of, and so there is not a real serious investigatory effort. And I know that that culture is changing, as it should.

But I would hope that we would also keep in mind that some complaints of sexual assault are unmerited. And so therefore when we talk in terms of the victim, the perpetrator, the survivor, depending on what phase of the process that we are in, if it is pretrial or pre-disposition, I think probably a better language would be the "accused" and the "accuser" instead of assuming that the accused is guilty by calling him or her the "perpetrator."

Now aside from that, I do think that in the civilian world a deterrent for people committing sexual assault crimes is a vigorous law enforcement approach which begins, of course, when there is a call to the law enforcement agency; and most law enforcement agencies in the civilian world in a large department will have a sexual assault investigatory team.

And I would like to know whether or not when a complaint is made, is it an untrained MP—untrained in sexual assault investigation techniques—that is brought to the scene, or is it someone who has been trained specifically to investigate these kinds of issues, collect evidence, crime scene unit. You know, how do we do that? Protocols for doctors. Are medical doctors trained to investigate or from a medical perspective and preserve evidence and document things?

I mean, is that something that people are trained in? And in terms of chain of custody issues of the, say, rape kit, you know. Are there protocols for passing those on up the chain?

If we have a vigorous, well-trained enforcement and investigatory apparatus, what is your opinion as to that issue? And I know you all get the cases—well, you get the case at some point after a complaint is made. Tell me how you get that case, how does it come to you?

And then Captain Katka, you mentioned something about you ask that no one talk to the survivor first without you being the one or your office being the one to speak with the complainant. Can you explain the reasons why and whether or not that includes the po-

lice investigating the matter first with a exposure to the complainant?

Captain KATKA. Yes, sir. The reason that we want to ensure that we get to speak with the survivor first is, first of all, remember the restricted and unrestricted reporting options. We don't know what she had said or he had said at this point. So to preserve her privacy or his privacy, to get to them to help them understand the reporting option is key to understand that.

Mrs. DAVIS. I am sorry. I am going to have to cut you off because I have been cutting everybody else after five minutes. Mr. Johnson, we will come back on another round, and we will have some more time, I think, for additional answers.

Thank you.

Mr. Turner.

Mr. TURNER. Thank you, Madam Chairman.

Ms. Watterson, I also want to, as everyone has, thank you so much for what you have done. Coming forward, I know, has to be incredibly difficult. Your story is very moving. But what is important is you are bringing light really to an issue in a process that is really about people. It is about people like yourself, and we can't make it right if we don't know what the problems are; and your doing that makes a difference for others, and hopefully it makes a difference for you.

I have with me today—I want to tell you also, Ms. Watterson, that I agree with your comment that we don't have it right yet. It is not fixed. And that is why this committee—and I want to thank the Chair for undertaking this issue. We know this does not just happen in 2001, but as many members have said, this is an ongoing issue and we don't have it right.

I have with me today Mary Lauterbach. She is the mother of Maria Lauterbach, who was a Marine who, upon coming forward with an allegation of rape, was subsequently murdered, and that was in 2007. And in working with the Lauterbach family, we have basically seen that there are two different types of issues we have to deal with. There is the cultural issue—and it is a strong cultural issue that needs to be addressed in the military with the issue of this being acceptable and the issue of the treatment, how sexual assault victims are treated.

The second is our rules and regulations, what the processes that we go through. And there are some things that we find along the way that need to be changed. For example, from the Lauterbach case, two things that we just changed in the last National Defense Authorization Act applied to protective orders because in Maria Lauterbach's case, her protective order was allowed to lapse. So we changed that in the last law so that now will be permanent. And also the local authorities knew nothing of the protective order so that when she was off base they had no idea that there was an issue that was ongoing, and that has been changed in the last act that we did.

But we need to learn more of these things and more culturally. And I want to thank Madam Chairman for undertaking this. I know she has met with Mary Lauterbach, and I want to thank Jane Harman for her work on this. She has met with Mary Lauterbach, and we appreciate your advocacy on this.

Now getting to that issue, we have two—we have culture and we have rules and regulations. I have two separate sets of questions for representatives of the military.

I want to set this up by telling you that after Mary Lauterbach and she had the detailed report from the base as to their description of what had happened to Maria, the family was very concerned because it appeared that the base was saying that we had no knowledge that there was any risk to Maria, that in fact because they had no knowledge there was no protection that needed to occur.

So from my office, I inquired, asking the Marines to explain to me how they could have no notice that someone is at risk when they are coming forward with an allegation of rape. And I know you are very familiar that the safety of the victim is very important. And I want to read to you part of the response that I got because I want to get your thoughts on it because it was very repugnant to me.

When I got this response from the Marines, I thought it went right to the culture. And this letter is dated March 31st, 2008, and it is from Lieutenant General Kramlich, and I asked this question:

Doesn't a rape accusation inherently contain an element of force or threat?

And then they go on in their answer to relate that according to their information, there were two sexual contacts: one being alleged rape, one being consent. And then they write this sentence, which I would like you to respond to. It says, "Lauterbach never alleged any violence or threat of violence in either sexual encounter."

Now, I don't know how there could be a rape where there is not an allegation of violence or threat of violence. And that was my reaction, and it has been the reaction of the members that I have read this to.

And I am certain that as you advocate for victims, you run into cultural issues and responses like this, which I happen to have from the Marines in writing.

Could you each please respond what your thoughts are when you hear someone say that there was never alleged any violence or threat of violence in relationship to a rape?

Mrs. DAVIS. This is to your personal experience. You are not representing the services here.

Captain KATKA. If I understand you correctly, just because there was no physical force, then there wasn't a rape. Is that a simple way of——

Mr. TURNER. No, they are acknowledging that there was a rape. But, see, the question that we had is there was a rape and that we believed that the victim, Maria Lauterbach, was therefore at risk for future violence. She'd come forward with the allegation of rape. And so we were inquiring, because there was a rape, didn't you know that there was a threat of violence? And they wrote back and said that Lauterbach never alleged any violence or threat of violence in either sexual encounter, meaning, of course, referring to the rape itself. That the rape itself did not include an allegation of violence or threat of violence.

And that is just so shocking to me, and I would think it would be in your experience. And this is—again, this is dated March 31st, 2008, from Lieutenant General Kramlich, U.S. Marine Corps.

What are your thoughts?

Captain KATKA. Well, in regards to—I notice the time going down, ma'am.

Mrs. DAVIS. Right. Your time is essentially up. But can you quickly respond to his question?

Captain KATKA. That astonishes me, too. I don't know how much quicker I need to be.

Sergeant HORWATH. The same, astonished that someone would make that remark.

Chief Petty Officer MCKENNIE. It is an unfortunate remark; and a victim of sexual assault is that, a victim of sexual assault, regardless of what anyone thinks. As an advocate, and that is what I advocate for for that victim.

Mr. TURNER. Madam Chair, thank you for the extra time for them to finish.

Mrs. DAVIS. Thank you.

Ms. Harman.

Ms. HARMAN. I thank you, Madam Chair and the members of the committee, for welcoming me back.

As you know, I served on this committee for six years. One of the members at the time was Pete Geren from Texas, who is now the Secretary of Army and who is taking an extraordinary leadership role on this issue. I want to commend him in absentia but also want to commend the Army's representative for what you are trying to do.

I want to repeat something from Ms. Watterson's testimony. I don't think it was in her written testimony.

She said, "Where is the safety? I felt as though I was entering a band of brothers. I was then an outcast, virtually alone."

I can't imagine a better summary. And I just want to say to you, Ms. Watterson, and I certainly want to say to the Lauterbach family, America failed you, the military failed you, and Congress failed you. And it is past time to get this right. This is an epidemic.

A woman in the military is more likely to be raped by a fellow soldier than killed by enemy fire in Iraq. I have said this before. It is still true. And I am glad that we are working on victim care, but what we need to work on more is prevention. And that is why Mr. Turner and I reintroduced our joint resolution. And that is why I hope, Madam Chair, that this committee will move on to adopt this resolution, which calls on the military to develop an effective strategy for investigation and prosecution of these crimes.

These are not just crimes against individuals. These are crimes that impair our national security. And so I hope in the 30 seconds I have left that I can just make the point that I don't want any more women or men who are victims of these crimes to be virtually alone, to feel that they are outcasts and to feel afraid to come out of their bedrooms and have, you know, horrific personal consequences from this.

So I just would conclude by saying America has failed; and I hope that this committee, a great committee with a great tradition of defending soldiers who stand up and sign up to serve their coun-

try, will take this issue very seriously, pass this joint resolution and do as much as we can to stop this epidemic.

Thank you, Madam Chair. I yield back.

Ms. WATTERSON. Can I say one more itty-bitty thing?

With all the victims that I have worked with, at least 90 percent say that the way they were treated after the assault was far worse than the actual assault and far more devastating. And this is still with all the new rules and the new regulations. This is still. And so I just want to make that point.

Mrs. DAVIS. Thank you, Ms. Watterson. I appreciate that. Because I wanted to come back to you. I mean, that is a stunning statement. And what we are trying to do is to figure out where the gaps are. Are there different tools? We have some wonderful examples of some SARCs here, people that have a great commitment and a passion for serving the people that you are working with.

You mentioned at one point in your testimony that you have concerns that there should be more sexual abuse help and support to victims from outside the system, not from inside the system. You mentioned spouses, if they have a special problem, in terms of nevertheless being independent in their assessments and independent I think in their advocacy, which means going all the way up the chain as well.

Is that part of the problem as you see it? That we need people from outside the system?

Because we also could suggest that that could be a problem certainly in theater. In a combat theater, that would be an issue. Where is that piece that you are looking for as you've see it now and worked with other advocates? Is that still critical in your estimation, or is it more the training, the people who choose to select, because it is a self-selection process in many ways, people who volunteer? Again, we have some wonderful examples of people who are choosing to do that. How can we fix this part of it?

Ms. WATTERSON. I am not saying it is every SARC or every base, but the reasoning that I am saying that it needs to be civilians and people that are not, say, dependents of someone in the military, just because, first of all, it will make the victim feel more secure with actually telling the whole truth, talking about their symptoms, thinking that someone is actually on their side. They are far less likely to come forward to another military member, since they were just assaulted by another military member.

So the other reason is because there is too much room for intimidation and with several SARCs that I have to basically do their job for them, because they were not doing their job for the victim. They don't have enough power to say, you know, what are you doing to the command? You are not following the rules and the regulations and all the mandates and all these rules that have come, you know, come up. But there is just far too much intimidation factor. They do not want to lose their job, or they don't want to endanger the job of their spouse, et cetera.

Mrs. DAVIS. Could I ask the rest of you to speak to that?

Because one of the things you said, Captain Katka, is that you or a SARC has no real link to the accused—in the words of my colleague—and that you are not able to necessarily track that, what happens in those cases and to find that there is some way, some

accountability there for people acting appropriately, not just within the rules but acting to be certain it that doesn't happen again, certainly not with that accused but within the unit as well.

Where do you see that? Is there a tool that would be helpful? Ms. Sanchez and I talked earlier about career advancement. Is that an issue? What is it?

Captain KATKA. Perhaps I also misspoke earlier to say that there is no tracking of the perpetrator for the accuser, because we do. We do bring updates to the survivor, continually working with the legal system. So there is that, and maybe I didn't communicate that good enough.

Although we don't have authority—not authority, but we don't have decision-making power to do thus and so with the perpetrator, please understand that the vice wing commander—reporting to the vice wing commander is essential. And we feel as though, because we have the vice wing commander's—the person that we are subject to, it helps tremendously; and I have seen case after case where we are able to use that authority to help us get things done on behalf of the survivor and understand what is going on with the perpetrator and such.

Mrs. DAVIS. Any other follow-up comments, quickly?

Sergeant HORWATH. We run the same program, basically. And the legal system tracks the alleged perpetrator, and we get updates to give to the victim. We have no say in what happens to them, but we are not a part of the investigatory process either. We are there to be victim focused almost solely.

Chief Petty Officer MCKENNIE. One of the great things about the Navy, especially in the southwest region which I am affiliated, being an advocate for the victim, they do receive updates periodically from Naval Criminal Investigative Service (NCIS) or from the detectives that are handling their cases. It is their right, and they are aware of that when I first come on scene.

One of the tools that we do in the southwest region to prevent intimidation or at least alleviate it as much as possible, as a advocate I am never in uniform, so they do not know any rank; and I always address myself by my civilian name. So they have no idea who I am, except that I am their advocate. And that tool works extremely well for us in the Navy. Having civilian SARCs who are not normally intimidated by military personnel is another balance that we use as part of our Navy program in the southwest region.

Mrs. DAVIS. Thank you.

Mr. Jones, we are going to go back to you. Thank you.

Mr. JONES. Madam Chairman, thank you; and I want to apologize if any of my questions might be repetitive. I had to be out for almost an hour, and I didn't hear the questions from my colleagues.

I am very taken aback by the testimony. I want to say to you, Ms. Watterson, that I regret what happened to you and I am sure other members have said that as well for a multitude of reasons.

I got a call three or four years ago. Camp Lejeune is in my district, and I never will forget a lady from Alabama who thought that her daughter had been raped. I actually ended up meeting with the mom when she came to North Carolina from Alabama, and I also met with the daughter.

