

# SEXUAL ASSAULT IN THE MILITARY PART THREE: CONTEXT AND CAUSES

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## HEARING

BEFORE THE  
SUBCOMMITTEE ON NATIONAL SECURITY  
AND FOREIGN AFFAIRS  
OF THE  
COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS

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## SEXUAL ASSAULT IN THE MILITARY PART THREE: CONTEXT AND CAUSES

THURSDAY, JUNE 25, 2009

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING  
THREATS, AND INTERNATIONAL RELATIONS,  
COMMITTEE ON GOVERNMENT REFORM,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2 p.m., in room 2247, Rayburn House Office Building, Hon. John F. Tierney (chairman of the subcommittee) presiding.

Present: Representatives Tierney, Quigley, and Turner.

Also present: Representatives Davis and Harman.

Staff present: Elliot Gillerman, clerk; Andy Wright, staff director; Brendan Culley, detailee; Steven Gale, fellow; Margaret Costa, intern; Scott Lindsay and Talia Dubovi, counsels; Catherine McKenna Ribeiro, communications director; Dan Blankenburg, minority director of outreach and senior advisor; Adam Fromm, minority chief clerk and Member liaison; Dr. Christopher Bright, minority senior professional staff member; and Glenn Sanders, minority Defense fellow.

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

I ask unanimous consent that only the chairman and ranking member of the subcommittee be allowed to make opening statements. Without objection, so ordered.

I ask unanimous consent that Members who may not be on this committee, like Ms. Harman, Ms. Davis, who may show up, and anybody the minority may want to have here, be allowed to participate in this hearing in accordance with committee rules and they be allowed to ask questions of the witnesses after all official members of the subcommittee have their turn first. Without objection, so ordered.

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

Good afternoon. Thank you all for being here. I apologize in advance for what I expect to be interruptions with votes on the floor. There is, unfortunately, no way that the subcommittee can control that, and it seems no matter how hard we try to plan these things without interruptions, it doesn't always work that way. So we

mean no disrespect, I am sure the House means no disrespect whatsoever, and we appreciate your willingness to tolerate that and to provide us with your expertise.

Last summer, this subcommittee began its examination of what we perceived as a very serious problem. We focused on the military's sexual assault prevention and response programs. Later this summer, we expect to have a new Strategic Plan from the Department of Defense's Sexual Assault Prevention and Response Office [SAPRO], as they call it, as well as a report from the Defense Task Force on Sexual Assault in the Military Services.

So in the spirit of constructive oversight, and in order to prepare for those forthcoming reports, to be able to evaluate them in the proper context, we are taking a step back today to examine the underlying dynamics of this crime itself. Our witnesses that are here today are going to provide us insight into the nature of sexual assault and what factors might contribute to sexual violence within the military. Our goal here is simple: we need to become better informed about the causes of these vicious crimes that plague countless men and women both in the military and society at large.

Unfortunately, rape is one of the most under-reported crimes in the United States, within both the military and civilian populations. Consequently, there has been little ability to know for certain that sexual assaults are more prevalent in the military or if they occur at the same rate as in the general population.

What we do know is that 2,908 sexual assaults were reported within the military this last year, and it is estimated by some experts that as many as 60 percent of sexual assaults go unreported. If that is true, certainly, the total is much higher.

But even one is too many. While most physical wounds can heal, psychological wounds persist. Each incident has untold consequences that tear the essential fabric of a civilized society: shattered trust and broken dreams, not to mention the incalculable strains on families, friendships, and careers.

Sexual assault in the military presents a unique challenge to our society. It is our unwavering duty to protect the men and women that serve in the U.S. military. Unlike civilian society, we in Government have a much stronger ability to control the environment and the culture in which we place our soldiers. If there are elements of this environment that can be changed to better protect the men and women who serve our country, then it is our duty to make the necessary changes.

While progress seems to have been made in the past year toward improving prevention and response programs within the Armed Forces, sexual assault is still a grave concern and we still have a ways to go. This is not solely a women's issue, nor is it simply an internal military problem. This is a matter of national security, something that all of us, as citizens who benefit from the protection that our troops provide, have to address.

The last thing our sons and daughters should fear when they are putting their lives on the line to defend the country is being attacked by one of their own. If we can better understand the contributing factors that lead to sexual assault, then we will be better able to create policies and programs to effectively prevent those crimes. And, as I said, hopefully the information we get here today

will let us better judge those policies that we hear about at the end of the summer and see whether or not they meet that standard. Our goal has to be nothing short of the elimination of this pernicious crime within the Armed Forces.

So, again, I want to conclude by thanking our witnesses for coming here today and offering their expertise on the important issue. [The prepared statement of Hon. John F. Tierney follows:]

**Statement of John F. Tierney  
Chairman  
Subcommittee on National Security and Foreign Affairs  
Committee on Oversight and Government Reform  
U.S. House of Representatives**

**“Sexual Assault in the Military Part 3: Context and Causes”**

**As Prepared for Delivery**

**June 25, 2009**

Good afternoon and thank you all for being here. Today, we continue our oversight into sexual assault in the military.

Last summer, this Subcommittee began its examination of this serious problem by focusing on the military’s sexual assault prevention and response programs. Later this summer, we expect a new Strategic Plan from the Department of Defense’s Sexual Assault Prevention and Response Office, or SAPRO, as well as a report from the Defense Task Force on Sexual Assault in the Military Services.

In the spirit of constructive oversight, and in order to prepare for those forthcoming reports, today we take a step back to examine the underlying dynamics of this crime. Our witnesses will provide insight into the nature of sexual assault and what factors might contribute to sexual violence within the military. Our goal here is simple: to become better informed about the causes of these vicious crimes that have plagued countless men and women both in the military and society at large.

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Sexual assault in the military presents a unique challenge to our society. It is our unwavering duty to protect the men and women that serve in the U.S. military. Unlike civilian society, we in government have a much stronger ability to control the environment and culture in which we place our soldiers. If there are elements of this

environment that can be changed to better protect the men and women who serve our country, then it is our duty to make the necessary changes.

While progress has been made in the past year towards improving prevention and response programs within the Armed Forces, sexual assault is still a grave concern and we still have a very long way to go. This is not solely a women's issue, nor is it simply an internal military problem. This is a matter of national security, something that we all, as citizens who benefit from the protection that our troops provide, must address.

The last thing our sons and daughters should fear when putting their lives on the line to defend this country is being attacked by one of their own. If we can better understand the contributing factors that lead to sexual assault then we will be better able to create policies and programs to effectively prevent these crimes. Our goal must be nothing short of the elimination of this pernicious crime from our Armed Forces.

I thank our witnesses for coming here today and offering their expertise on this important issue.

Mr. TIERNEY. I yield now to Mr. Turner for opening comments.

Mr. TURNER. Thank you, Mr. Chairman. Mr. Chairman, I want to thank you for your leadership on this issue and for holding this hearing and the number of hearings and inquiries that you have done. This is a very serious and a very sensitive issue that affects our military personnel.

I also want to thank Representative Jane Harman, who has been an incredible leader on this issue nationally. She has helped focus the troublesome issues of how people are placed at risk, how we can lessen the number of sexual assaults, and what we can do to address the victim's rights in sexual assaults when they do occur.

I became involved in this issue at the behest of Mary Lauterbach, who is the mother of Marine Lance Corporal Maria Lauterbach. Maria Lauterbach was murdered after she had come forward with allegations of sexual assault. This occurred at Camp Lejeune and there were a number of things that we learned about after the fact that had occurred in the course of the investigation that we tried to address in legislation, and I want to thank Jane Harman again. Because of her partnership in this issue, in working together, we were able to identify some issues that we should change in our laws and things that we should try to advance with the Department of Defense.

Last year, as a result of what we learned from Maria Lauterbach's tragic death, we were able to get two changes to the National Defense Authorization Act. One is that a military protective order would become a standing order, because, unfortunately, in her case, her military protective order was allowed to expire. Second, the law was changed to require that military protective orders be given as notice to civilian authorities, because also in her case, when she became missing and the local authorities were contacted, they were unaware that an MPO had been issued and that she was the subject of that MPO.

In the 2010 Defense Authorization Act, I worked with Jane Harman again to try to bring provisions in that bill that would make a difference, and the bill that is on the floor today includes provisions that Jane was advancing that go to the issues of prevention, prosecution, and assistance to victims.

There is also another provision that relates to the Maria Lauterbach case, and that is a provision that would require that when a military protective order is issued, that, again, the individual who is the subject matter of that, the victim, would have an ability to get information. They should be notified of their right to request a base transfer for their protection.

In Maria's case, Mary Lauterbach indicated that she was told by Maria that she had requested a base transfer and that it had not been granted. DOD indicates they do not have a record of her having requested a transfer. This change would require that they provide notice to the subject of an MPO that they do have the ability for a transfer.

This is an important issue, and every time we have a hearing I think we learn something different that allows us to move forward with changes in legislation, changes in rules to try to go directly to the issue of how do we protect our men and women who are

serving, and how do we assist those who have been the subject of sexual assault.

Mr. Chairman, I really appreciate your undertaking this. This is an important issue and we have a duty to ensure that our service personnel are protected, and I want to again thank you, Mr. Chairman.

Mr. TIERNEY. Thank you. Thank you, Mr. Turner, for your work on this issue as well.

With that, we are going to now receive testimony from the panel before us today. I will introduce each of them briefly before their remarks begin.

Dr. Veronique Valliere is the owner and director of two outpatient treatment centers: Valliere & Counseling Associates, an outpatient treatment center for mental health, domestic violence, and victim issues, and Forensic Treatment Services, an outpatient violent offender treatment program. She has consulted and published on the treatment of sexual offenders and presented on the same at national and local sexual offender conferences. She also contributed to the report of the Defense Task Force on Sexual Harassment and Violence at the military service academies and holds a doctorate in clinical psychology from Rutgers University. Welcome.

Dr. Fred Berlin is an associate professor of psychiatry and behavioral sciences at the Johns Hopkins University School of Medicine, where he serves as director for the National Institute for the Study, Prevention, and Treatment of Sexual Trauma. Dr. Berlin is a highly regarded expert on the causes of sexual assault and the treatment of sexual assault offenders. He has participated in a number of Federal and State government-sponsored conferences on sexual assault, offender treatment and management. Dr. Berlin holds an M.D. from Dalhousie University.

Dr. Elizabeth Hillman is a professor of law at the University of California Hastings College of Law, where she focuses on U.S. military law and history and the impact of gender and sexual norms in military culture. A veteran of the U.S. Air Force, she has previously taught at the Air Force Academy, Yale University, and Rutgers University School of Law at Camden. She has published studies on military sexual violence in a number of academic journals. Dr. Hillman holds both a Ph.D. and a J.D. from Yale University.

Ms. Helen Benedict is a professor at the Graduate School of Journalism at Columbia University. She is the author of five novels and five non-fiction books, including, most recently, "The Lonely Soldier: The Private War of Women Serving in Iraq." She has also published a number of articles and essays on the issue of sexual assault in the military. Ms. Benedict holds an M.A. from the University of California at Berkeley.

Thank you again for all making yourselves available to us today and sharing your perspectives and your expertise. It is the policy of this committee to swear in the witnesses before they testify, so I would ask you all to please stand and raise your right hands.

[Witnesses sworn.]

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

I can share with you that we have a policy of trying to ask folks to just summarize their opening statements. We know you were good enough to provide extensive written remarks, and all of those will be put on the record as a matter of course; with unanimous consent we do that. So your written remarks are on the record. If you would take about 5 minutes to please just summarize those comments, that way we can try to get to the Members to allow them to ask appropriate questions and perhaps get a little more directed information as well.

So, Dr. Valliere, if we could please start with you, we will be looking forward to your remarks.

**STATEMENTS OF VERONIQUE VALLIERE, PSY.D., PRESIDENT OF VALLIERE & COUNSELING ASSOCIATES, INC.; FRED BERLIN, PH.D., FOUNDER OF THE NATIONAL INSTITUTE FOR THE STUDY, PREVENTION, AND TREATMENT OF SEXUAL TRAUMA AND THE DIRECTOR OF THE JOHNS HOPKINS SEXUAL DISORDERS CLINIC; ELIZABETH HILLMAN, PH.D., J.D., LAW PROFESSOR AT THE UNIVERSITY OF CALIFORNIA HASTINGS; AND PROFESSOR HELEN BENEDICT, AUTHOR THE LONELY SOLDIER: THE PRIVATE WAR OF WOMEN SERVING IN IRAQ, AND PROFESSOR OF JOURNALISM AT COLUMBIA UNIVERSITY**

**STATEMENT OF VERONIQUE VALLIERE, PSY.D.**

Dr. VALLIERE. Thank you for inviting me today. I was asked to testify on some of the psychology of the sexual offender. My work has been with sexual offenders, and one of the things I wanted to highlight, especially in the context of sexual assault in the military, is helping to explain the pathways of sexual offending.

I think we are all familiar with the idea of sexual deviants, like a deviant sexual arousal to prepubescent children, for example, but one of the things I find in my work that is overlooked is an understanding of the character pathway or what the offender carries in his personality that facilitates or allows sexual assault.

And in character pathology, what we find is that there is a prevalence of narcissism, which is arrogant egocentricity, a sense of entitlement, a callousness and lack of regard for the impact on the victim, and an ability to exploit others for one's own gratification. People with this kind of character are throughout our society, but placed in a particular context or environment that both presents certain values that may decrease external barriers to rape, as well as issues that impact the victim, are very important in understanding this.

One of the examples I think might be relevant is the example of prison, for example. A very antisocial criminal person who goes into prison, who never has a history of sexual assault but becomes a prison rapist, is a good metaphor to understand how systems create or merge or collaborate with a certain type of personality to present and promote the risk of sexual assault. If somebody becomes a rapist in prison, there are a lot of contextual issues, including issues that impact our beliefs and ideas about the victim that impact that, and when you have a character who has no internal barriers to harming others, they may find that sexual aggression is one way

that they achieve sexual gratification, that outside this context they may not.

The military is a similar system to a prison. Not to equate the people the same, but with the right type of character, that perfect storm helps. And if you have a character that is very narcissistic, very callous toward victims, very willing to use power and exploitation to meet their needs, and you put that character in an environment that is closed, that does its own investigation, that is male-dominated, and that has a hierarchy that puts a high delineation between those in authority and those not in authority, as in prisoners and the officials in the prison or enlisted and officers, what you find is a system that presents an environment that, with this callous or narcissistic character, adheres to and colludes with the idea of power being more important, a devaluation of the victim, a discreditation of vulnerability, a system that colludes with keeping things from authority, along with attitudes toward the victim like an S&M mentality.

A person with a character pathology will thrive in that environment to engage in aggressive and assaultive behaviors, and if in their repertoire is the need for exploitive self-gratification for whatever reason, they are much more likely to act out on that. Not only that, we all, in our environment, have what you have mentioned, Mr. Chairman: a societal issue with victimization, of secrecy, the idea that the victim benefits from reporting, the group mentality to protect the offender, all those things.

So in the context of this system, when you have somebody with this character, it is important to recognize that this sexually assaultive behavior is a reflection of that offender's character and is not necessarily reliant on some professional identification of sexual deviance, and that those things come together to collaborate to increased risk for a victim or a vulnerable person in that environment.

[The prepared statement of Dr. Valliere follows:]

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**Sexual Assault in the Military, Part 3: Context and Causes**

Veronique N. Valliere, Psy.D.  
Licensed Psychologist

I am a clinical psychologist who has evaluated and treated hundreds, if not over a thousand offenders. Through my clinical experiences and study of the research, what seems most relevant in this hearing is to convey an understanding of the motivations and means of how sexual assault happens from the offender's perspective.