I guess, to get to the point of what I am trying to ask, based on your testimony, Ms. Watterson, do you in the Navy, Army, Air Force—is the compassion there? From you, yes. I understand that. But when I heard this testimony—and I go back thinking of the lady who came up from Alabama. When I hear this testimony, somewhere in the process, the pain and hurt of the victim, it doesn't seem that up the chain, so to speak.

And I am not trying to point my finger at anybody. You are the experts. I am not. I am just here trying to learn and trying to do what is right.

But somewhere along the way what happened to Ms. Watterson should never have happened. And why would—has that changed? Where the person who committed the crime, if he in this situation—and I don't know the case. I do appreciate and understand testimony. I believe everything you said. But has it improved, that the victim is treated as a human being? Or is it because the military has the structure that it has?

I will never forget what Secretary England, who I thought the world of, of being down at Camp Lejeune in 2004, 2005 and 2006. And one of the companies returned from Iraq, and Secretary England was talking about we want to help you with PTSD and these kind of illnesses. And I promise you, when this one Marine stepped out, I thought the Colonel was going to faint. Because the Marine is not to show that he has got a problem.

So has it changed?

What year did you say this attack happened to you?

Ms. WATTERSON. I am sorry?

Mr. JONES. What year did this attack happen?

Ms. WATTERSON. 2001.

Mr. JONES. 2001.

Can women be assured now—and maybe, in a few cases, men. I don't know. Can women be assured now that if it happens today, in 2009, that the system has changed such, that the percentage of those who would be hurt like this woman has been hurt is being reduced?

Chief Petty Officer MCKENNIE. Congressman Jones, I can't guarantee and tell you that all women in the Navy will be assured or all men will be assured that are victims. Because as long as there are evil people out in the world who want to perpetrate this crime, it is going to continue. But as an advocate what I guarantee from me as an advocate is that any victim that I deal with will receive as much guidance and support as I can physically muster for the entire time that I am their advocate.

Because people are different in our society and they are from different backgrounds and there are some that are more compassionate than others. I understand that I will run into someone that is not compassionate to the victim that I am advocating for and that will increase my motivation to advocate for them even more, and I will do all that I can to ensure that as long as I am their advocate that they will get the support and guidance that they need or whatever requirements we need to do or whatever steps we need to make to make sure that they get that. We are going to do that, and that is not going to stop as long as I am their advocate.

Mr. JONES. Chief, let me ask you or the Sergeant or the Captain—again, I apologize. I should have been here, but I could not help that. I was watching Ms. Watterson shake her head on a couple of comments I was making. Do you feel that in 2009, compared to 2007 or 2005 or 2001, that the number of instances of rape that are being reported are up, down or there are still things happening that have not been reported? Do you feel better about the fact that those who are victims are coming forward and that they are being supported by the chain of command in comparison to what maybe it used to be? I don't know.

Chief Petty Officer MCKENNIE. Sir, I have been an advocate since 2005; and, in that time, my cases have increased. So I am confident that because of the training that we are providing in the Navy, because of the awareness that we are providing in the Navy, the tools that we are giving people to come forth, that that has helped increase the reporting. And I am glad to see that those numbers are rising, because that is more people who are no longer hiding that pain and shame and that they can get the help and guidance that they need.

Mr. JONES. Thank you, Madam Chair.

Mrs. DAVIS. Thank you, Mr. Jones.

We have two votes. We should be back in about 20 minutes, I think. If I could beg your indulgence, we will finish this round with all of you; and then we will go on to our next panel. So are you all able to stay?

Captain KATKA. Yes, ma'am.

Mrs. DAVIS. Thank you very much, and I hope everyone will return as quickly as they can.

[Recess.]

Mrs. DAVIS. Thank you, everybody, for waiting. We are going to return to the panel. We have a few members who are coming back. We want to finish up this round, and then we will move to the second panel.

Ms. Sanchez.

Ms. SANCHEZ. Thank you, Madam Chair; and, once again, thank you to all the panel for being here.

I have just one question. Because in the 12 years that I have been on this committee and in the Congress we have had this problem. I believe it is a major problem when we are a voluntary force in particular and when we are looking at 50 percent of Americans being women and the fact that we need to draw the talents from that pool just as we do from the men. And I believe women should be in the military and that this problem is continuing to happen and has for so many years drives me crazy.

We were able to pass, as you know, a new UCMJ section that dealt with this. I hear back from the prosecutors that they love using this new law and that they are more effectively using it to get the prosecutions they need.

But, you know, I have always said that there are three things we need to do: One, change the culture; two, change the law so that we do prosecute and we can prosecute; and, three, work well with the victims who have had this happen and make sure that they don't lose their lives.

So let's go back to the first one, change the culture, because this shouldn't be happening at all. I have zero tolerance for this. And it seems to me that no matter what we try, no matter how many rules we put on and how many administrative issues and everything, it all comes down to how the top is handling this, how the commander handles this and whatever, wherever it is, whether it is Iraq or whether it is an Air Force academy or whether it is a base, in Camp Pendleton in California, wherever it might be, that it is about how the chain of command deals with this; and they don't seem to deal with this very well.

And so my question is to Ms. Watterson, who so bravely came forward today—and I thank you for that. Because, believe it or not, I personally know how difficult it is. It has been my contention that the only way we are going to make the command understand how important this issue is is that it is actually a section on every promotion that they receive. That in order for them to be promoted, they have to deal with what did you do about this, how much of this has happened under you, how come you were ineffective about this? And they don't get promoted if they don't take this seriously. Now that runs counter to so many people who say, oh, we just care about making fighting machines.

Ms. Watterson, do you think that if these people in command that you go to thought that if they didn't handle this correctly or didn't make an attempt to handle it, if they thought that they would lose their ability to be promoted, that they might have taken this more seriously for you?

Ms. WATTERSON. Yeah, yeah, this sounds like an excellent idea. That way, they are held accountable.

Ms. SANCHEZ. Because they are not held accountable. This is not an accountability issue for the people in uniform. Some do it well; some don't do it very well. Some say, oh, the handshake was just a little too long, or take care of it yourself, or you are a big girl. And these are all things that I have heard from so many women who have been put in this spot. So do you think that that would make a difference if they thought that they wouldn't get promoted if they just told you to handle it yourself?

Ms. WATTERSON. I think that would be a great incentive. I think that part of it should also be interview or contact with whoever the victim was and ask them how they were treated and if they think that everything was done fairly.

Ms. SANCHEZ. Well, that would be part of it. I mean, the way we would judge whether this person, whoever was in command, actually really took care of it is that there would be input from those who had suffered the acts and had been treated one way or the other by this person.

What about the rest of you? What do you think? Because you have probably come across some commanders who really care about this and really do something right away about it, and you have probably come across people who sort of move the pieces on the checkerboard around. What do you all think?

Captain.

Captain KATKA. In the 10 seconds we have, a culture change, I would love to see it to be genuine. Disingenuous, using people as ranks and things like that perhaps would promote disingenuous

culture change, rather than real culture change. Completely my opinion, but I understand where you are going.

And then the criteria issue. I mean, what would you put in that promotion? What would be the criteria for that promotion? The statistics? If statistics are up, is it good on the commander or bad on the commander?

So there are a lot of questions that I just immediately have that we probably don't have time maybe to get into.

Ms. SANCHEZ. Thank you.

Chief.

Sergeant HORWATH. I agree, ma'am, that if it were done right it would be an effective way of pushing the program forward.

Ms. SANCHEZ. That it would not or it would?

Sergeant HORWATH. That it would.

Ms. SANCHEZ. That it would.

Sergeant HORWATH. But, again, then it would be a threat; and that is just my opinion.

Ms. SANCHEZ. I am just asking your opinion.

Sergeant HORWATH. It would be threats against someone who——

Ms. SANCHEZ. It is not threats. It is sort of like, hey, this is important enough for you to be graded on.

When you go to a class in college, if you are a smart student, you understand what the professor wants and what they are going to grade you on. And you tend to work on those issues that are going to get you the A if you care about the grade.

Sergeant HORWATH. I can see it being effective. We have blocks on the Army non-commissioned officer evaluation reports (NCOERs) for equal opportunity and things of that nature. So I can see that a soldier may look at that as being more important if they see it officially in their paperwork, sure.

Ms. SANCHEZ. Thank you.

Mrs. DAVIS. Thank you, Ms. Sanchez.

Can you respond really quickly?

Chief Petty Officer MCKENNIE. I can. I believe that it would be effective, but it would also take training as well in combination with that so that it would be genuine and effective.

Ms. SANCHEZ. Thank you. Thank you, Madam Chair.

Mrs. DAVIS. Thank you, Ms. Sanchez.

I think that we had a chance to sort of brainstorm that a little bit and some of the downsides to it and upsides.

One of the questions that I would just ask in trying to close this out, there, obviously, is some uniformity within the service that you are in. Although there are certainly differences in the way people respond. But there is not a lot of uniformity across the services. Do you think that there should be? Is this an issue that all the services ought to have very, very similar policies or is there enough uniqueness in the way people respond within that service that you think there ought to be true differences?

Chief Petty Officer MCKENNIE. Chairwoman Davis, I believe that each service, each of the services that have been represented today, in my opinion, because of the unique missions that we have in all of our services, that the programs that we have in place have shown effective in the experiences of each of the advocates.

I do believe that we can learn from each other, and there are high points to each program that could be adopted into other service programs. But I do believe that part of the reason, in my opinion and as an advocate, that there are some differences in our programs is because of the missions that we serve.

I deploy—as a sailor, I deploy six months at a time on a ship; and some of the parameters that are inherent in their programs might not be effective for us in what we do. Most of their brothers and sisters in arms are in Iraq. Most of our sailors are not. We do have some, but the majority of us are on ships or shore facilities. So I do think that we are unique in itself and that our programs in the missions that we serve have been effective enough so far and more improvements to come to be of great service to our brothers and sisters in arms.

Sergeant HORWATH. I agree with her, ma'am. I believe the uniqueness of each of our services requires a different program. But I, also—my personal belief is that there is enough of a sense of one that if I had a soldier who was based on an Air Force Base that there would never be an issue with them taking care of the situation for me. There is a closeness enough with the program that the basis is the same. It's about taking care of the victim and making sure that the process is moved forward.

Captain KATKA. On a large level yes, ma'am. In our joint environment I think it is imperative like many of our programs kind of marry so we can give survivor support no matter what the branch of service, of which we have done.

On a smaller level, base to base, for instance, my base, Lackland Air Force Base, is the only basic military training. A large portion of the individuals that we help in my office are those that were assaulted prior to even coming into the military. That is different. That is unique to our base alone. So there may be supplements or those kind of things that need to be addressed just at my base; and, as my colleagues pointed out, there is differences there as well.

Mrs. DAVIS. Thank you.

Ms. Watterson, I wanted to just give you the last word, because we are so supportive of your coming forward; and I want you to have a sense of how important your testimony has been.

I can tell from several things that you have said that it doesn't all resonate with you in terms of where we go from here and trying to deepen our commitment in this regard and having the kind of objectives and follow-through that is important. Do you have a last thought or concern that you would like us to be thinking about in the next few months that might change the environment that you see for men and women today?

Ms. WATTERSON. To wrap it all up, this conversation that we are having right now I think is a very, very good start. I think that the SAPRO, those are all the main rules. And then little intricacies, depending on what is going on.

But I think that representatives, like several from each service, there should be more meetings like this with survivors, with other SARCs, with, you know, whoever. But it needs to be like this, where we are all talking and can figure out what is best for every-

body and then kind of trickle down into the little points that like, say, he was mentioning that are important at his base.

So I think this is an excellent start, and thank you very much.

Mrs. DAVIS. Thank you. Thank you all for being here. We certainly appreciate if you can stay for the next panel.

We are going to have not so much long statements initially, but we are going to ask them if they can respond a little bit to some of the things they have heard here today. So if you would like to stay, we certainly welcome that.

Could the next panel please come forward?

Thank you, again, very much for being here. Thank you all.

For our second panel we are pleased to have two witnesses from the Department of Defense's Sexual Assault Prevention and Response Office and one from the California Coalition Against Sexual Assault.

Dr. Kaye Whitley is the Director of the Sexual Assault Prevention and Response Office, what we all have been saying, SAPRO. She holds a doctorate in counseling and human development. I also believe that this is her first appearance before our subcommittee. Welcome.

Also from the Sexual Assault Prevention and Response Office is Teresa Scalzo. Ms. Scalzo is the Senior Policy Advisor for the office and is a former Director of the National Center for the Prosecution of Violence Against Women. Her purpose here today is to provide her subject matter expertise on the Department of Defense's policy of restricted reporting.

And, finally, we were supposed to have Suzanne Brown-McBride, Executive Director of the California Coalition Against Sexual Assault. However, Mother Nature was working against her; and she wasn't able to fly into D.C. last night.

But we are very fortunate to have Robert Coombs, who did manage to arrive before the bad weather. Mr. Coombs is the Director of Public Affairs for the California Coalition Against Sexual Assault. Mr. Coombs will offer Ms. Brown-McBride's testimony and will be available for questioning.

We thank you very much for stepping in, Mr. Coombs.

STATEMENTS OF DR. KAYE WHITLEY, DIRECTOR, SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE, DEPARTMENT OF DEFENSE; TERESA SCALZO, SENIOR POLICY ADVISOR, SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE, DEPARTMENT OF DEFENSE; AND ROBERT COOMBS, DIRECTOR OF PUBLIC AFFAIRS, CALIFORNIA COALITION AGAINST SEXUAL ASSAULT

Mrs. DAVIS. In the interest of disclosure, it is also important to note that while the California Coalition Against Sexual Assault is here to provide an outside perspective on the Department of Defense's victim support and advocacy programs, they have and I believe continue to work with the Department on a number of areas related to sexual assault. We are very happy to have you and look forward to your testimony.

Now, I mentioned earlier that we were going to ask you if you could share with us perhaps initially comments from your testimony, but if you wouldn't mind doing that with the group, your re-

sponse to what you heard today. I know that certainly we had some wonderful advocates for victims, and they spoke very passionately I think about the work that they are doing. On the other hand, we had a survivor who continues to work with victims and would like to see more done.

And I think everybody seeks improvement. No question about that. Could you share with us a little bit about your thoughts on what you heard today and help us by starting in that way?

Dr. Whitley.

STATEMENT OF DR. KAYE WHITLEY

Dr. WHITLEY. Thank you, Chairwoman Davis and Ranking Member Wilson. We appreciate the opportunity to be here today.

And I do want to thank Ms. Watterson, because we all know—all of us who work with victims know that this is a really difficult thing for them to do. We also think she's a perfect example of why we needed our policy and why we needed our program.

I do have some concerns, because I felt when we were talking about the new programs she thinks that there is still some things out there that are still going wrong through her work with victim advocates. So I have offered to meet with her to see if I can get more concrete examples to what is happening to some of the victims and where it is happening so that we can follow up on it.

I would also like to say I think you saw today the caliber of the people we have that are working this program. I can't speak highly enough of the SARCs and victim advocates and their passion. That is what we find when go out to installations and when we work in the field and work with the services.

I am also happy to share the panel with one of our civilian partners. They are in the business of victims advocacy, where we are a policy office and we consult with the California Coalition Against Sexual Assault and other State coalitions as we develop our program. Because we do believe that in the civilian world there are some best practices, and in planning our program and policy we have worked very hard to use those best practices.

Is there anything specifically you would like?

[The prepared statement of Dr. Whitley can be found in the Appendix on page 64.]

Mrs. DAVIS. No, I think that is fine.

We will continue.

Ms. Scalzo.

Ms. SCALZO. I have nothing additional to add to what Dr. Whitley said.

Mrs. DAVIS. Mr. Coombs.

STATEMENT OF ROBERT COOMBS

Mr. COOMBS. Yes. First and foremost, I want to acknowledge that I come here as a victim advocate. From my core, that is where I operate. I happen to have a professional background in working in media and policy, and so when I am working with folks like the Department of Defense I have very little interest in defending problems that they have had but rather seeking solutions.

We have had a fantastic collaboration with the SAPRO office in particular. I have been working with them since about 2006, have

met with hundreds of SARCs and have done trainings for SARCs. I have worked with the Department of Defense Office on prevention policy.

I think that the testimony that you heard earlier today is absolutely essential to understand the magnitude of the problem. But it is also important to remember that every single victim and survivor of sexual assault has a unique experience and that, for as much work as is being done within the Department of Defense within each of the branches, we always will have room to grow in this area. We do as civilians. We do when we look to the military. And so I am heartened to see the great work that has been done and really tremendous progress, more than I ever expected to see. But I also know we have a lot of work ahead.

Mrs. DAVIS. Thank you.

I will go on the clock at this time.

One of the areas that has made a big difference is the restricted reporting, and yet we know that there are some loopholes essentially in the law that creates some problems around that. One issue, Ms. Sanchez mentioned how it might be used for career advancement. And yet if there is restricted reporting, there are a number of cases that we might not be able to track, and so that is essential that there is a comfort level around that.

There is also an example if a victim reported to a friend that they had been raped and in fact that friend told the commander who then had to go and that changes—that changes and the victim essentially loses control over that issue and over the decision about whether or not one is going to have it be unrestricted at that point.

Could you talk to us a little bit more about that issue of restricted and unrestricted reporting and what you see is the next generation of that law, what ought to be included in any changes that are made around it?

Dr. WHITLEY. I'll let Teresa address that.

But, first, I would like to say that when the policy began in 2005, well, since it has begun, we have had 1,896 victims come forward with a restricted report. That tells me that it is a good thing and that tells me that that is 1,896 people who came forward and got help and the care that they needed, which is one of the things we are trying to do in the Department, to get victims access to care.

Mrs. DAVIS. And perhaps, Ms. Scalzo, if you could just for the sake of our audience explain that probably better than I could.

Ms. SCALZO. The Department has two reporting options, restricted reporting and unrestricted reporting. Restricted reporting is, quite simply, confidential reporting where the command and law enforcement are not involved. It was quite controversial and very novel when it was created, and it wasn't introduced until six months after the policy was initially passed.

In the military, it is a culture where the commanders need to know and they do know everything that is going on underneath them. It was difficult to construct a system where we could protect the victim's privacy but yet give them just a little bit of information, Jane Doe information, non-identifying information, if you will, that would enable them to keep the community safe.

We know that there are some challenges; and you mentioned if a victim reports to a friend and that friend then reports to the com-

mander, the victim loses control of their restricted report and it is no longer confidential. That is actually one of our priority issues for addressing with respect to policy in the coming year. That is something that we believe is a policy issue, although there are pieces of it that are controlled by the UCMJ. In particular, commanders have a duty to report to law enforcement; and that is something we are working with the lawyers to figure out what the exact parameters are.

However, I can tell you that some of our biggest challenges from restricted reporting come from the civilian community and from civilian laws. For example, there are State mandatory reporting laws in the State of California that make it completely impossible to make a restricted report should the victim choose to seek medical care; and those are some of the more challenging issues we face because they are not within our control.

Mrs. DAVIS. Mr. Coombs, did you want to comment on that from California's perspective?

Mr. COOMBS. Absolutely. And California has the dubious distinction perhaps of being one of the only places on the planet where restricted reporting does not work for service members. That is specifically because of our adult mandated reporting laws coming from medical service providers. It is something that we are trying to address, and there is a handful of significant obstacles in trying to change that.

We see restricted reporting as a very progressive move coming from the military. It is something that I think absolutely you are going to see an increase in the number of folks that come forward with unrestricted reports.

You heard earlier folks were talking about an increase in a number of reports, whether restricted or unrestricted is a good thing. And from the perspective of victim advocates—I work with 85 rape crisis centers throughout the State of California, and we have served over 26,000 victims just last year alone. We think that is a good thing.

When those numbers are going up, those are fundamentally a positive move. Because it means that, number one, those folks are getting services. Number two, it means that there is an atmosphere and environment in which people believe that they can come forward, that they are safe in doing so. And so if restricted reporting enhances that, we are absolutely all for it.

If there is other things that we can do, I think some of that could include some of the things that you were hearing earlier from the SARCs: better training and better communications coming from leadership saying this is something that we prioritize, and we would want to make sure that you feel safe in coming forward with these things. I think that those are some of the areas of growth to look towards.

Mrs. DAVIS. Thank you.

Maybe just a follow up really quickly, if I might. The process of someone becoming a SARC, should that be more rigorous, less rigorous in terms of people actually volunteering essentially to be a part of that?

Mr. COOMBS. From my perspective, I believe that this morning you heard from some excellent examples of folks that are working out in the field.

I think that a couple of things that are very difficult for recruiting and training SARCs include when you have that as collateral duty on top of other types of duties. This is something that, for many of us, this is our primary duty. This is our primary function. And when you add that on top of other jobs, it is really hard for them to have the services and the support really to go all into that. I have seen tremendous growth from folks supporting those position.

Mrs. DAVIS. Thank you, Mr. Wilson.

Mr. WILSON. Thank you, Madam Chairwoman; and thank all three of you for being here today. I appreciate your efforts to prevent sexual assaults.

Dr. Whitley, I am very interested in your program. How is the Department of Defense evaluating the effectiveness of the program? And what criteria are you using to determine success or failure in order to make improvements to the program?

Dr. WHITLEY. Well, we do an annual report to Congress in which we convey to you the aggregate numbers from all the services. That does give us some information.

We also, in terms of measures of compliance, is basically what we do now is we go out to check to ensure the policy is being followed. We can measure victim care and victim services. Are they getting the services they need?

But one of hardest things to measure is if we are preventing it. And as Mr. Coombs was talking about numbers, when we have numbers, we don't really know is that a good number or a bad number, because we don't know how many sexual assaults are out there. But one of the things that we are doing now in the Department of Defense, we are developing more measures and repeating those measures.

We have two surveys, two gender relation surveys, that we do every two years, one for the active duty force and one for the reserve component. That survey asks the respondents, have you ever experienced unwanted sexual contact? What we are finding is a number of our reports are way lower than the number of people who are saying on the survey they have experienced that. So now we do have a measure, and we can look at the gap between the number of people that are saying they experienced to the number of people that are reporting. Our goal now is to reduce that gap and to get those victims to come forward and to get them the care and the help that they need.

We also are evaluated consistently through different outside organizations. As you know, we always have oversight, of course, but the Government Accountability Office (GAO) recently did a study on our program, the DOD IG has investigated our program. We have had more than one task force, and there is one that is currently ongoing right now that will be bringing back recommendations for us.

In terms of measuring success of a sexual assault program, that is very difficult to do, especially the prevention aspect.

Mr. WILSON. Thank you very much.

And I agree with Mr. Coombs, that the persons we saw in uniform were professional, they were competent, capable. It makes you so proud of the American military.

Ms. Scalzo, with American forces deployed in very remote areas of the world, how is the program being adapted to, say, smaller units in remote areas?

Ms. SCALZO. The services work individually to whatever particular challenges they are facing in that area. They work—the SARCs job is to figure out how to adapt.

I can tell you that at a policy level one of the issues that we are looking at is what happens in joint environments such as those deployed environments. We are in the process of drafting policy modifications to make it a little bit clearer as to who is responsible for what and to improve that situation.

Mr. WILSON. And with isolated units, whether they be in military facilities in Djibouti, on ships in the Persian Gulf, Indian Ocean, how in the world do you make this work?

Ms. SCALZO. Well, certainly it is very complicated. That is a very good question. It is complicated, it is challenging, and we do our best to make sure that somehow victims have access to those services in remote locations. It may take them a few days to get them to where they need to go to get those services, but we work to make them available. I can't tell you that it is not complicated, because it is.

Mr. WILSON. Again, thank you for your efforts.

Dr. Whitley, as we have the DOD program before us, again, is there any recommendation on any legislative change that you feel we should perform?

Dr. WHITLEY. There is nothing at this time. We are still trying to make sure that we got the policy right. We are still examining gaps. So at this time I don't have any recommendations for legislation.

Mr. WILSON. And, again, thank all of you for being here today.

Mrs. DAVIS. Thank you.

Dr. Snyder.

Dr. SNYDER. Thank you, Madam Chair.

Dr. Whitley, at the end of your written statement we didn't give you time to talk about today, you do talk about what you call four challenges. It seemed to me that some of them may have some legislative possible solutions. I don't want to ask you about those now, but maybe before we're done we can have you amplify on those four challenges.

I wanted to ask about one of them, being this issue of the civilian adult mandated reporting statutes. Maybe I will ask you, Mr. Coombs. How does that work in California? Are military doctors required to report under California law, or is it civilian doctors who see military personnel that are required to report?

Mr. COOMBS. As far as military doctors on base, I would have to defer to my colleagues on that.

Dr. SNYDER. Does it require a report?

Ms. SCALZO. Yes, sir, they are. Doctors are licensed in a State, and they have to abide by the State laws in addition to——

Dr. SNYDER. Are you telling me any time a doctor is transferred to another base they have to go through State licensing requirements in that State?

Ms. SCALZO. No, sir. But the opinion we have gotten from our office general counsel is that, because the State of California has that law that on base, our doctors, many of whom are licensed in California, are not comfortable with compliance issues of reporting because it violates California State law.

In addition, there are a number of bases that have concurrent jurisdiction in which State law would apply as well. So the only time military doctors would be exempted possibly would be if it is an exclusively Federal jurisdiction on that base.

Dr. SNYDER. It seems like here we have a California advocate who is saying this is not helping sexual assault victims. I don't know what is going on in California.

I was a family doctor in the olden days; and I was expecting just a lot of lying that goes on, kind of nudge, nudge, wink, wink. A woman comes in who has been sexually assaulted or hurt in some way who knows that if she says what happened it will be reported. And so they kind of say, oh, you fell down the stairs, again? And then if you actually get to a criminal case you then have a note in the chart that says the woman says she fell down the stairs. I don't see what good comes from this, but we are not hearing the other side of that today.

But we do have the option legislatively, I would think, if we choose to, of preempting that California statute. But that may not be the solution. It really does seem to work against the goals that you have with the restricted reporting requirement.

Dr. Whitley or Ms. Scalzo, would you describe for me the need-to-know concept, how that works with a commanding officer, a commander?

Dr. WHITLEY. As we said earlier, it was a hard sell to the commanders. They need to know everything that is going on. One of the things that we said to the commanders when we were putting this policy out is there are sexual assaults that are going on in your command right now that you don't know about. Wouldn't you at least like to know if one occurred and where it occurred so you could take actions to protect your troops? And that helped us somewhat with them.

And so when there is a sexual assault our policy says the command is supposed to be notified that a sexual assault took place and whatever details that they can give that would not give away the identity of the victim. So that way, if it is happening in a barracks, maybe they would put more senior leadership in the barracks. It gives them other options to address the protection of their troops.