It seems we have a basic familiarity with concept that sexual offending is driven by sexual deviance, like a sexual arousal to prepubescent children. Sexual deviance is one "pathway" or motivator for sexual assault. This "pathway" contributes to persistent pursuit of sexual gratification through the sexual victimization of others, whether children or adults. There is an alternative or additional pathway to sexual assault, however. This is the "character" pathway. The character pathway is that which motivates sexual assault or "allows" sexual assault through the offender's personality. This character pathway can be the sole motivator, or work in collaboration with sexual deviance to create a very dangerous offender.

The character pathway explains offense behavior that occurs in a particular context or opportunity. An offender who has a personality replete with criminality, egocentricity, callousness towards others, thrill-seeking, a lack of remorse or empathy, arrogance, or entitlement can act sexually assaultive or victimizing in the right environment and not be primarily motivated by sexual deviance. Instead, because the offender has certain traits and lacks internal barriers to offending, the risk of the offender becoming a rapist or sexual offender increases in a particular environment or with particular opportunities provided by circumstance, culture, or subculture.

An example of this would be a highly criminal, antisocial person who rapes in prison. This offender may not be sexually aroused to same sex partners or not be sexually aroused specifically by anger or power needs. However, due to the environment, the character pathology of the offender, and the issues that impact the victim, a particular type of person can engage in rape behavior for sexual gratification, domination, humiliation, or oppression (or all of the above) because he has a callous, entitled, remorseless character who has no reason (internally) not to rape. The environment or context contributes to an external environment that promotes or is not inhibitory towards rape. So, the offender with few internal barriers to sexual aggression,

placed into an environment that provides few external barriers to sexual aggression can contribute to a situation that enhances the risk of sexual assault.

The external environment and the factors it presents are multi-faceted. There is the structure of that environment or “subculture” itself, the values inherent in the subculture, the attitudes towards risk issues in assault, and the beliefs, values, and issues that impact the attitudes towards and protection of victims. Below is a table that outlines issues that impact sexual assault for the “right type” of personality.

<b>Prison</b>	<b>Military/War Situation</b>
Closed system	Closed system
Internal investigation	Internal investigation
Clear hierarchy	Clear hierarchy
Separation between inmates and staff	Separation between enlisted/officers
Male dominated	Male dominated
Attitude of "us" and "them" in/out of system	Attitude of "us" and "them" in/out of the system
Devaluation of weakness/vulnerability	Devaluation of weakness/vulnerability
Reliance of victim in the system	Reliance of victim on unit
Victims tend to be minority (gay, bitch)	Victims tend to be female/gay (minority)
Victims punished for reporting	Victims risk penalization for reporting
Return to assault environment	Return to assault environment
Group protection of/fear of offender	Group protection of offender
Consequented use of substances	Potential consequences for substances

<p><b>Factors that effect investigation of sexual assault generally</b></p> <ul style="list-style-type: none"> <li>• "He said/he said"</li> <li>• Perceived secondary gain for reporting</li> <li>• Little evidence</li> <li>• Secrecy</li> <li>• No witnesses</li> <li>• Shame/blame/fear of reprisal</li> <li>• Consensual myth</li> </ul>
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The structure of environment can protect the offender. The further the victim is from the “help,” the more the victim is reliant on his/her cohorts in the environment, the more the victim is perceived as benefitting from reporting, the more likely the offender is to prevail and succeed in the assault without a disclosure.

Additionally, some cultures contribute significantly to the offender’s entitlement, arrogance, devaluation of others, and elevation or justification of violence. One significant factor that exists in interpersonal violence is the devaluation of the victim. A victim can be devalued and isolated in many ways. The victim can be seen as “less than” through sexism, racism, or homophobia. These issues are magnified in environments where there is an “us” and “them” mentality. This mentality may be about the “enemy,” straights versus gays, “snitches,” or any label or roles

prescribed to another person that is seen as weaker, lesser, or otherwise pejorative to the victim. The narcissistic, arrogant, antisocial personality will exploit the group's ideas about the victim to further justify sexual aggression and exploitation and may, in fact, garner group support (or at least silence) in regards to the assault behavior. This process has clearly been illustrated in Abu Ghraib.

All of these factors contribute to the behavior of a character disordered offender, the victim, and the "witnesses," to cover, collude with, and hide sexual assault. Additionally, it is very important to understand the sexual assault in the context of the character and not evaluate it just in terms of the presence or absence of sexual deviance or other criminal "record." Sexual assault and the pre- and post-offense behavior is always reflective of the character before you.

Mr. TIERNEY. Thank you very much for those remarks.

Now I have the disturbing news to tell you all that we have just been signaled down for eight votes, which could take probably 30, 40 minutes, minimally, on that. Are any of you going to have difficulty remaining here to respond after that? If you are not, we would appreciate your forbearance. Again, we apologize for it and we will see you back here in a half hour or so and proceed from that point, hopefully at that point without interruption for the balance of the hearing. Thank you.

[Recess.]

Mr. TIERNEY. Mr. Turner has graciously allowed us to proceed, even though he is not back yet.

So, with that, Mr. Berlin, I want to thank you again for your forbearance and patience. I notice that you have been married for 39 years and are the father of four, so I assume that you have plenty of patience. I appreciate it. Thank you.

#### **STATEMENT OF FRED BERLIN, PH.D.**

Dr. BERLIN. Thank you very much.

Thanks for inviting me, first of all. Rather than simply summarize what I have put down that you can read, let me just make a couple of brief statements; perhaps just three.

The first will sound simple, but nonetheless I think it's important, and that is to emphasize that any approach to dealing with issues of sexual abuse must be comprehensive. We wouldn't dream of trying to solve the multiple problems associated with alcoholism simply by getting tougher on drunk drivers or maybe putting them on some kind of a registry. Yet, society's approach to this problem, in my judgment, at least, in recent years has emphasized, correctly, criminal justice approach, but very little about education, about prevention, about the kinds of things that I feel are important.

To really address this issue, we have to look at problems that are intrinsic in a system. For example, the fact there is a system to deter either victims and/or offenders from coming forward and identifying themselves and getting help. We have to identify vulnerable individuals and try to be of assistance to them. There are many people who are struggling to integrate their sexual needs in an otherwise productive and responsible lifestyle, and yet, often those people go unidentified and we don't see them until it is too late.

The second point I want to make, and it is probably the most difficult one, particularly from the political point of view, is that I believe, if we are really going to solve this problem, we have to stop looking at this dichotomy that suggests that one is either concerned for victims or concerned for offenders. I would argue that the best favor that one can do a prospective victim is to keep him or her from becoming victimized in the first place, and we can only do that by learning more about those factors that predispose individuals to become offenders.

I think we have made it difficult for offenders who want to get help before the fact to step forward. I can give an example, actually. The gentleman who, in his final year at a military academy, within the past few years was court-martialed and had to leave because he had begun to download child pornography. This was a

man who knew that he had a problem. He desperately had wanted help, but he was extremely afraid to raise his hand and identify himself because of what it would likely have done to his military career. He knew that if he sought help, that might be reported to the commanders.

And I do understand that what is best for the military has to come first, but it deterred him from seeking help, and he had to hear names like pervert and predator attached to him, and I can assure you that is not particularly helpful. This was a very nice young man who had a serious problem and yet, it is hard for anyone with any psychiatric issue to raise their hand and ask for help. It can sometimes be particularly difficult in the military setting, where people learn that they need to be tough and deal with issues, and I think particularly difficult for people that are struggling to try to integrate their sexual needs into a proper lifestyle.

The final point I will make, and I will make it because we are in a legislative body, is that, in my judgment, so much of what has been done legislatively in recent years has been based on the exception rather than the rule. In other words, we hear about some absolutely horrible crime, a child is kidnaped, sexually assaulted and murdered, and, understandably, there is tremendous emotion, a sense that we need to do something, and we try to proceed to take action.

In the example I am giving, however, which is an example of sexual abuse, that kind of situation represents a fraction of 1 percent of the overall problem. So it begs the question in my mind that do we have the most effective public policies when public policy begins to be driven by the exception rather than the rule. There are many people who engage in sexually abusive acts—and I can tell you this from years of experience—who do want help, who will accept if it is offered to them. The recidivism rate, contrary to what tends to be out there in the public consciousness, is by no means as high as people tend to think it is.