Dr. SNYDER. I want to ask you, Dr. Whitley, on page 11 of your written statement you talk quite a bit about prevention. And it seems—I don't want to say it is idealistic, but I appreciate it is a very laudatory goal.

It reminded me of the time some years ago I was touring housing on a military base, and the yards were smaller and the houses had smaller square footage. But the personnel said, but we don't need as big because we trust the people who live next door to us. Our

kids can run in the yard next door. It is like they have a big yard because we are an Air Force family. It seems to me what you are trying to do is augment that whole concept that we are a family and take care of each other.

You have this one statement here, you say there is some research that suggests that by educating military members when and how to act we may be able to turn bystanders into actors who can prevent sexual assault. Would you amplify what that means, please?

Dr. WHITLEY. Absolutely. And I have to say that most of the services do have programs or bystander intervention programs in place.

Most of our assaults, the numbers reported to Congress, they are not stranger assaults. They are not this guy jumping out of the bushes with a ski mask and a weapon. The majority of the assaults are between 18- and 24-year-olds. Usually alcohol is involved. Our numbers tell us about a third. We believe it is more than that.

So what we are trying to do is to teach young people if they see predator-type behavior to intervene. Because we do know there are predators that will use alcohol as a weapon to reduce a woman's defenses in order in order to complete a sexual assault.

So one of the things we were trying to do is to make young people aware if somebody is mixing really strong drinks for a young girl, stop it, intervene. Or if they walk out together and it just doesn't look like a good idea, they should take care of each other and maybe say we need to go in this direction. Let's not go home with him tonight or walk out with him tonight.

So we are trying to give them some warning signs so they can see if there is anything they can do to step in. And certainly to help them that if something does occur that they know exactly what process—if someone crosses the line, they need to go see a SARC.

Does that answer your question?

Dr. SNYDER. Yes.

Dr. WHITLEY. It is a very interesting concept, to get people to intervene. And we think that it is going to be possible in the military because of that same concept that you watch out for your battle buddy or your wing man.

Mrs. DAVIS. Thank you. Thank you, Dr. Snyder.

Ms. Tsongas.

Ms. TSONGAS. Thank you very much for your testimony, and I would have to say those comments you just made were as encouraging as I have heard in the course of this day.

I would like to go back to the issue of restricted versus unrestricted. And you said that, in 2005, 1,896 reports were made under this process.

Dr. WHITLEY. Have since come forward and reported. Some of those may have converted to unrestricted, but that was the initial report.

Ms. TSONGAS. So my question is, other than this is a wonderful process for the victim, it allows them to get access to the kind of help that they need. But short of those who don't convert to an unrestricted, it means a significant number of people who have committed these assaults are not accountable.

Dr. WHITLEY. You want me to comment? And I will ask our victim advocate to quote, too.

It is a tough call. We have to balance taking care of a victim and holding offenders accountable. I think in the situation that we are in, if we can do anything to get a victim to get care—I mean, I don't have to repeat things. You all have heard over and over and over about what sexual assault does to a military unit. It renders them not ready, and it can just tear a unit apart and just tears at the very fabric of what the military is made of. So if a sexual assault occurs, we want to get that victim in there.

We also know there is research that shows early intervention after any trauma can prevent PTSD. So we are doing everything we can to get that victim to come forth so they can access care. We do hope that they convert. We hope we are making them so comfortable and have so much confidence in our system that they will convert to an unrestricted report so we can go after the offender.

Ms. TSONGAS. The question I have—and I think that is a worthy goal for the victim. On the other hand, you have new women coming into the military who have no real understanding of the threat that might exist. And I am just wondering if there is a way in which we can collect data or have some understanding of the numbers. I don't know what the answer is, but we are focusing on the victim. At the same time, we have many young people coming into the services who we want to protect. And how we find the balance and how we collect data and do something to help either move the victim into an unrestricted category or have some other mechanism to deal with those that are committing the assaults, I welcome your input on that.

Dr. WHITLEY. Hopefully, if they are entering the service, they are getting sexual assault awareness training very early on. That is one step through training.

Another thing that we do, even if they do have an unrestricted report, it is difficult to get victims to stay with the military criminal justice process. You heard early testimony that when they tell their story if they go unrestricted, they may tell their stories 25, 30 times. It is very painful, and they drop out. So we have taken some measures, too, in terms of training SARCs to support victims throughout the military criminal justice process to get them to stay with it so we can hold the offender accountable.

Ms. TSONGAS. Thank you.

Mrs. DAVIS. Thank you.

Mr. Turner.

Mr. TURNER. Thank you, Madam Chair; and, Dr. Whitley, thank you so much for your testimony and for the others. But, Dr. Whitley, it is just so great to hear you with your commitment and your heartfelt work on this.

I serve on the Government Reform Committee, as you know; and so I was there for your testimony there. And also the time when you were directed by your supervisor not to appear as a result of a subpoena that was given. I know you regret that.

And I just want you to know that so many times when something like that happens, when the actual individual comes forward and testifies, their testimony is colored by that past. And it is somewhat indicating that perhaps they don't have something to say but you do. And I appreciate your telling the story because I know you're here to help us also to find out what is right and you are

also dedicated to your program. So thank you for continuing to do it and to tell your story.

One of the things that we heard from Ms. Watterson when she told her story was the sense of what happened after being such a violation in addition to the sexual assault. And the last time you were in my office we talked about the Lauterbach case, and you informed me that the Inspector General had been requested to take a look at that case about what happened after the fact.

Your principal under secretary, who was your supervisor, had requested that IG investigation; and we understand that it is ongoing. We have not heard anything from them, and neither has the family. That is of a concern to us, because part of their independence, of course, should be that they hear from all sides and not that we just have a report handed to us.

We have concerns that are continuing, not just what has happened up to the time where Maria was murdered. For example, I have two news articles that, with the chairwoman's consent, I would like to enter into the record where we know that, just recently, the Marines approved the alleged murderer and sexual assault——

Mrs. DAVIS. Without objection.

[The information referred to can be found in the Appendix on page 86.]

Mr. TURNER [continuing]. Thank you. Went to Mexico to visit the individual who was the murderer, and we would like the Inspector General to look at the issue of why did the Marines approve this.

Because, basically, we have the Marine wife, who was a material witness, leaving the country to visit her husband, who is absent without leave (AWOL), who is a Marine, who is the alleged rapist-murderer who is fighting extradition, in an unsupervised visit where the prosecutors in these articles indicate that perhaps it was for a conjugal visit, because under Mexico law, on their birthday, apparently, accused can have visits from their spouses; and there is concern by the prosecutor of what that would do to her willingness and interest in testifying. So we would like to ask them to include things like that.

Is it your experience where the IG has been asked to look at a case if you are aware of any other cases where they would conduct their whole investigation and never speak to the family members?

Dr. WHITLEY. I don't really—I don't know. I don't have a response to that. That sounds unusual to me.

Mr. TURNER. That is what I would think. We have a letter that I sent today to the IG requesting that they engage, and any thoughts that you have even after this hearing I would appreciate it.

Dr. WHITLEY. I have to tell you, sir, the DOD IG has been directed to stand down, and they are not investigating this case. They believe it could have undue command influence, so that investigation has been stopped.

Mr. TURNER. Well, once again, I am only hearing information from you. Because I have correspondence to my office that, in fact, the IG had accepted the case and was going forward. And I have no communication indicating that——

Dr. WHITLEY. They did accept it. And I think they started forward with that case, and then they were advised by the lawyers to stand down.

Mr. TURNER. See, Dr. Whitley, this goes right to the issue that I talk about, the culture in the military. How is it that, a Member of Congress—I have requested that they begin an investigation. Your supervisor requested it. I get a letter confirming that they have undertaken the investigation, and then you relate it us that it is not going forward. It is very concerning.

Dr. WHITLEY. I know it doesn't sound palatable. But what we are told by the lawyers, even though this is a civilian case, if, God forbid, anything went wrong and there was a mistrial declared or anything ever got kicked back to us as a military case, anything that we had done could have undue command influence. And so I thought that was one of the reasons, I believe. I am sorry if you were not—I assumed you had been notified of that.

Mr. TURNER. That is astonishing. Thank you, Dr. Whitley.

If I could have just a few more minutes, one of the things that the Lauterbach family has been concerned about in this whole process is that the victim advocates perhaps were just perhaps victim listeners and don't have real authority and ability to affect the process. Do you have concerns about the lack of authority in the process?

Dr. WHITLEY. Well, the program is still very new; and we are still implementing training for all the victim advocates and the SARCs. The victim advocate should work directly for a SARC; and the SARC has a lot of power, if you will, to have access to a commander to intervene. That was the way the program was set up.

I can't speak to each and every SARC. We have 2 million people, including Guard and Reserves, that are taken care of by our SARCs and victim advocates. I can't speak to each and every case. I hope and believe in my heart of hearts that most are like the ones that you saw today.

Mr. TURNER. Thank you.

Thank you, Madam Chair.

Mrs. DAVIS. Dr. Snyder, did you want to ask a question?

Dr. SNYDER. Dr. Whitley, would you take some time and amplify your four challenges at the end? You haven't really talked about those.

Dr. WHITLEY. Whenever I talk about things that are lawyerly, I bring a lawyer. So I am going to ask Ms. Scalzo, because as my senior policy adviser she heads up a subcommittee that works under the Sexual Assault Advisory Council, which is headed by the Under Secretary for Defense. He established committees to look at some of these issues. The committees have members from all of the services as well as some of our Federal partners and civilian partners. Teresa heads that committee and these are some of the issues that they have identified that they are currently working on, and she can speak in great detail about each of them.

Ms. SCALZO. Thank you, Representative Snyder.

Dr. SNYDER. All of the great detail you can do in four minutes.

Ms. SCALZO. The first challenge was the State mandatory reporting laws that we have already discussed. The second would be jurisdictional challenges. Our SARCs and victim advocates have to

collaborate with civilians. As you know, the military does not always control the prosecution. For example, it could be a civilian perpetrator, or if the case happened off base, the civilians would have the first option to prosecute that case. In those sort of circumstances, we are constrained by what is going on in the civilian world and, frankly, it is not always perfect.

I come from a background of being a civilian prosecutor and training prosecutors across the country. The example that we use to illustrate that is a case that happened in the D.C. metro area where D.C. had primary jurisdiction. Our victim was at Bethesda waiting to have a sexual assault forensic exam, but because D.C. had a rule that their Sexual Assault Forensic Examiner (SAFE) exams had to be performed within D.C., our victim had to be transported to D.C., had to then wait approximately eight hours to be served, and then in the end D.C. refused to prosecute the case. So we ended up picking it up.

SARC and victim advocates have to work to coordinate that, and they do, but we raise that so that you understand some of the jurisdictional complications that we face that are enhanced when you are dealing with Federal/military/state collaboration.

The second issue is the line of duty issue. If a Guard or Reserve member is assaulted while they are in active status or in active duty training and then seeks care when they are no longer in activated status, they need to get what is called a line of duty in order to get care and treatment. That is not consistent with the restricted reporting policy simply because of the process. It is a public process where the command is involved, and there needs to be an investigation.

What we have done is we modified our policy to require the services to rewrite their policy to ensure that line of duty can be accessed to sexual assault victims in a private manner, just a limited line of duty for just care for victims of sexual assault.

The final piece is the investigation and prosecution of sexual assault—which I understand there will be an entirely separate hearing on—but the challenge there that we have been looking at is are our investigators and prosecutors trained well enough. We are working with our legal community to take a look at that, and we do what we can at SAPRO, although the UCMJ provides the JAG, the Judge Advocate Generals, with complete authority over the legal piece of the process. We at SAPRO do try to interface with them, try to make sure that they are being as sensitive to victim practices as possible, make sure that we support them and that they are supporting victims as much as we are able to do.

Dr. SNYDER. I am confused on the line of duty issue. If a person is activated or they are on their two-week training in the summertime, an incident occurred on the last night's going-away party, they very clearly know, everyone knows when the incident occurred, 1:00 a.m., May 3rd. Why is there any big whoop-dee-do? Shouldn't it just be based on when the incident occurred?

Ms. SCALZO. It is based on when the incident occurred. The challenge is if they report when they are not in an active status, they are not eligible for medical benefits at that time; they are not eligible for treatment. Our policy makes them eligible for care and treatment. But because of the way the Guard and Reserve works,

if they are not in an active status, they need that line of duty finding to get care.

So it is a method of getting them care when they are not under the insurance of the Guard and Reserves.

Dr. SNYDER. That would seem like something that could be pretty easily corrected.

Ms. SCALZO. You would think.

The challenge is that our policy controls sexual assault, and within the Department of Defense there are many different directives that control different pieces of things. Line of duty is a separate policy. So in order to have it rewritten, we need to follow the bureaucratic steps of getting our policy rewritten to have them rewrite their policies. So we are in the process of getting that done.

It took a while, actually, just to identify and solve how to figure it out because it is such an unusual idea, the concept that you can report something privately. Restricted reporting is just so out of the box that sometimes these complexities arise, and that is a perfect example.

Mrs. DAVIS. I think we are going to wind up on this. I am going to ask one or two more questions, and I understand that there aren't any more questions that my colleagues have.