In fact, I mention in my written testimony that a study published by the Office of Justice Programs that looked at the sex offender recidivism rate as a group found it to be lower, lower than the recidivism rate for people who commit other crimes and serious offenses, and, yet, almost all of the current public perception and public policy is based on exactly the opposite assumption.

So, again, I thank you for letting me come here today. I realize that some of my remarks are a little bit against the grain of what you may sometimes think. I assure you that I am very concerned about protecting victims; I know every single decent human being is. But until we stop demonizing all offenders, polarizing, acting as though all of them are less than human, they don't have families, they don't have people that care about them, in my judgment, at least, it moves us backward and not forwards.

[The prepared statement of Dr. Berlin follows:]

**Testimony of Dr. Fred Berlin**

**Associate Professor, The Johns Hopkins University School of Medicine**

**Subcommittee on National Security and Foreign Affairs, Thursday, June 25, 2009**

First, I would like to express my thanks for the invitation to address the Subcommittee. In doing so, I have been asked to say a little bit about the issue of sexual assault in general, and then to address more specifically the question of sexual assault in the military. Although defined in a number of ways, in general, sexual assault can vary in its nature from violent rape and even murder on the one extreme, to sexually suggestive acts that fail to pay proper respect to another individual's sensibilities and right to be respected on the other end of the continuum.

In general, the psychiatric profession has been able to identify at least two broad categories of sexual offenders; those who are sexually disordered, and those who are not. The sexually disordered offenders' acts are driven by the recurrent presence of abnormal sexual cravings. For example, persons with pedophilia (one of the recognized sexual disorders) experience recurrent eroticized urges that are directed towards prepubescent children (i.e., usually children under the age of 12). Whereas the average man experiences little, if any, desire to engage in sexual acts with a very young child, persons with pedophilia must often recurrently fight off such urges to prevent themselves from acting.

None of us decide as children whether we are going to grow up to be sexually attracted to women, men, boys, or girls. In growing up, each of us discovers what sorts of persons we are attracted to sexually. Thus, persons with sexual disorders such as pedophilia have not simply somehow decided to experience "an alternative state of mind." Who amongst us would decide, if we had that choice, which we do not, to grow up to be sexually attracted to children? In that sense, then, a sexual disorder is indeed a legitimate psychiatric affliction.

It is not a person's fault that he has a sexual disorder such as pedophilia. It is his responsibility to do something about it. However, as with drug addiction or alcoholism, doing something about it may require gaining access to appropriate mental health resources. Such resources are often very much lacking both within and outside of the military community. That is especially unfortunate given the fact that many sexually disordered individuals can be successfully treated; treated, for example, with medications that lower the intensity of sexual hunger. With such treatment, documented recidivism rates have been remarkably low.

The sexual offender who is not sexually disordered (i.e., who has a conventional sexual makeup) is by definition not predisposed to act because of the presence of abnormal sexual cravings. Rather, he may act because: (1) he lacks a sense of conscience and moral responsibility, (2) he is impaired in his judgment and disinhibited in the control of his impulses secondary to intoxication, (3) he has some form of major mental illness or mental retardation, or (4) for a variety of other reasons as well.

It is important to appreciate, particularly when it comes to the sexually disordered sexual offender, that legislation and criminal justice interventions alone (which are indeed essential),

cannot by themselves fully address either the prospective patient's needs, or the best interests of the community. For example, if the person with pedophilia is simply sent to prison, there is nothing about prison alone that can either erase his attraction to children, or heighten his capacity to successfully resist acting upon unacceptable sexual temptations. A sexual disorder can neither be legislated nor punished away. In that sense, sexual disorders are both a criminal justice problem and a public health problem requiring the attention of both the Attorney General and the Surgeon General. Only by supporting research to learn more about what factors predispose some individuals to engage in sexually assaultive acts in the first place can we, as a society, hope to make important advances in primary prevention. Support for treatment, education, research, and for appropriate criminal sanctions are all vital. Today, achieving a better understanding of the role of the Internet in contributing to the commission of certain sorts of sexual offenses is also vital.

Before closing, I would like to make a couple of brief additional comments. First, I am unaware of any evidence suggesting that sexual abuse is any more common in the military than it is within the civilian population. That said, even though clearly the overwhelming majority of military personnel never act in a sexually abusive fashion, various sorts of stressors can heighten the temptations experienced by certain vulnerable individuals. Such stressors can include the pressures often associated with military life. Working to instill an attitude of respect towards others in general, and providing education and counseling to those who may be experiencing unacceptable sexual urges, is of considerable importance. Military personnel need to appreciate that asking for help, when it is needed, is not a weakness, particularly when doing so can assist in preventing sexually abusive acts. Working to eliminate the stigma associated with being sexually disordered, and with seeking out help for psychological vulnerabilities, should be an ongoing process.

Finally, with respect to matters related to legislation, it is important to note that much of the current legislation regarding sex offenders has been enacted as a response to a specific horrible incident such as the kidnapping, sexual assault, and murder of an innocent child. Yet these sorts of crimes represent less than 1% of the documented cases of sexual abuse. When legislation, regardless of the genuineness of its intent, creates policies that are based more upon the exception rather than the rule – that begs the question as to whether such legislation constitutes the most effective forms of public policy. In that same vein, it should be emphasized that contrary to common public misperception, research published by the United States Department of Justice (via the Office of Justice programs) has documented that as a group, sex offenders have a lower, rather than a higher, rate of recidivism than groups of individuals who commit other forms of serious and dangerous criminal acts. Yet once again, in recent years both public perception and public policy has been driven not by such objective data, but instead by unsupported contentions to the contrary.

I trust that this information will prove useful. Should you require any additional information from me at this time, please do not hesitate to let me know. I have enclosed a copy of my professional biography along with this submission in the event that that might prove to be of some help to you. Should you require a more full copy of my professional vitae, please do not hesitate to contact me for such a purpose. Thank you very much for your kind consideration.

Mr. TIERNEY. Thank you very much, Dr. Berlin.  
Dr. Hillman.

**STATEMENT OF ELIZABETH HILLMAN, PH.D., J.D.**

Dr. HILLMAN. Thank you, Mr. Chairman.

I appreciate the opportunity to be here today. I would like to talk a little bit about military law, which I think is part of the problem, as well as part of the answer, to the grim and important and vexing issue of sexual violence in the armed forces. I want to suggest that war is not the primary context in which American military war has been made, but rape is the primary context in which it has been made, and that has some consequences for understanding how much criminal justice can be part of the solution here and how much military criminal justice will not solve this problem for us.

The first point I would like to make is that the effort that the armed forces and the U.S. Government has put into solving this subset of military sexual violence, that is, violence directed against service members by other service members, which is really a small part of what the larger issue is, but the resources we have put into that are extraordinary, I think. They are evidenced by the work that this committee has done; they are evidenced by work across the armed forces, the different branches of service commanding officers who have spoken out against this, and many different programs that have been initiated in the military.

It is also evident in the doctrines of the military courts. Contrary to what casual observers might think, military rape law is not backward and behind the times. In fact, the doctrine of constructive force—the idea that the force required to perpetrate a sexual assault could be not physical, necessarily, but could be coercive—that came about in military courts in the 1950's. Likewise, the statute that governs sexual assault in the military has been significantly revised just a year ago. We have a much more complex, perhaps unmanageable, article to prosecute military sexual assault now compared to what we had in the past.

Yet, these changes have not solved the problem, nor have the efforts to train and to educate service members solved the problem. I think part of the problem is that the culture of the military is linked to that law, and part of that culture and that law makes rape and sexual violence a norm in military circles, a part of authentic soldiering rather than not a part of soldiering.

I think that many military legal precedents, because they are grounded in sexual assaults and in domestic violence, may create an assumption that women are vulnerable; create an assumption that sexual stereotypes, that racial stereotypes are the norm and that persons act on those in an area of sexual interaction and assault and coercion, and that this has a tremendous impact.

I would like to suggest, then, that no matter how many service-women we have in positions of authority, no matter how much rhetoric we subject men and women who are in our armed forces to about the necessity of ending this problem, that we need to break that link between sexual violence and war, between soldiering and rape, and I think one of the ways that we can consider doing that is by prosecuting at least some sexual assaults in civilian, rather than military, courts. I don't think that court-martial

is necessarily the right place for these sorts of prosecutions to happen.

Now, the objection to that is a valid one, and that is the objection that it is important for a commanding officer to protect all of his or her troops, including those troops who are victims of sexual violence, those who are survivors, those who are perpetrators, to get them the help that they need to stop this from continuing to happen and to protect the civilian population, as well as other service members from those persons. That is a fundamental function of command.

But we are already breaking that in some ways by the changes that we have made, by allowing restrictive reporting by service members who have been assaulted, by not having commanders get full knowledge of the accusations against individuals in the military who are accused of perpetrating sexual assaults. This is not to demonize those folks, this is just to say that one way we can consider trying to break that link between war and rape, between what seems like a trans-historical and, in some ways, hopeless problem to solve is by taking the prosecution away from military courts, by making rape and sexual assault get prosecuted in civil courts, as the majority of the rapes that take place in the military are not specifically military in nature, it is not a crime of war; it is an acquaintance rape, it is a rape among young people who have abused alcohol, for instance.

Many different types of sexual assault take place, but certainly a significant part of it is in that realm. There is no reason that you need a specifically military court to adjudicate those sorts of questions and to reach a decision about the guilt or innocence of a person accused in that sort of case.

That is but one part of what might be a solution and a part of how the law that governs this area of human interaction and military interaction is a part of the problem. Thank you.

[The prepared statement of Dr. Hillman follows:]

Statement prepared for

“Sexual Assault in the Military Part Three: Context and Causes”

Hearing before the Subcommittee on National Security and Foreign Affairs,  
House of Representatives, Committee on Oversight and Government Reform  
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I thank the Subcommittee for inviting me to contribute to the ongoing discussion over the critical topic of sexual violence within the U.S. armed forces. The sexual harassment, coercion, and assault of U.S. servicemembers by their comrades-in-arms is but a fraction of the global incidence of military sexual violence, but it is an especially troubling phenomenon for many reasons. The American military has access to greater resources in terms of training and education than many other military forces, yet it has not been able to stop the outbreak of scandal after scandal of military-on-military sexual assault. Moreover, the U.S. government and its military aspire to preserve the dignity and promote the fair treatment of servicemembers across lines of gender and military rank, an aspiration thwarted by the persistence of sexual exploitation and assault within the services.

Military-on-military sexual violence—the type of sexual violence that most directly disrupts operations, harms personnel, and undermines recruiting—occurs with astonishing frequency even in the American armed forces of today. The U.S. military has responded with a campaign to prevent and punish military-on-military sex crimes. This campaign, however, has made little progress, partly because of U.S. military law, a special realm of criminal justice dominated by legal precedents involving sexual violence and racialized images. By promulgating images and narratives of sexual exploitation, violent sexuality, and female

subordination, the military justice system has helped to sustain a legal culture that reifies the connection between sexual violence and authentic soldiering.

The U.S. military has not overlooked the problem of rape, nor have civilian leaders dismissed it. Commanders, members of Congress, legal reformers, and educators have devoted significant resources to a troubling, if limited, subset of military sexual violence: military-on-military sexual assault. Rapes and other sexual violence committed by servicemembers against fellow troops have generated outrage, media coverage, and political response, but no end to the litany of soldier-on-soldier sexual violence.

Military sexual violence has not persisted simply because commanders have ignored the allegations of their troops or military institutions have failed to initiate reforms. Rape has long been a much noticed and harshly punished—in some circumstances—crime of American soldiers. Since the feminism of the 1970s and the Vietnam War transformed rape into an issue of profound public importance, civilian officials and military commanders alike have taken the problem especially seriously. Perhaps most important, the end of conscription and the integration of women into the armed forces have made military rape a threat to recruiting and to the morale and effectiveness of the all-volunteer force.

Much, then, has already been done to attempt to reduce the prevalence of military-on-military rape. The military criminal code governing sexual assault has been overhauled, the policies that set the tone for the investigation and prosecution of rape have been rewritten, and the cultural norms that encouraged sexual exploitation and the degradation of women have been undermined with training and education. Yet this generation of change has seemed to make little progress toward reducing the harms of military-on-military sexual violence. Both the root problem (sexual violence) and its military corollaries (bad publicity, compromised operations, poor physical and mental health among veterans and servicemembers) seem invulnerable to even the most ambitious legal reform.

My study of U.S. military law reconsiders the lost cause of legal reform by examining intra-military sexual crime and law since the Vietnam War. I believe that military sexual violence has been, and continues to be, so central to military legal precedent that it has both shaped the substance of military law and strengthened through repetition the image of some men as sexually violent predators and women as sexual victims. Because of the dramatic and well-publicized extent of military-on-military sexual violence, it has become normalized in military culture, even as changes in military demographics, law, and policy have raised awareness of and punishments for military sexual violence. Sexual violence has, in short, become a primary context for military law; most landmark opinions in the annals of military justice involve crimes of sexual violence. These cases of rape, sexual assault, and domestic violence have had profound collateral consequences as well as direct implications for substantive military law. They have created an impression of female vulnerability and male dominance, lessened the standards of accountability to which servicemembers are held, and reinscribed racist assumptions about sexual predators. In short, legal narratives of sexual violence have become an increasingly prominent discourse through which military norms of gender relations, power dynamics, and individual vulnerability are articulated.

Although we often think of war as the most relevant context for the making of military law, rape and domestic violence have been at least as salient as armed conflict in the construction of U.S. military legal precedent. Sexual violence is so anchored in military law and culture that new codes, new commanders, and new demographics have failed to dislodge it. In a distressing paradox, the repetitive narratives of military sexual violence that appear at courts-martial and in the appellate record do more than subject criminals to punishment and vindicate victims. They also disempower women and routinize male sexual dominance, making the military legal system—which is responsible for prosecuting virtually all military-on-military sexual violence—a part of the problem as well as part of the solution to military sexual violence. The attention that military-on-military rape is again attracting has created another opportunity to ameliorate the tragedy of military sexual violence. For these efforts to be effective—for this *not* to be a lost cause yet again—reformers must reckon with the central place of sexual violence in military legal culture and work to overcome the presumptions that it has made.

Since the Vietnam War, law enforcement personnel, health care professionals, and scholars from many academic disciplines have studied the problem of sexual violence in and around the U.S. armed forces. Sex scandals and crimes in the armed forces have also attracted media scrutiny, self-study by the military, and government funding. Taken together, the statistical data, high-profile scandals, and medical and sociological literature reveal that military-on-military sexual violence remains a profound threat to the morale and welfare of U.S. servicemembers. They also suggest that while officials have tried to reckon with the problem, institutional responses have been largely ineffective.

Military law and policy surrounding sexual violence still have room to improve, but there is no doubt that the rhetoric of military leaders and the reality of substantive changes in statutes, doctrines, training, and policy demonstrate a genuine interest in reducing sexual violence within the ranks. Commanders have tried to create a culture that respects victims of sexual assault, offers preventive education and services to families, encourages investigation and prosecution, and in general embraces many of the "best practices" recommended by civilian advocates of rape prevention and amelioration of domestic violence. Yet after decades of legal and policy reform, military-on-military sexual violence remains a devastating health, morale, and welfare problem. Neither the aggressive criminal prosecution of high-profile incidents of sexual assault nor the attempt to reshape a culture that made light of, and in some instances encouraged, sexual exploitation have managed to stop the widespread occurrence of military-on-military rape.