I am looking at the Government Accountability Office report of 2008, and in that it talks about the fact that the military services haven't really provided the data that would facilitate oversight and enable the DOD to conduct trend analyses; and I know in the last authorizing bill we included language to move that collection of data forward.

Where is that? And we are waiting to get more information about it. What can you tell us?

Dr. WHITLEY. We recently sent the plan for that database to Congress. We had a working group, and it was composed of the services and a member of my staff to design a database that would do what we need it to do. We have the money for it. It is going to take us about a year to get it up and running.

I think one of the issues I would like to talk about as far as data, when our program first stood up, we were required to report aggregate numbers, and that we have been doing. But as the program has grown, we are realizing we need the ability to look at this data in a lot of different ways because it gives us information that has policy implications.

For example, by installation. And I often would get questions from the Hill, How many military-on-military sexual assaults took place at training brigades in CONUS. And I could not slice and dice the data that way. I would have to go back to the services. I could get it, but it was almost like a stubby pencil technique to get that type of data.

Hopefully when this database is up and running, we will be able to look at the data in a lot of different ways. But we were reporting just aggregate numbers of reports. And that paper has been sent with explaining the plan of setting that up.

Mrs. DAVIS. Once we have the database, do you believe that we will be able to, in as transparent a way as possible, understand the effectiveness of programs that we have undertaken?

Dr. WHITLEY. I think it will be very helpful. I go back to what I said earlier about the surveys that we have that are telling us how many people are reporting anonymously on surveys about experiences, be able to look at that and compare that to the number of reports. And that is going to tell us if we are reaching the population. It is really hard to measure, I guess you would call it, prevalence versus incidents. So this will give us a better idea of that.

Mrs. DAVIS. Thank you.

Mr. Coombs, from your perspective in California, how is the military doing in terms of other victims support advocacy programs? How does it compare?

Mr. COOMBS. Well, as I was listening to all of these questions, I started thinking about what it would like look if you had me up here talking on behalf of rape crisis centers, and all of these questions that you are asking are questions that we would also ask of civilians. And frankly, there are some of the same problems in the civilian world. We have some of the same battles over jurisdiction. We have some of the same trouble with lack of training with certain victim advocates and the folks that they work with.

I think that when you compare our movement, the sexual assault prevention and intervention movement, our field, and you look at the 30 years, the 30-plus years that they have been working on this, to see the progress that has been made in the military in 5 years is outstanding. I mean, they have really done an outstanding job.

That being said, I think that there has to be ongoing collaboration between military and civilian communities that every single day civilian victim advocates are learning more about how we do this work, how we provide the very best services for victims and survivors and also, frankly, how it is that we do better work with sex offender management.

So that learning experience is something that is going on in the civilian world right now. We want to make sure that we continue that collaboration so that we can share that information. We can create new policies, we can enhance the new types of services in the military.

Mrs. DAVIS. One of the things that I know is happening in all of the services, although I reference the Army for a second, is trying to provide better expertise, really using the resources that are at hand. And there is a sense that we haven't done that, that perhaps we haven't sought out those folks who are really at the top of their game in this and that we are doing that now and that is starting to move forward.

I think the other piece, which we will hear about at another hearing, is just the education one. I mean, the idea here it seems to me is to prevent all of this. We obviously mirror society, so we are not going to wipe this out entirely. But having the kinds of educational programs as people enter the services, the kinds of screening that is appropriate, and to really lay down the law in many ways, that this is not acceptable, absolutely not acceptable. And everybody has to be a partner in making certain that people are kept safe in all places when they are devoting their lives to keeping the country safe. We have people who are not feeling safe in the services.

And so I think more needs to be done in that area. And the greatest thing would be to throw you all out of business, essentially. We are not going to do that, but that would be something that would be very positive.

Dr. Snyder has a question quickly.

Dr. SNYDER. Regarding getting the restricted reporting requirement, I assume that there is an age of minority below which the restricted reporting requirement would not apply?

Ms. SCALZO. Under the sexual assault policy at this point in time only service members are eligible for restricted reporting.

Dr. SNYDER. Family members are not?

Ms. SCALZO. There is a domestic violence policy which the family advocacy program has oversight over which does give restricted reporting to family members. I am not an expert on that. My understanding is that it is only for adults and it comes in conflict with——

Dr. SNYDER. The mandatory reporting requirements of children.

Ms. SCALZO. For the purposes of sexual assault under SAPRO's policy, it is just service member victims.

Mrs. DAVIS. I want to give you a moment. Is there anything in your introductory remarks that you might have said that you want to be sure that we heard before we close down?

Okay. Great. Thank you so much. We appreciate your being here and especially responding to our first panel. Thank you very much.

[Whereupon, at 2:03 p.m., the subcommittee was adjourned.]

A P P E N D I X

JANUARY 28, 2009

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JANUARY 28, 2009

Opening Statement of Chairwoman Susan A. Davis
Military Personnel Subcommittee
Hearing on Sexual Assault in the Military: Victim Support and Advocacy
January 28, 2009

"Today's hearing will be the first of a series of hearings the subcommittee will hold this year looking at sexual assault in the military.

"Sexual assault is a complex problem where most, if not all, aspects are interrelated. Such a topic does not lend itself to a single hearing. As a result, we have chosen to hold multiple hearings on discrete topics so that the members and witnesses can have in-depth discussions about various issues to build towards a comprehensive understanding of the problem. This will guide our deliberations on what can and should be done next.

"Today we will be focusing on victim advocacy and support. Our next hearing will look at current and planned Department of Defense programs to prevent sexual assault. I would like to say that we are encouraged by the level of commitment, resources, and expertise that the services are applying to prevention programs to educate service members and change cultural norms. Finally, we will hold a hearing to examine how sexual assaults are prosecuted by the military.

"No one can deny our responsibility to ensure that victims of a sexual assault receive all the support that can be provided following an attack. The Department of Defense has made significant improvements in recent years to the depth and breadth of services available after an assault since the implementation of a new policy in 2005, but the question we need to ask is, 'Has enough been done?' This hearing will look at how the Department of Defense currently handles victim advocacy.

"We are very fortunate to have an impressive first panel. These are individuals who deal with the very real needs of victims of sexual assault.

"First is Laura Watterson. In 2001 Laura was an airman on active duty when she was assaulted by a fellow service member. She will tell her story of what she has endured, usually by herself, after the assault. Laura, thank you for your willingness to share your experience with us. We are humbled by the courage you have displayed by coming forward.

"Next we have three witnesses from the services. These are not policy wonks. These are people who have helped individual victims in the aftermath of an assault. I would like to thank the services for dispensing with their usual policies and procedures regarding rank and vetting to make these service members available to the subcommittee. Their participation will add greatly to our understanding of what victim advocates do on a daily basis and what resources they need to do even more.

"Captain Daniel Katka is a Sexual Assault Response Coordinator, or 'SARC', from the Air Force. He has worked as a SARC both in the United States and while deployed overseas, for both operational and training units.

"Sergeant First Class Horwath has served as both a Unit Victim Advocate and as a SARC in the Army, both here and while deployed. While serving in Iraq he found himself performing the duties of both the SARC and as the first responding Unit Victim Advocate.

"Chief Petty Officer Tonya McKinnie has served as a Sexual Assault Victim Intervention Advocate for the Navy, both in the United States and while deployed.

"Again, thank you all for being part of our hearing.

"Our second panel will include two witnesses from the Department of Defense's Sexual Assault Prevention and Response Office, Dr. Kaye Whitley and Ms. Teresa Scalzo, as well as Robert Coombs, the public affairs director of the California Coalition Against Sexual Assault. I will make more involved introductions before that panel testifies.

"I want to reiterate that the purpose of this hearing is to focus on victim advocacy and support. Other issues will of course come up, but I would like to save in-depth conversations on prevention programs and prosecution for our later hearings, so that we can give each of the topics the attention and discussion they deserve."

Opening Statement of Ranking Member Joe Wilson
Military Personnel Subcommittee
Hearing on Sexual Assault in the Military: Victim Support and Advocacy
January 28, 2009

Thank you Ms. Davis. Today's hearing continues the work this subcommittee started several years ago to address the problem of sexual assault within the military.

We began our efforts during Chairman McHugh's tenure in response to increased reports of sexual assault at our military academies. In 2004 we required the Department of Defense to establish a task force to examine sexual harassment and violence at the United States Military Academy and the United States Naval Academy. We also asked for an assessment of the effectiveness of the corrective actions taken to address sexual harassment at the United States Air Force Academy.

We followed these initial steps by expanding the mission of the Task Force on Sexual Harassment and Violence at the Military Service Academies to include all of the Armed Forces. We then focused our attention on strategies to improve the Pentagon's response to sexual assault. As a result we required DOD to implement a comprehensive policy for the prevention and response to sexual assaults involving members of the Armed Forces.

In response to concerns we received from the field over the length of time it took to process forensic evidence, we required DOD to eliminate the backlog in the processing of forensic evidence collection kits and ensure that an adequate supply of rape kits are available for all military installations. We also made sure that military personnel who use forensic evidence collection kits receive training to ensure evidence is collected properly.

Finally, working with the Congresswoman from California, Ms. Sanchez, we took an unprecedented and bold step to reform the Uniform Code of Military Justice to establish a comprehensive and modern sexual assault law based on other federal laws and regulations that effectively address sexual assault.

These legislative actions point to this committee's consistent, thoughtful and aggressive approach to addressing the issue of sexual assault in the military. Throughout this process we have looked to the experts to help us find the right solutions and we have worked with the Department of Defense to put in place policies that address both prevention and support for victims of this devastating crime. This has not been an easy task, but our commitment to protecting the health and welfare of our service members is unwavering.

To that end, it is my understanding that the purpose of today's hearing is to focus on the support provided by the military to victims of sexual assault and to assess whether DOD's programs meet the needs of the victims or not.

I sincerely appreciate the willingness of Ms. Watterson, who was a victim of sexual assault, to testify today. Although your experience took place prior to DOD's new, comprehensive policy, I

hope you can give us your assessment of whether the current policies and programs would have helped you and where there may still be gaps.

I continue to hear in media reports and from various individual assertions that the system isn't working well enough. I look forward to the views of the members of the second panel. How do you measure the program's success? Where does the system fall short? Have you identified areas that need improvement? How can we help?

I hope that our discussions today will be informative and productive. My purpose today is to continue the dialog towards improving the support, services and care available for military victims of sexual assault. With that, I would like to welcome our witnesses and thank them for participating in the hearing today. I look forward to your testimony.

Statement of

Captain Daniel Katka
Sexual Assault Response Coordinator
U.S. Air Force

Before the

House Armed Services Subcommittee on Military Personnel
United States House of Representatives

Hearing on Sexual Assault in the Military: Victim Care and Advocacy

January 28, 2009

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House Armed Services Committee
Military Personnel Subcommittee

Good morning and thank you Chairwoman Davis and subcommittee members for your interest in the issue of sexual assault in the military. My name is Captain Daniel Katka, I'm stationed at Lackland Air Force Base in San Antonio, Texas and I'm honored to have the opportunity to share my experience as a military Sexual Assault Response Coordinator.

I've been privileged to serve in the Air Force for 20 years. I enlisted in 1988 and received my commission in 2002. I have served as a Squadron Section Commander for large units and as a Military Training Flight Commander for over 1,500 personnel. In those duties I dealt with numerous personnel issues to include sexual assault. Those experiences led to my desire to become directly involved in the care and advocacy of sexual assault survivors. In 2007, I was honored to be chosen as one of Lackland's two full-time Sexual Assault Response Coordinator's or SARC.

Supporting Lackland's sexual assault survivors is my top priority. Air Force SARCs report directly to the installation Vice Wing Commander. Reporting to the vice commander ensures top level support and immediate access when needed. I also work directly with a Sexual Assault Response Team, or SART, comprised of first responders from the chaplaincy, investigators, JAG, and medical communities. The SART meets monthly to review cases and discuss ways to improve response procedures. I recruit, screen, train, and supervise 70 Victim Advocates, or VAs, who are military and DoD civilian volunteers. Air Force Victim Advocates receive 40 hours of training to provide immediate and ongoing survivor support. Victim Advocates and SART members are trained to understand restricted and unrestricted reporting options. The local San Antonio civilian community is involved in supporting Lackland's survivors. The local Rape Crisis Center works with survivors who prefer to receive one-on-one or group counseling off-base. We also have an outstanding partnership with a local civilian hospital for survivors who desire a sexual assault forensic exam. When utilizing the Rape Crisis Center or the local hospital, survivors' restricted reporting option is still protected. The majority of the reports made at Lackland are from trainees, which encompass the Air Force's youngest demographic.

Training is essential to informing Lackland's nearly 50,000 personnel about sexual assault. Lackland is the Air Force's largest training base with the only Air Force basic military training center and numerous technical training schools. Every basic trainee receives a four-hour Sexual Assault awareness class. Airmen are presented an additional two-hour follow-on class during the introductory week of their technical school. To ensure our permanent party personnel receive necessary training, Lackland has over 200 Sexual Assault Prevention and Outreach representatives who conduct briefings and

distribute awareness products. The annual Sexual Assault Awareness Month also presents an opportunity to educate the base. We've had numerous activities to heighten awareness: base walk/runs targeting the younger population; leadership luncheons; "Take Back the Night" vigils; banner campaigns at base entrances; and strategically placed information booths at highly frequented locations such as the Base Exchange. The experiences I've had at Lackland prepared me for the SARC mission abroad as well.