Attempts to diagnose the reasons for the failure of cultural and legal reforms lead down several possible paths. The first, paved with good intentions and most heavily traveled by military reformers, is the path of the status quo. It sees the limited success of reforms to date as auguring well for future progress and presumes that improvement will be steady but incremental. The persistence of endemic military-on-military sexual violence, the very type of sexual violence about which military reformers are most concerned, suggests that adhering to this approach is likely to take too long, with its gains too often balanced by backlash, to satisfy either military leaders or human rights advocates. Another path, taken by those with little faith that military culture can be overhauled to value women and disavow sexual exploitation, is a dead end: it casts the link between military conquest and sexual dominance, and the volatile

soldierly mix of sexual deprivation and brutality, as too strong for even sex-integrated, modern militaries to break. This approach overstates the prevalence of military sexual violence and fails to account for its variation across geographic regions (reports of sexual violence seem to be more frequent at overseas than state-side duty stations, for example), military units (some units have been untouched by sexual violence scandals; others seem unable to avoid it), and periods of service (operational settings seems to trigger fewer reported incidents than periods of training). A third path descends into demographic analysis and criminal disposition. It contends that the volunteer army draws a disproportionate number of rape-prone men into uniform and blames military rape on wayward soldiers. This demographic (or “bad apple”) theory of sexual violence has surfaced repeatedly in assessments of the prisoner abuse at Abu Ghraib by critics who see the problem as individual malfeasance, not institutional culture, and in laments about the military’s declining standards and practice of granting waivers for recruits with criminal records. The demographic approach fails to account for the wide range of perpetrators of sexual violence across military ranks (it is not only low-ranking enlistees who commit rape and other acts of sexual violence) and ignores the military’s own role in socializing its recruits.

Moreover, none of those paths reckons squarely with the uneven terrain beneath them: the landscape of military justice itself. Part of the reason that reform has failed is that sexual violence has played a primary role in reshaping not only the military criminal law of rape, but in molding the very structure of military justice. Sexual violence is the charged crime in a disproportionate number of Supreme Court precedents that underlie modern military law—even precedents that are most often cited for principles that have nothing to do with sexual assault. In addition to these Supreme Court cases involving military justice, sexual violence is the charge in many essential precedents of military appellate courts, precedents that govern issues not related to the crimes of rape or sodomy, but rather to the nature and practice of military justice. This means that descriptions and interpretations of violent, sexualized encounters, often involving a serviceman assaulting a woman and/or a family member, are the template not only for media coverage of modern courts-martial, but for the making of military law itself. Sexual violence is so central to military law that it has altered the internal parameters of military legal culture, strengthening – at least in the realm of military justice – the time-worn association

between soldiers and rape. Male sexual violence is a fundamental context for the precedents that military judges apply, that aspiring judge advocates study, that commanding officers reckon with. Its presence has affected the substance of military criminal law as well as the culture in which it is practiced. Sexual violence has become the fundamental context for key precedents in military law after World War II. Rape and domestic violence, not desertion or murder, are now at the core of military justice.

This argument does not suggest that aggressive prosecution of military-on-military sex crimes is misguided. Indeed, such prosecution is an essential element of any attempt to address this issue. But the pervasiveness of sexual violence in military precedent has collateral consequences that should be articulated, especially in light of the persistence of the problem in the face of conventional legal and social reform. Much like the history of war has influenced military law, training, and culture, the history of sexual violence has changed military law and culture, creating models of behavior and assumptions about sex and gender that work against contemporary efforts to end sexual violence. Rape, sexual assault, child sexual abuse, and domestic violence have affected both the substance of the law and military legal culture.

An expectation of both female vulnerability and male dominance runs through military stories of rape and domestic violence. This presumption exists outside the law as well, where it has been challenged, with limited success, by the revised training and educational programs noted above. And of course it exists as well in civilian communities. But in military courtrooms, in the lessons taught to aspiring judge advocates, and in the registers of military appellate reports, the message of women's vulnerability in the face of sexual assault sounds loud and clear. This vulnerability persists despite women's advancement in the military. Servicewomen's success in winning promotions, performing a wide variety of military duties, and overcoming hostility has apparently not resulted in reduced exposure to military sexual violence. No percentage of women in uniform, no matter how capable or accomplished, can easily overcome the message that women are uniquely rapable and men uniquely empowered to rape – especially when the most common incident of military sexual violence involves a male soldier raping a female soldier, frequently in the very context of military duty. Trying to craft a legal regime that embraces gender equality (or something approaching it) is much harder when that regime is

rooted in a context of rape, a hierarchical space in which women and men are demonstrably not equal. And when lawyers, judges, and commanding officers encounter military legal precedents, they also encounter stereotypes about race-based propensities and sexual predation—and, perhaps, take away a lesson about the harms of racial discrimination in a system of selective criminal investigation and prosecution.

Sexual violence is a fundamental problem in warfare and in military culture, both historically and in contemporary military operations. It is a problem, however, to which the U.S. armed forces have responded: with good-faith efforts to measure the damage, adapt law and policy, educate servicemembers and commanders, and prosecute criminals. But those responses have largely failed, in part because of resistance within military institutions to cultural change, but also because the very structure of law in which those reforms operated was built on cases that see women as vulnerable yet dangerous, soldiers as male and overpowering, and accountability as a slippery slope rather than a clear-cut principle. More aggressive criminal prosecution of military sexual violence through current models, which dramatically under-prosecute male-on-male assault, threatens to exacerbate this problem by portraying yet more women as victims and yet more soldiers as rapists.

Prosecuting soldiers who rape in civilian rather than military courts could help to break the link between war, military service, and sexual violence. Treating soldiers who rape just like civilians who rape would allow military criminal law to focus on peculiarly military crimes. It would also undermine the acceptance of violent sexual aggression as part of the identity and behavior of the American soldier. This approach does not suggest that rape go unpunished, but that the effectiveness of military justice as a tool to fight military rape and sexual assault has been compromised by the very prevalence of sexual violence in legal precedent. Deterrence and compensation for sexual violence must happen beyond military criminal justice—in recruiting, training, assignment, promotion, civil affairs, and civilian criminal law—with the same energy and resources that now attend to military investigation and prosecution.

Mr. TIERNEY. Thank you. That was interesting.  
Professor Benedict.

**STATEMENT OF PROFESSOR HELEN BENEDICT**

Ms. BENEDICT. Thank you. I am very honored to have been invited here today.

In researching my book, "The Lonely Soldier: The Private War of Women Serving in Iraq," I spent the last 3 years interviewing over 40 military women who have served in Iraq and Afghanistan, along with some men, and I have also been examining veterans studies and surveys about sexual assault in military culture. I found that many women are being prevented from serving their country as they wish by systematic sexual abuse in the military.

Soldiers commit sexual assault because of a confluence of several things, some of which have been mentioned here: military and civilian cultures, individual psychology, and the nature of war, particularly of the war in Iraq. But given my time today, I will concentrate on military culture.

The American military has historically been a masculine organization deeply suspicious of women, and this has been slow to change. As a sergeant recently put it to me, in the Army, if you show any sign that you are a woman, you are automatically ridiculed and treated as inferior. Military language reveals this attitude to women only too often: drill instructors denigrate recruits by calling them girls, ladies, and more vulgar terms for women, the everyday speech of soldiers is riddled with sexual insults, and military men still sing misogynist rhymes that have been around for decades. See the written testimony I submitted here for an example of a Marine basic training song that is so violent I can't speak the words aloud.

Many women soldiers have told me that they feel that the view of women as inferior is upheld by the Pentagon itself. As long as women remained banned from ground combat, the message is sent from the top that women are second class soldiers who will never earn the full respect of their comrades. This is extremely important when you think about sexual assault because whatever the motivation of any individual rapist is, a profound resentment or lack of respect for women is part of it.

Women are not only seen very often as inferior in the military, however, but as sexual prey. An Army specialist who served in Iraq for 11 months said to me, one guy told me he thinks the military sends women over to give the guys eye candy to keep them sane. He told me in Vietnam they had prostitutes, but they don't have those in Iraq, so they have women soldiers instead.

Within the military is another set of age-old assumptions about acts against women who are trying to find justice for rapes: that women invite rape, that those who report sexual assaults are liars intent on ruining a man's career, and that men must be protected from such accusations at all costs. Thus, a woman who tries to report an assault often finds herself up against a solid wall of male comradery determined to silence her. Some women are silenced by countercharges; some are physically threatened; some are punished on other charges to undermine their credibility; some are intimidated by the common view of her as weak and a traitor if she re-

ports an assault. These are some of the reasons why, according to the Defense Department's most recent reports, some 80 to 90 percent of military sexual assaults are never reported.

The suspicion of women also is revealed in the military's abysmal record when it comes to arresting, prosecuting, and punishing its rapists. In 2008, a mere 10.9 percent of all reported assaults went to court-martial, and among those men found guilty, 62 percent were given punishments so mild they amounted to a mere slap on the wrist.

To even begin to change these attitudes and to fully integrate women so that they can serve their country without fear of being subjected to sexual persecution and discrimination, I suggest these eight reforms: end the Pentagon ban against women in combat, which is paradoxical and archaic—women are in combat in Iraq—and promote more military women; educate all officers and enlistees to understand that rape is an international war crime; expel all men who are found guilty of attacking military or civilian women in any way in the military forever; increase the severity of punishment for violence against women to be more in line with those in the civilian judicial system; ban the use of sexist language by drill instructors; educate all officers to take as much pride in protecting their soldiers from harm at one another's hands as from the enemy; train counselors to help male and female soldiers not only with war trauma, but childhood abuse and sexual assault; and, last but not least, we have to rescind the don't ask, don't tell policy, which codifies discrimination and is used disproportionately against women to drum them out of the military.

Thanks.

[The prepared statement of Ms. Benedict follows:]

**SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS****TESTIMONY ON MILITARY CULTURE, June 25, 2009****By Helen Benedict**

Professor of Journalism at Columbia University and author of *The Lonely Soldier: The Private War of Women Serving in Iraq*, Beacon Press, 2009.

**Contents: Military Culture; Prevalence of Sexual Assault; The Psychology of Assailants; Military Misogyny and the Lack of Consequences; The Iraq War and Sexual Violence; Reforms; Appendix: Testimony from a victim.**

I am a professor of journalism at Columbia University and the author of *The Lonely Soldier: The Private War of Women Serving in Iraq*, published in April 2009. To research this book, I interviewed over 40 female troops who served in Iraq, as well as women and men who had served in Afghanistan, Korea and elsewhere. I also spent three years examining veterans studies and surveys about sexual assault and military culture. Here are some of my findings.

Military women are being sexually assaulted by their comrades-in-arms in alarming numbers. Rape in American civilian life is already unacceptably frequent (one in six women is raped or sexually assaulted in her lifetime, according to the National Institute of Justice<sup>1</sup>), but in the military the picture is

even worse. Rape and sexual assault appears to be twice as frequent within the military as it is among civilians, especially in wartime<sup>2</sup>; soldiers are taught to regard one another as family, so military rape is like rape plus incest; and most of the soldiers who rape are older and of higher rank than their victims, so are taking advantage of their authority to abuse the very people they are supposed to protect. Department of Defense reports show that nearly 90 percent of rape victims in the Army are junior ranking women, average age 21, while most of the assailants are non-commissioned officers or junior men, average age 28.<sup>3</sup>

Furthermore, this sexual violence against military women persists in spite of numerous Congressional hearings on the subjects and recent DoD attempts at reform. It is time to ask why.

Soldiers commit sexual assault because of a confluence of military culture, individual psychology, and the nature of war, particularly of the war in Iraq.

#### **Military Culture**

Two seminal studies have been made of military culture and its attitudes towards women, one by Duke Law Professor Madeline Morris in 1996, and the other by University of California professor and folklorist Carol Burke in 2004,<sup>4</sup> and both found that military culture is deeply misogynistic. Misogyny is, of course, at the root of all kinds of abuse of women, from denying them promotions to rape.

As Burke pointed out, the military defines itself in relation to the outsider: us versus them. The outsider is not only the enemy but any soldier who does not

conform to the hyper-masculine and aggressive norm: the weak, the homosexual, and the female. As one recent Iraq war wrote about his Marine Corp training:

“The Drill Instructor’s nightly homiletic speeches, full of an unabashed hatred of women, were part of the second phase of boot camp: the process of rebuilding recruits into Marines.”<sup>5</sup>

Both Morris and Burke show that military language reveals this “unabashed hatred of women” all the time. Even with a force that is now over 15 percent female and with rules that prohibit drill instructors from using racial epithets and curses, those same instructors still routinely denigrate recruits by calling them *pussy, girl, bitch, lady* and *dyke*; the everyday speech of soldiers is still riddled with sexist insults; soldiers still openly peruse pornography that humiliates women (pornography is officially banned in the military, but is easily available to soldiers through the mail and from civilian sources, and studies have found a correlation between violent pornography and rape<sup>6</sup>); and military men still sing the misogynist rhymes that have been around for decades, like this Marine training chant:

*Who can take a chainsaw*

*Cut the bitch in two*

*Fuck the bottom half*

*And give the upper half to you...<sup>7</sup>*

This language not only perpetuates an antagonistic view of women but teaches it.

At the root of these insults lies the belief that the very antithesis of soldier is woman. Soldiers, the lore goes, are by nature brutal, muscular, overly sexed, aggressive, hyper-masculine, ruthless and deeply contemptuous of all that is feminine. As a sergeant wrote to me an email from Kuwait, where she was serving in 2007, "In the Army, any sign that you are a woman means you are automatically ridiculed and treated as inferior."

This view of women as inferior soldiers is upheld by the Pentagon itself. As long as women remain banned from ground combat (despite the fact that they are the ground combat all the time in Iraq), the message is sent from the top that women are second class soldiers who will never be able to earn the true respect of their comrades.

Women are not only seen as inferior in the military, however, they are also seen as sexual prey. An Army specialist, who served in Iraq for eleven months from 2005-2006, put it this way: "There are only three things the guys let you be if you're a girl in the military: bitch, a 'ho, or a dyke. You're a bitch if you won't sleep with them, a 'ho if you only have one boyfriend, and a dyke if they don't like you. One guy told me he thinks the military sends women over to give the guys eye-candy to keep them sane. He told me in Vietnam they had prostitutes, but they don't have those in Iraq, so they have women soldiers instead."

#### **Prevalence of Sexual Assault**

The view of women as sexual prey has always been part of military culture -- civilian women have been seen as sexual booty for conquering soldiers

since the beginning of human history -- so it should not be surprising that the sexual persecution of female soldiers has been going on in the armed forces for decades.<sup>8</sup> In 2003, a survey of female veterans from Vietnam through the first Gulf War, who had come to a VA hospital for medical help, found that 30 percent said they were raped in the military. A 2004 study of veterans from Vietnam and all the wars since found that 71 percent of the women said they were sexually assaulted or raped while serving. And a 1995 study of female veterans of the Gulf and earlier wars reported that 90 percent had been sexually harassed, which means anything from being pressured for sex to being relentlessly teased and stared at.<sup>9</sup> Especially heartbreaking is a 2007 finding by the Department of Veterans Affairs that homelessness among female veterans is rapidly increasing as women soldiers come home from Iraq and Afghanistan, and that 40 percent of them say they were sexually abused while in the service.<sup>10</sup>

The DoD shows much lower rates of rape, but that is because it counts only those rapes that soldiers have been brave enough to officially report. Having the courage to report a rape is difficult enough for civilians, where unsympathetic police, victim-blaming myths, and the fear of reprisal prevent some 60 percent of rapes from being brought to light, according to a 2005 Department of Justice study.<sup>11</sup> But within the military, reporting is even riskier. Military platoons are enclosed, hierarchical societies, riddled with gossip, so any woman who reports a sexual assault has little chance of remaining anonymous. She will probably have to face her assailant day after day, and put up with

resentment and blame from other soldiers who see her as a snitch. She risks being persecuted by her assailant if he is her superior, and punished by any commanders who consider her a troublemaker. And because military culture demands that all soldiers keep their pain and distress to themselves, reporting an assault will make her look weak and cowardly. For all these reasons, some 80-90 percent of military rapes are never reported at all, as the DoD itself acknowledges.<sup>12</sup>

### **The Psychology of Assailants**

The economic reasons behind enlistment are well understood: the military is the primary path out of poverty and dead end jobs for the poor of America. What is less often discussed is how many soldiers also enlist to escape troubled or violent homes. Two well-respected studies of Army and Marine recruits, conducted in 1996 and 2005 respectively and published in the journal *Military Medicine*, found that half the male enlistees had been physically abused in childhood, one sixth had been sexually abused, and 11 percent had experienced both.<sup>13</sup> This is significant because, as psychologists have long known, childhood abuse often turns men into abusers.<sup>14</sup>

In the 1970s, when the women's movement awakened public awareness of rape, criminologist Menachim Amir and psychologists Nicholas Groth and Gene Abel conducted separate but groundbreaking studies of imprisoned rapists.<sup>15</sup> They found that rapists are not motivated by out-of-control lust, as is commonly thought, but by a mix of anger, resentment, sexual sadism, and the need to

dominate, urges that are usually formed in childhood. The best way to understand a rapist is to think of him as a torturer: he uses sex as a weapon to degrade and destroy his victim.