One of the most rewarding opportunities I had was to deploy as SARC in support of Operations Iraqi and Enduring Freedom at Al Udeid Air Base, Qatar. Most Air Force SARCs are DoD civilians, but to ensure contingency and deployment capability, 30 are military members. In the AOR, it is vital to have a robust sexual assault training and awareness program to ensure all know, regardless of military branch, that the SARC is there to support them. With strong base leadership support, I provided SAPR information at weekly in-processing briefings, reinvigorated monthly case review meetings, trained new SART members, and started new awareness campaigns using base organizations such as the Airman's Group, First Sergeants Associations, and Desert Chiefs Group. I also supported Al Udeid's geographically separated unit, Eskan Village in Saudi Arabia.

It is a profound privilege for me to be here today. I am passionate about supporting survivors and educating military members about this horrendous crime. Forums like this help ensure this issue remains in the forefront and protects our most important military resource—our People. Thank you very much for this opportunity.

STATEMENT

OF

DR. KAYE WHITLEY
DIRECTOR
OFFICE OF THE SECRETARY OF DEFENSE
SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE

BEFORE THE

ARMED SERVICES COMMITTEE
SUBCOMMITTEE ON MILITARY PERSONNEL
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON SEXUAL ASSAULT IN THE MILITARY: VICTIM CARE AND ADVOCACY

JANUARY 28, 2009

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ARMED SERVICES COMMITTEE
MILITARY PERSONNEL SUBCOMMITTEE

KAYE WHITLEY, Ed.D.
Director, OSD Sexual Assault Prevention and Response

Dr. Kaye Horne Whitley is the Director of the Sexual Assault Prevention and Response Office (SAPRO). The office is the Department of Defense's single point of accountability for all sexual assault policy matters and reports to the Office of the Under Secretary of Defense for Personnel and Readiness. SAPRO develops policy to improve prevention efforts, enhance victim support, and ensure system accountability. The office collaborates closely with the Military Services to fully implement those policies and to ensure excellence in all military SAPR programs.

Dr. Whitley served in the Office of the Secretary of Defense (OSD) Prisoner of War/Missing Personnel Office for 12 years prior to assuming leadership of the SAPR Program. As Senior Director for Communication, she implemented an extensive outreach program for families, Congress, and the media. As the point of contact for family members whose loved ones are missing in action from our nation's wars, she was responsible for family and casualty policy matters and provided guidance to the four Service Casualty Offices regarding POW/MIA policy. Highlights of her tenure include briefing the families of detainees, including the three soldiers held captive in Kosovo, the EP-3 crew detained by the Chinese, and the prisoners of war in Iraq. She served as a consultant to the Department of State in briefing the families of the Columbia hostages and the contractors captured in Iraq. She participated in international projects, such as serving as the lead for a family and veteran delegation to North Korea and participating in negotiations with representatives from North Korea, Russia, Vietnam, Laos, and Cambodia. She authored, "What to Do If Your Loved One Is Missing or Captured: A Guide For Families," which was used by the Assistant Secretary of Defense for Legislative Affairs to brief Congress on what the Department of Defense does for families in the event of capture.

Prior to working for OSD, Dr. Whitley was selected in a national search for her position as Assistant Director with the American Counseling Association. She served as the point of contact for military families for the Association's National Post Traumatic Disorder Network. As the Director of Personnel, Programs, and Training, Fort Stewart Schools, Dr. Whitley developed and established a counseling program for the military children enrolled. She later was selected to be on the graduate faculty at the University of Texas at El Paso where she developed two Master of Education programs in counseling. During this time, she worked closely with the local school system to help the children whose parents were deployed to Operation Desert Storm. Additionally, Dr. Whitley provided clinical counseling for military wives at Fort Bliss, Texas.

Being an Army wife for 26 years was the impetus for focusing her career on the military. Some of the topics she researched and presented at National Conferences and other venues include: "Stress in Military Families," "Counseling Highly Mobile Families," "Group Counseling for the Military," "Desert Storm Deployment: The Role of the School Counselor," and "Career Development of Military Wives." She completed a year long clinical internship in mental health counseling at DeWitt Military Hospital, Fort Belvoir.

Dr. Whitley is a Summa Cum Laude graduate of the University of Georgia. She received her Doctorate in Counseling and Human Development from The George Washington University where she focused on Women's Studies and mental health counseling of military service members and their families. She was the recipient of one of the first scholarships awarded to a spouse from the Army Officer Wives of the Greater Washington Area and has the distinction of being a two time recipient of the Molly Pitcher Award for service to the Military Community. She holds numerous other awards, licenses, and certifications.

INTRODUCTION

Chairwoman Davis, Ranking Member Wilson, and members of the subcommittee, thank you for the chance to speak today about caring for military sexual assault victims, a topic that I hold close to my heart. I have worked closely with some of the members of the committee and their staffs and would like to take this opportunity to say it is a pleasure to have this level of interest and support for our program. Thank you.

I would also like to thank the Services for their resolute dedication in support of the Department's policies and programs. Together, I believe we are creating a program truly unprecedented in scope by any other organization, either civilian or military.

In order to explain victim care and advocacy for military victims of sexual assault, it is important that I provide an overview of the following: (1) a brief history of sexual assault prevention and response in the military; (2) the reporting options available to Service members; (3) the victim care program we have created; (4) how we track victim care; and (5) the challenges we face in caring for military sexual assault victims and the help and support we need for the way ahead.

Sexual assault is one of the most underreported violent crimes in our society. National studies indicate that as many as eight out of ten sexual assaults go unreported in the civilian sector – largely because victims are fearful of the life-changing events, public scrutiny, and loss of privacy that often come with a public allegation. The potential medical and psychological costs and consequences of sexual assault are extremely high. Unfortunately, the military is not immune to the problems faced by the rest of American society and sexual assault is no exception. Sexual assault not only affects the health and stability of our war fighters, it has a negative impact on mission readiness. We face the challenges caused not only by the devastation of sexual assault, but also by its underreporting. In the past several years, we have come a long way in creating a system that provides sexual assault victims with the care and respect that they need, while honoring their privacy to the extent possible. As I said, the military is not immune to the problems faced American society, but we believe our response to those problems should be the best in the nation.

HISTORY

Care for Victims of Sexual Assault Task Force

As you may know, the Department's sexual assault prevention and response policy was instituted in 2005, after 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 the Department of Defense, with particular attention to any special issues that may arise from the circumstances of a combat theater. On February 13, 2004, Dr. Chu established the Department of Defense Care for Victims of Sexual Assault Task Force, an eight member task force. In April 2004, the Task Force published a report with a series of recommendations and findings. Those recommendations served as the foundation of our current policy.

The Task Force found pockets of excellence but expressed a need to have consistency of excellence across the Service programs. Although each Service had programs in place to care for victims of sexual assault and hold offenders accountable, the Task Force found that the Department had no effective policy relating to sexual assault and that it did not have common definition of terms which would permit the necessary level of discourse on sexual assault prevention and response. One of the major recommendations focused on the Department's need for a single point of accountability regarding all sexual assault policy matters within the Department.

A second major concern of the Task Force was how to get more victims to report their victimization. The Task Force noted that some barriers to reporting are consistent with those in the civilian community while others are unique in a military setting.[1] Some reasons military members did not report are:

- Thought they would not be believed.
- Feelings of embarrassment and stigma.
- Ambiguity about what constitutes sexual assault.

[1] Task Force on Care for Victims Report, (April 2004) p. 28, Finding 12.

- Concerns that the criminal justice system is largely ineffective at responding to or preventing such incidents.
- Fear of reprisal from the offender.

The Task Force recommended that the Department establish avenues within the Department to increase privacy and provide confidential disclosure for sexual assault victims.[2] The Task Force noted that perceived lack of privacy and confidentiality within the Department was thought to be one of the most significant barriers to reporting by military sexual assault victims. It also noted that unreported sexual assault has adverse consequences for victims, commands, communities, units and mission accomplishment. It directed that the Department find a way to reconcile the inherent tension between a victim's need for confidentiality and a command's need to know.

Joint Task Force on Sexual Assault Prevention and Response

The Department's leadership agreed with the need to develop a policy and establish a single point of accountability for sexual assault prevention and response and it stood up the Joint Task Force on Sexual Assault Prevention and Response (JTF-SAPR). Within three months of being stood up, the JTF-SAPR drafted a comprehensive sexual assault prevention and response policy based on the Care for Victims Task Force Findings and with the help of civilian and military experts. The policy centered around three key target areas: 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 without law enforcement or command being notified. At the heart of the policy is a system that respects the privacy and needs of the victim. After I finish explaining the history of our program, I will explain Restricted Reporting and how it impacts our ability to care for victims.

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[2] Task Force on Care for Victims Report, (April 2004) p. 49, Recommendation 4.2.

Sexual Assault Prevention and Response Office

In 2005, the JTF-SAPR transitioned into a permanent office in the Office of the Secretary of Defense, known as SAPRO, the Sexual Assault Prevention and Response Office. I have been with SAPRO since October 2005, shortly before it transitioned from a task force into a permanent office. In that short time, the Department of Defense has come a long way in its efforts to prevent sexual assault and care for victims of this violent crime. The creation of our sexual assault prevention and response program was monumental as it was the first time the military offered a confidential reporting option to Service member victims of sexual assault. We are proud of the progress we have made so far, but we know we must continue to offer the best care and support that we can for our victims while simultaneously launching a concerted effort to prevent this crime

Because SAPRO is still young, there have been misperceptions about the official role and responsibilities of the office. SAPRO was created to be the *single point of responsibility for sexual assault policy matters,* except for legal processes under the Uniform Code of Military Justice, as defined in DoD Instruction 6495.02. While we often work closely with military investigators and attorneys, investigations and prosecutions do not come under our purview.

There is also the misperception that our office is responsible for domestic violence and sexual harassment policy, however, SAPRO is solely responsible for the policy matters relating to the crime of sexual assault involving active duty military personnel and the Guard and Reserves in active service and inactive duty training. We do coordinate with other offices such as the Family Advocacy Program, which handles domestic violence, and the Diversity Management Equal Opportunity Office which handles sexual harassment.

REPORTING OPTIONS

Before I explain the specifics of victim care in the military, I need to explain the reporting options available to Service member victims. The Department offers two reporting options: Restricted and Unrestricted Reporting. The addition of Restricted Reporting as an

option was critical to our program. As I stated previously, the Task Force on Care for Victims recommended the Department establish a way for victims to confidentially report their victimization as a way of encouraging more victims to access care and support. The Department worked hard to figure out how to increase privacy and provide confidential disclosure for victims. The directive type memorandum addressing confidentiality was not released until 6 months after the other policy memoranda which established our sexual assault prevention and response program, which demonstrates how intensely it was debated. Policy makers struggled to figure out how to balance victim privacy against the commander's need to know what is going on in his or her unit. Ultimately, the Department recognized that we had to prioritize victim support in order to get more victims to come forward and access care. If a victim does not report at all, commanders are left powerless to assist him or her and have less ability to keep their installations and units safe.

Restricted Reporting allows victims to confidentially access medical care and advocacy services. It is defined as follows:

> *A process used by a Service member to report or disclose that he or she is the victim of a sexual assault to specified officials on a requested confidential basis. Under these circumstances, the victim's report and any details provided to a healthcare provider, the Sexual Assault Response Coordinator, or a Victim Advocate will not be reported to law enforcement to initiate the official investigative process unless the victim consents or an established exception is exercised under this Directive.*[3]

Although Restricted Reporting does not trigger the investigative process, commanders are provided with nonidentifying personal information which allows them to provide enhanced force protection. In this way, we are able to honor a victim's privacy while taking steps to keep others safe.

Prior to the implementation of Restricted Reporting, victims could not access medical care or advocacy services without the involvement of law enforcement and command. The mandatory involvement of command is unique to the military. In the civilian world, it is not mandatory to notify a victim's employer that its employee was the victim of sexual assault. We believed it was important for military members to have the same ability to privately access care

[3] DoDD 6495.01, E.2.1.9.

because we believed that the option of confidential care would result in more victims accessing care.

In creating Restricted Reporting, the military broke with tradition. Our policy states the following, "The Department of Defense recognizes the potential impact Restricted Reporting may have on investigations and the ability of the alleged offender's commander to hold the offender accountable. However, this policy decision represents the judgment that such risks have been carefully considered, but were outweighed by the overall interest in providing sexual assault victims this support."[4]

Although our policy allows for confidential Restricted Reports, it encourages victims to make Unrestricted Reports that allow the Department to investigate and hold perpetrators accountable. Victims who initially make a Restricted Report may change their minds and participate in an official investigation at any time. In addition, if information comes to a commander's attention or to the attention of law enforcement from a non-Restricted Reporting avenue, an independent investigation will be initiated.

Restricted Reporting does more than allow victims to confidentially access medical care. It enhances possible future prosecutions by allowing victims to access anonymous sexual assault forensic examinations. Following the examination, Military Criminal Investigators hold the evidence under an anonymous identifier for up to one year during which time the victim may change his or her mind and decide to convert to an Unrestricted Report. One month prior to the expiration of that year, the Sexual Assault Response Coordinator will contact the victim to determine if the victim would like to convert to an Unrestricted Report. If the victim changes to an Unrestricted Report, we will have forensic evidence from the anonymous identifier sexual assault forensic examination which we would not have without the Restricted Reporting option.

Dr. Dean Kilpatrick, who wrote the ground breaking Rape in America Study in 1992, authored a new study last summer for the National Institute of Justice called *Drug-facilitated, Incapacitated and Forcible Rape: A National Study*. In that study, Dr. Kilpatrick noted, "The

[4] DoD Directive 6495.01, Enclosure 3, Section E3.1.1.

vast majority of rape victims never received medical care following the rape incident(s)."[5] He also noted that allowing victims to get anonymous medical care serves an important public health function "by potentially dramatically increasing the numbers of victims receiving preventive health care and thereby reducing longer term health care costs." He went on to cite the military as a system that allows for anonymous forensic exams. A number of states are following our example and creating systems that allow for anonymous forensic examinations, some to comply with the Violence Against Women Act deadline of January 2009 and some simply because they recognize the value of connecting victims with medical care and treatment for sexual assault.

Our experience with Restricted Reporting tells us that it is a good thing. The number of Restricted Reports we have received demonstrate that it works. At the end of FY 2007, we had received 1,896 Restricted Reports since the option was made available in June of 2005. We believe that number represents 1,896 victims who would not have otherwise come forward to access care had it not been for Restricted Reporting. In addition, approximately ten percent of those Restricted Reports converted to Unrestricted Reports allowing us to take action to hold those offenders accountable. Despite the benefits of Restricted Reporting, at times, we have face challenges in making it a reality and protecting victims' privacy. We will discuss these momentarily.

VICTIM CARE

Military Sexual Assault Response

Now that I have explained the history of sexual assault prevention and response in the military and how Restricted Reporting helps victims, we can move to an explanation of victim care in the Department of Defense. When we created our policy in 2005, we established the framework for a coordinated, multidisciplinary response system modeled after the best practices in the civilian world. We work as a team to support victims. Our goal is to provide Service members worldwide with equal access to a 24/7 response that ensures quality care and support.

Victim care begins immediately upon an initial report of a sexual assault. At the heart of our sexual response system are the Sexual Assault Response Coordinator (SARC) and victim

[5] Kilpatrick, Dean, PhD, et al, Drug-facilitated, Incapacitated and Forcible Rape: A National Study (2007).

advocates. Every military installation in the world -- both in garrison and deployed -- has a SARC and victim advocates who provide the human element to our response. They assist victims with three fundamental principles of victim care:

- Safety and Security - First and foremost, victims need to feel safe. Our SARCs and victim advocates work with victims to identify and address issues related to their physical safety and needs as well as concerns about their commander and the perpetrator.

- Ventilate and Validate - Next, we know that victims need to talk about what happened and, while they are not therapists, our SARCs and victim advocates are good listeners. Their job is not to talk about the details of the assault, but rather to validate victims' reactions and feelings in a non-judgmental way. SARCs and victim advocates listen to victims' needs and then connect them with appropriate and necessary resources, including medical care, mental health care, and legal and spiritual resources. Because of our SARCs and victim advocates, Service members are not left alone to navigate the potentially daunting process of reporting a sexual assault.

- Predict, Prepare and Inform – Finally, victims need to know their options, legal rights, and what is going to happen next. Our SARCs and victim advocates explain their reporting options, available resources, and what may happen next. They assist the victim in navigating the response process and help victims understand their options in order to make informed decisions. SARCs and victim advocates support victims in decision making. Victims are further kept informed in Unrestricted Reports because SARCs chair monthly multidisciplinary case management meetings where they coordinate care as the case is moving forward. SARCs and victim advocates provide the information gained at these meetings to victims. Thanks to SARCs and victim advocates,

victims are not left in the dark about where their case is going and what will happen next.

Due to the confidential nature of Restricted Reporting, victims who file Unrestricted Reports have more options available to them than those who file Restricted Reports. The resources that are available to all Service member victims through the military are advocacy, mental health care, spiritual counseling, legal resources, and medical care, including the collection of forensic evidence, which in the case of a Restricted Report is done anonymously. SARCs and victim advocates will also connect victims to off-base resources when necessary. Our policy strongly encourages collaboration with off-base resources. SARCs work hard to create memoranda of understanding with local rape crisis and medical centers. All of the resources I just described can be accessed privately, unless the state has a mandatory reporting law.

In addition to those resources, victims who make Unrestricted Reports will have their case referred to law enforcement for investigation and prosecution. They also have access to any tools at the disposal of their commander, as the case will be referred to command as well. The reason resources are different in Restricted Reporting cases, is that reports to law enforcement and command cannot be done anonymously.

SARCs and victim advocates work with victims to help them decide whether to make a Restricted or Unrestricted Report. In order to ensure that victims make an educated decision in which they are fully informed of their choices, we developed a Victim Preference Reporting Form which explains their options. This form is completed by the victim with the assistance of the SARC or victim advocates in every case.

As I told you earlier, we work as a team to support victims. SARCs and victim advocates are the heart of our response system, but they receive a great deal of help from other members of the team such as victim-witness assistance program personnel. In Unrestricted Reports, when the case is being investigated and prosecuted, victim-witness assistance program personnel work together with SARCs and victim advocates to assist victims with understanding and participating

in the military justice process, increasing support during the military justice process and connecting the victim to needed resources. This minimizes the risk for re-victimization and increases the likelihood that victims will stay with the process to its conclusion while ensuring that the victim has the best opportunity for recovery.

We are not alone in this fight and continue to strengthen internal and external partnerships. Within the Department, the SAPRO works closely with Health Affairs, Office of the Judge Advocates General, Military Criminal Investigative Offices, Military One Source, Diversity Management Equal Opportunity, Family Advocacy Program, and the offices of the Secretaries of the Military Departments. Our federal partners include Department of Veterans' Affairs, Department of Justice (Office for Victims of Crime, Office on Violence against Women, and National Institute of Justice), Department of Health and Human Services (including the Office on Women's Health and the Centers for Disease Control and Prevention), and the Department of State. Additionally we work with community partners including various state coalitions, the Rape, Assault, Incest National Network (RAINN), and the National Sexual Violence Resource Center.

Training and Education

Next, we turn to training and education. We could have the best system of victim care in the world, but it would mean nothing if victims did not know how to access it. Service members are trained about the options and resources available for sexual assault victims at many different points in their careers, from accession to the Service, to Professional Military Education, through assumption of command. All of the Military Departments have implemented sexual assault awareness training tailored to the unique mission and culture of each Department. Many programs use interactive programs and scenarios to maximize training effectiveness. In addition to formal training, the Department of Defense participates in Sexual Assault Awareness Month (SAAM) and has created a number of public service announcements to bring attention to the problem of sexual assault.

In the early stages of our program, much of our training was focused on response to sexual assault. However, one victim of sexual assault is too many. In order to ensure that fewer people are victimized, we are moving ahead with a comprehensive prevention initiative. The Department has worked with national experts to develop an aggressive prevention strategy, which plans intervention at every level of military society – from the policy makers at the top, to the individuals in the lowest ranks. These interventions will be tied together through a powerful social marketing campaign. We are deploying the strategy throughout this fiscal year, and kicking off the campaign in April 2009.

The culture of the United States Armed Forces has never tolerated sexual assault. The attitudes, beliefs, and behaviors that contribute to this crime are sadly part of our society as a whole. Nevertheless, the Department is in a unique position to alter these factors as part of its indoctrination process and as part of the professional development of its personnel. Just as the Department led the way with integration of the Armed Forces six decades ago, we are now at the cusp of a unique opportunity. It is our goal to develop a sexual assault prevention program that can be a benchmark for the nation.

A prevention program of a size and scope needed for the Department has never before been created. Let me be clear: No civilian institution, state government, or city has ever undertaken a mandate to prevent sexual assault in a population like the United States Armed Forces. As we develop our prevention strategy, we are literally at the leading edge of what social science and public health can tell us. However, there is some research to suggest that by educating Military members when and how to act, we may be able to turn bystanders into actors who can prevent sexual assault.

Affecting this kind of shift in attitudes, beliefs, and behaviors across the several generations represented by our military population is no small undertaking. It will take a great deal of time and substantial resources dedicated specifically for this purpose. Even so, the Department stands committed to the goal of using our finest weapon system – our people – in the war against sexual assault.

TRACKING VICTIM CARE

We have discussed victim care and how we train Service members about the options and resources available to them. The next issue is how do we track victim care? The Department believes that comprehensive data collection and analysis is vital to policy analysis and program implementation. Thus, a Department-wide sexual assault database is currently under development. Over the past three months, the Military Services have developed a proposal for how such a database should be constructed. We have secured funding, and are working hard to have it completed by January 2010. In the meantime, we are collecting data regarding service referrals for victims of sexual assault and report this information in the Department's Annual Report on Sexual Assault in the Military to Congress.

CHALLENGES IN CARING FOR MILITARY VICTIMS OF SEXUAL ASSAULT

This forum presents an excellent opportunity to present and discuss important challenges the Department currently faces which inhibit us from expanding parts of our policies and programs. Often the challenges we face, much to our frustration, are beyond our control. Four current challenges include state mandatory reporting laws, jurisdictional response challenges, Line of Duty (LOD) requirement for the National Guard and Reserves and investigation and prosecution.

State Mandatory Reporting Laws

As I explained previously, prior to the implementation of Restricted Reporting, victims could not access medical care or advocacy services without the involvement of law enforcement and command. Restricted Reporting is critical to reducing the barriers which prevent victims from accessing care in the military. Despite all of its benefits, Service members in a number of states do not have the option of Restricted Reporting if they wish to access medical care. Victims cannot access private medical care and treatment either on or off base. California is an example of a state with this type of law. Section 11160 of California's Penal Code requires healthcare practitioners to make a report to law enforcement when they treat a wound or physical injury that was the result of assaultive or abusive conduct. That report must include the victim's

name, whereabouts and a description of the person's injury. There is no discretion allowed by the law on the part of a healthcare provider. Once the healthcare provider notifies civilian law enforcement, we cannot guarantee that they will not notify military law enforcement. Once military law enforcement is aware of a sexual assault, it must investigate. Victims must be advised that if they wish to access medical care, they do not have the option of Restricted Reporting in California.

Jurisdictional Challenges

The military provides care and support for any Service member who is sexually assaulted, regardless of whether the offender is in the military or not and regardless of whether the assault happened on a military installation or not. As a result, it is not uncommon for military SARCs and victim advocates to support Service member victims when a civilian agency has complete, or at least primary, jurisdiction of the investigation and prosecution. It is not uncommon for SARCs and victim advocates to face challenges when coordinating care for victims when jurisdictional issues arise. Although cross-jurisdictional issues may arise for any victim advocate, particularly those near state borders, the military faces more challenges than most in the United States simply due to increased complexity of jurisdictional issues. The challenges are compounded even further when the incident occurs outside of the United States.

The inherent challenges are illustrated by a case that was reported in Academic Year 2007 Academy Assessment. The case involved a victim who was a student at the Naval Academy. Jurisdictional problems among law enforcement and medical care providers caused one victim to wait approximately seven hours before a forensic exam was performed. The incident occurred off-base. In this case, the victim advocate was contacted and immediately responded to assist the victim. However, the District of Columbia had primary jurisdiction and initially took the lead role in the investigation of the case. The DC Metropolitan Police had a requirement that the victim's Sexual Assault Forensic Exam (SAFE) kit be performed within their jurisdiction. Both the victim advocate and victim waited for Navy investigators to work out jurisdictional problems with District of Columbia Metropolitan Police before the SAFE could be performed, causing the seven hour delay.

We do not offer this case as a criticism of civilian law enforcement. Rather, we offer it to illustrate the challenges faced by victims that SARCs and victim advocates have to help them navigate when jurisdictional issues arise. Many of these issues could not have been anticipated when we wrote our policy. We are learning how to address them as we continue to implement our policy. We use this example to teach SARCs and victim advocates what challenges they may face and why it is so critical to collaborate with the surrounding civilian community as a way of heading off these types of challenges.

Line of Duty (LOD)

The Department's sexual assault prevention and response policy applies to Service members who are victims of sexual assault. This includes members of the National Guard and Reserves when they are sexually assaulted in an active-duty status. Members of the Reserve component who are sexually assaulted in a military duty status and wish to make a Restricted Report currently need an LOD determination before they can obtain access to care and treatment if they report being sexually assaulted when they are no longer in an active duty status. The LOD is a process for determining whether a member of the Reserve component is eligible for medical care at government expense due to an injury or illness that was incurred or aggravated while in an "activated" military duty status. The LOD process requires an investigation and the involvement of command, which directly conflicts with Restricted Reporting.

This limitation to access of care and treatment is inconsistent with the DoD sexual assault prevention and response policy on Restricted Reporting. We are in the process of eliminating this barrier to Restricted Reporting for the Guard and Reserves. In November 2008, the Department modified its policy to require the Services to revise their LOD policies to ensure that members of the Reserve component can get an anonymous LOD when they make a Restricted Report.

Investigation and Prosecution of Sexual Assault

The Secretary of Defense has identified trial counsel and investigator training and experience as two of his priorities in this area. As I explained earlier, DoD policy specifically states that SAPRO is not responsible for the investigation and prosecution of sexual assault.

However, we have worked to facilitate improvements in this area by partnering with the Military Criminal Investigative Organizations and Judge Advocates General. Together, we identified the challenges which exist with respect to the training and experience of investigators and military trial counsel and we formulated action plans for improvement. In addition, we partnered with the Department of Justice (DOJ) Office on Violence against Women to reprint a DOJ .manual on the prosecution of alcohol facilitated sexual assault to distribute to trial counsel. It is currently being used by the Army to create training on investigating alcohol facilitated sexual assault.

CONCLUSION

The Department has made remarkable progress over the last four years by standing up a program that truly addresses the needs of the victim. As I conclude my testimony, I would like to share one last thought. Each day, our Service members dedicate their lives to protecting our country and deserve no less than the very best care and support in return. This is why it is so very important that we work together to make this program the best it can be. We can thank our Sexual Assault Response Coordinators, Victim Advocates, and first responders for dedicating their lives to those in need and giving back to those who serve. Since 2005, 1896 individuals have come forward due to our Restricted Reporting option. Without this option, they would not have received the care and support they so desperately need and deserve. If you ask me, that is remarkable progress. It is up to us (the Department of Defense and Congress) to continue to take the lead by working in partnership to refine and expand this policy to better serve those who serve for us.

Thank you for your time and for the opportunity to testify today. I welcome further discussion and I am happy to entertain your questions at this time.

DOCUMENTS SUBMITTED FOR THE RECORD

JANUARY 28, 2009

Testimony of Suzanne Brown-McBride
Executive Director
California Coalition Against Sexual Assault
Before the
House of Representatives
House Armed Services Subcommittee on Military Personnel
on
Sexual Assault in the Military: Victim Support and Advocacy
January 26, 2009

Chairwoman Davis, Ranking Member Wilson and other members of the Subcommittee on Military Personnel

Thank you for the privilege of providing testimony to this subcommittee about the essential services that victims of sexual violence, particularly those who have been victimized during the course of their military service, should be able to access to promote healing and offender accountability.

My name is Suzanne Brown-McBride and I have been a sexual assault victim advocate for the last 17 years. It is also my honor to serve as the Executive Director of the California Coalition Against Sexual Assault (CALCASA), one of the largest and oldest associations of sexual assault crisis programs in the nation.

Over 35 years ago, the first few sexual assault crisis programs began of offer services, advocacy and solace for victims of sexual violence in California. Last year, 84 rape crisis programs provided advocacy services for over 26,000 victims as well as prevention and educational programming for over 350,000 participants in every jurisdiction of our state. California is also the home to 27 active military installations, each of which benefit from some level of collaboration with their local sexual assault crisis program.

As you have already heard this morning, the experience of sexual assault can have profound and long lasting effects on both victims and those who are committed to supporting them through crisis and beyond. Of immediate concern for many victims is the threat of physical injury, disease and pregnancy. Over the long term, the lingering effects of sexual trauma manifests itself through disturbances in mental and physical health, disruptions of productivity and an undermining of one's most basic faith in their own safety.

Over the course of the last three decades victims, advocates, clinicians, medical providers, criminal justice practitioners and public safety officials have assisted in refining an array of essential services that we believe can significantly assist victims of sexual assault heal from their trauma, exercise their rights, achieve justice, and promote offender accountability:

Crisis intervention, 24 hours per day, seven days per week.

Followup counseling services.

In-person counseling, including group counseling.

Accompaniment services.

Advocacy services.

Information and referrals to victims and the general public.

Community education presentations.

Rape prevention presentations and self-defense programs.

Our experience of working with hundreds of thousands of victims has taught us that services are most effective when they are easily accessible, victim directed, culturally appropriate and long lasting. Here is what we mean by that:

Accessible: victims are most likely to access services when they are available to the victim, when the victim desires to access them; hence 9 to 5 services are generally not enough. This is particularly true in deployment situations where soldiers are likely to have non-traditional duty schedules. Similarly, victims decide to access services when they perceive them to be safe. Making the choice to report a sex crime while in service is doubly complicated by its implications on a soldier's life, and career. Practices like restricted reporting come a long way in providing the space for victims to make informed choices about accessing services and reporting their experience. Sadly, in California, the effectiveness of restricted reporting is undermined by our civilian adult mandated reporting statutes.

Victim Directed: victims are more likely to benefit from services that offer an array of options and allow for the victim to make the choices that best suit her or his circumstances; mandating victim options, or forcing them to pursue a certain course of action will only discourage reporting and further isolate victims from the very services that we are attempting to promote. Victims are more aware than anyone about the the threat that a perpetrator of sexual violence presents to their fellow soldiers, contractors and civilians, but the best access to services is unique to that victim's experience and may not begin with reporting (even though it could likely end there).

Culturally appropriate: victims are whole people who, in addition to the military culture that they are a part of, also have a constellation of beliefs, life experiences and history that can assist (or hinder) their recovery process. Services that are not tailored to these historical, cultural or philosophical realities miss opportunities to find meaningful options that can promote a victims recovery and participation in investigatory proceedings.

Victims who are not adequately supported are more likely to suffer from unresolved trauma and more likely to be unable or unwilling to participate in the often lengthy investigation and adjudication process.

Long lasting: the trauma of sexual violence can often last far longer than the duration the time that one is enlisted. Trauma, thought to be long resolved, can be triggered by memories, routine situations or even innocuous triggers like smell or sound. it is essential that victims receive informed, competent crisis services but it is also absolutely necessary that long-term services are available for victims throughout their course of military services and when they rejoin civilian life.

It is equally essential that civilian and military victim services coordinate in a frequent and meaningful fashion. It is our experience that military service personnel and their families do not live their entire lives on base - even when deployed. Incidents of sexual violence often involve complex, multi-jurisdictional issues which can be made even more complex by territorial bickering and a lack of communication. Conversely, collaborative ties between civilian and military victim service providers can provide a powerful array of support and comfort for victims as they attempt to pursue justice.

Sadly, sexual violence is present in every part of our culture -- even in the military. I am heartened that there have been important steps taken to address this issue within our armed services. I am also aware of much more to do to intervene when an assault occurs as well as prevent these crimes in the first place.

Chairman Davis, and Ranking Member Wilson I thank you for your attention to this issue and hope that I, and CALCASA, can be of assistance as you consider your next steps.

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Murdered Marine Suspect's Wife Visits Him in Mexican Jail

Thursday, November 06, 2008 | FoxNews.com

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Maria Lauterbach

Police

The wife of a Marine charged with murdering another Marine who was pregnant is visiting her husband in a Mexican jail, which has the North Carolina prosecutor in the case worried.

Onslow County District Attorney Dewey Hudson said the Marine Corps granted leave to Lance Cpl. Christina Laurean to visit her husband, Cpl. Cesar Laurean. Hudson only learned about her request last week.

Hudson told reporters that he got word Christina Laurean was already in Mexico, where she traveled from Camp Lejeune.

"It was determined her request had to be allowed," Hudson said during a news conference Thursday. "We have taken proper steps to maintain contact with Christina while she is in Mexico."

Cesar Laurean is charged with first-degree murder in the December death of Lance Cpl. Maria Lauterbach, who had accused him of rape.

Laurean fled a day before Lauterbach's body and that of her unborn child were found buried in his backyard. He is fighting extradition.

Authorities say Christina Laurean has cooperated with investigators.

The Associated Press contributed to this report.

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While Lauterbach news dropped from headlines, case continued

Comments 8 | Recommends 4

January 24, 2009 - 7:19 PM

BY ANDREW KAY
DAILY NEWS STAFF

Editor's note: This is the final installment of the Death and Dishonor timeline which charted the Maria Lauterbach homicide investigation in real time.

A story that captured the nation's attention for two weeks began to drop from the frontpage of newspapers and 24-hour news tickers in late January 2008.

But the case continued.

Cesar Laurean, a Camp Lejeune Marine corporal indicted in the killing of a pregnant colleague who had accused him of rape, burying her charred remains in his backyard and fleeing to Mexico, was still on the run.

While speculation continued, there was no concrete news of Laurean's whereabouts.

On Jan. 26, 2008, five members of the radical Kansas-based Westboro Baptist Church protested the Marine Corps in downtown Jacksonville. Eight times as many people showed up at the protest rally to show their support.

Interpol joined the manhunt on Jan. 28, 2008 - the same day Mexican authorities issued a provisional arrest warrant for Laurean.

The nation mourned with those who knew Lance Cpl. Maria Lauterbach on Feb. 2, 2008, as she was laid to rest with her unborn son, Gabriel.

Her mother, Mary Lauterbach and Ohio Congressman Mike Turner would soon question the Marine Corps and the Department of Defense as to why Maria Lauterbach was not better protected after she accused Laurean of rape in 2007.

Local and federal authorities continued to closely watch Laurean's wife, Christina. They also filed a blizzard of subpoenas to track Laurean's Internet use in Mexico.

On April 10, 2008, Mexican authorities arrested Laurean in the rural township of Tacambaro. He was down to the 10 pesos in his pocket and had been surviving on avocados.

Laurean continues to fight extradition.

In August, an intern in the Onslow County District Attorney's Office was accused of copying more than 6,000 pages from the Laurean case file and trying to sell them to an undercover deputy posing as a reporter at Newsweek.

In November, Laurean's wife traveled to visit with him in a Mexican jail.

Laurean's Half Moon community home, where Lauterbach's body was buried for almost three weeks, could go the highest bidder on Monday.

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Lance Cpl. Maria Lauterbach

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Wilmington law firm Brock & Scott is auctioning off 103 Meadow Trail to the highest bidder at 10 a.m. on the Onslow County Courthouse steps. The original financer, Countrywide, has placed an opening bid of $102,000.

District Attorney Dewey Hudson has said on several occasions that the case has more twists and turns than a

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING

JANUARY 28, 2009

RESPONSES TO QUESTIONS SUBMITTED BY MS. TSONGAS

Sergeant HORWATH. For FY07, there were 768 Soldiers with founded sexual assault offenses. Of the 768 Soldier subjects, 182 were senior in rank to the victim. Of those 182 subjects, 136 were in the same unit (battalion-sized unit or smaller).

For FY08, there were 619 Soldiers with founded sexual assault offenses. Of the 619 Soldier subjects, 127 were senior in rank to the victim. Of those 127 subjects, 92 were in the same unit (battalion-sized unit or smaller).

Caveats:

1. The ranks E1 through E4 were treated as one pay band, and were not counted in the superior-junior ratings above.
2. There are a number of FY08 cases still open and active; therefore, no final Founded/Unfounded decision has been made on those cases. Thus, the numbers of subjects for FY08 is subject to change. [See page 26.]

Chief Petty Officer MCKENNIE. The requested data is presented in table format for ease of reference. Have also included the statistics for E-5 and below for consistency with earlier response. [See page 26.]

	US Navy	
	FY07	FY08
Total # of Investigations Involving Service Member on Service Member reports [1]	**176**	**196**
# of Victim Reports (Victim Subordinate in Rank to Subject):	87	83
# of Victim Reports (Subject Subordinate in Rank to Victim):	15	16
# of Victim Reports (Victim and Subject were Same Rank):	26	49
# of Victim Reports (NFI) [2]:	56	65
Total # of Service Member Subjects	**195**	**212**
Statutory Basis - # Of Investigations for Disposition of Subjects	**176**	**196**
# UCMJ	162	185
# Civilian	14	11
Total # of Service Member Subjects [3]	**195**	**212**
Total # of Service Member Subjects—E-4 and Below	69	89
Total # of Service Member Subjects—E-5 and Below	92	121
Total # of Service Member Victims [4]	**184**	**213**
Total # of Service Member Victims—E-4 and Below	148	172
Total # of Service Member Victims—E-5 and Below	169	191

[1] Taken from the total number of unrestricted reports in the Annual SAPRO submissions for FY07 & FY08. This total does not include the following types of reports: Non-Service on Service, Service on Non-Service, or Unidentified on Service. Investigations may include more then one subject and/or victim.

[2] NFI—No Further Information provided—Either the rank of the subject and/or victim is not available to make a determination for the report to be placed in one of the previous three categories.

[3] Includes Subjects from other services and those whose ranks are higher than E5 or for which NFI was available.

[4] Total number of Victim reports include those made by other service members and those with ranks higher than E5.

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

JANUARY 28, 2009

QUESTIONS SUBMITTED BY MS. SHEA-PORTER

Ms. SHEA-PORTER. Are moral waivers being granted to individuals who have been convicted of sexual misconduct? If so, how many people have received moral waivers and what are the criteria for waivers to be granted?

Dr. WHITLEY. Conduct waivers are considered for individuals involved in offenses involving sexual misconduct regardless of the case's final disposition. Whether a finding of guilt was rendered or there was some other court-ordered action, the Department requires the Services to carefully review each case before granting a waiver. The number of people that were allowed to join with a conduct waiver for sexual misconduct is still being researched/reviewed by the Services. That information will be provided as soon as it is available.

Ms. SHEA-PORTER. Is there, or will there be a way to track individuals that have been convicted of sexual misconduct and granted waivers in the Sexual Assault Incident Reporting Database?

Dr. WHITLEY. No, there will not be tracking of individuals that have been convicted of sexual misconduct and granted waivers (for accession into the Armed Forces) in the Sexual Assault Incident Reporting Database—which is now known as the Defense Sexual Assault Incident Database, or DSAID.

The Department and each of the personnel components of the Military Services already have a method for recording, coding and identifying the locations of military members who have been granted misconduct waivers at accession. The Under Secretary of Defense for Personnel and Readiness has tasked the office of Military Personnel Policy to manage information associated with misconduct waivers.