Nobody has yet proven that abusive men like this seek out the military because it gives them a violent, misogynistic culture in which they are free to rape, but the likelihood that the military attracts violent men is so obvious one hardly needs a study to prove it. Still, for the doubters, Rutgers University law professor Elizabeth L. Hillman, author of a forthcoming study on sexual violence in the military, has found that sexist and violent men are indeed volunteering for the military.<sup>16</sup> Worse, the military has been exacerbating the problem by applying an increasing number of “moral waivers” to its recruits since 9/11, which means taking men with records of domestic and sexual violence, according to the DoD’s own reports.<sup>17</sup>

#### **Military Misogyny and the Lack of Consequences**

One especially destructive aspect of the misogyny within military culture is the set of assumptions that women invite rape, that women who report sexual assault are liars intent on ruining a man’s career, and that men must be protected from such accusations at all costs.

Thus, a woman who finds the courage to report an assault often finds herself up against a solid wall of male camaraderie determined to silence her by any means. (Please see Appendix containing a testimony by a woman who had just this experience.) Some women are silenced by the threat of counter-charges.

Some are physically threatened or beaten into silence. Some are punished on other charges to undermine their credibility. And so on.

Because of this attitude, the military has an abysmal record when it comes to catching, prosecuting, and punishing its rapists. In 2007, only about one twelfth of reported sexual assaults went to court-martial, and this was an improvement over earlier years.<sup>18</sup> In 2008, a mere 10.9 of all reported assaults went to court-martial, and among those men found guilty, 62 percent were given "nonjudicial punishments" or "administrative actions and discharges" so mild they amounted to no more than a slap on the wrist.<sup>19</sup>

The workings of misogyny within the military thus run deep: it admits sexually violent men, it feeds their violence once they are in, and protects them when they act it out.

#### **The Iraq War and Sexual Violence**

Robert Jay Lifton, a professor of psychiatry who has written books on the Nazis, Vietnam and Abu Ghraib, theorizes that in a war of brutal occupation, like that in Iraq, where the enemy is the resistance and the fighting is driven by what he calls "profound ideological distortions," soldiers are particularly prone to commit atrocities because they have no moral center to guide their behavior.<sup>20</sup> The recently revealed fact that our government condoned the use of torture, sexual violence and extreme brutality in the treatment of prisoners adds to this, suggesting that we have created a culture for our own military personnel in which brutality and sexual assault are not only tolerated but fostered.

### Reforms

These explanations for why soldiers rape -- a traditionally misogynist military culture, sexually violent recruits, lack of consequences for those who commit assaults, and the corrupting and brutal nature of the war in Iraq -- are certainly dispiriting to contemplate, but they do at least point to the possibility of the following reforms:

- \* End the Pentagon ban against women in combat, which is paradoxical and archaic, and promote and honor more women soldiers, thus elevating more of them to positions that command respect.
- \* Educate all officers and enlistees that rape is torture and an international war crime.
- \* Expel all men who are found guilty of attacking military or civilian women in any way from the military forever.
- \* Increase the severity of punishment for violence against women to be more in line with those in the civilian justice system.
- \* Ban the use of sexist language by drill instructors.
- \* Enforce the current ban against pornography.
- \* Educate all officers to insist that women be treated with respect, and to take as much pride in protecting their soldiers from harm at one another's hands as from the enemy.
- \* Train counselors to help male and female soldiers not only with war trauma but with childhood abuse and sexual assault.

\* Cease the practice of admitting soldiers with background of domestic or sexual violence.

Professor Helen Benedict, June 25, 2009.

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<sup>1</sup> [www.rainn.org](http://www.rainn.org). Website link to all cited stats.

<sup>2</sup> Madeline Morris, "By Force of Arms: Rape, War, and Military Culture" (*Duke Law Journal*, 1996), 653

Anne G. Sadler, et al., "Factors Associated With Women's Risk of Rape in the Military Environment," *American Journal of Industrial Medicine*, 44 no.1 (2003).

<sup>3</sup> Uniform Code of Military Justice, 10 USC § 920, Art. 120. [www.sapr.mil](http://www.sapr.mil). Department of Defense, annual reports, 2006-2007. [www.sapr.mil](http://www.sapr.mil).

<sup>4</sup> Morris, "By Force of Arms"; and Carole Burke, *Camp All-American, Hanoi Jane, and the High-And-Tight: Gender, Folklore, and Changing Military Culture* (Beacon Press, 2004).

<sup>5</sup> Martin Smith in *Warrior Writers: Re-Making Sense*, edited by Lovella Calica, published by Iraq Veterans Against the War, 2008, p.34.

<sup>6</sup> Morris, "By Force of Arms." (1996), 715.

Sadler, et al. "Factors Associated With Women's Risk of Rape in the Military Environment." (2003).

<sup>7</sup> Burke, *Camp All-American, Hanoi Jane, and the High-And-Tight* (2004), xi.

<sup>8</sup> Deborah J. Bostok & James G. Daley, "Lifetime and Current Sexual Assault and Harassment Victimization Rates of Active-Duty United States Air Force Women," 13 *Violence Against Women* 927, 940 (2007).

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<sup>9</sup> Sadler, "Factors Associated With Women's Risk of Rape in the Military Environment" (2003). See Erratum: *American Journal of Industrial Medicine*: 44:110

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(2003), which corrects rape rate from 28 to 30 percent.

Maureen Murdock, "Prevalence of In-Service and Post-Service Sexual Assault among Combat and Noncombat Veterans Applying for Department of Veterans Affairs Posttraumatic Stress Disorder Disability Benefits," *Military Medicine* 169 no. 5 (2004).

Murdoch M, Nichol KL, "Women veterans' experiences with domestic violence and with sexual harassment while in the military," *Archives of Family Medicine*, 1995 May; 4 (5): 411-8.

<sup>10</sup> Erik Eckholm, "Surge in Number of Homeless Veterans Is Anticipated," *The New York Times*, Nov. 8, 2007, A22. Source, interview with Pete Dougherty, the V.A.'s director of homeless programs.

<sup>11</sup> National Institute of Justice & Centers for Disease Control & Prevention. *Prevalence, Incidence and Consequences of Violence Against Women Survey*. 1998. U.S. Department of Justice, *2005 National Crime Victimization Study*. 2005.

<sup>12</sup> [www.sapr.mil/HomePage.aspx?Topic=Sexual%20Assault&PageName=reporting.htm](http://www.sapr.mil/HomePage.aspx?Topic=Sexual%20Assault&PageName=reporting.htm)

<sup>13</sup> L.N. Rosen and L. Martin, "The measurement of childhood trauma among male and female soldiers in the U.S. Army," *Military Medicine* 161 (1996): 6, 342-345.

Jessica Wolfe, Kiban Turner, et al. "Gender and Trauma as Predictors of Military Attrition: A Study of Marine Corps Recruits," *Military Medicine* 170(2005): 12, 1037.

<sup>14</sup> Author interviews with Nicholas Groth and Dr. Gene Abel, above, and research for author's book, *Recovery: How to Survive Sexual Assault*.

<sup>15</sup> Menachim Amir, *Patterns in Forcible Rape* (Univ. of Chicago Press, 1971), 341. Nicholas Groth and H. Birnbaum, *Men Who Rape: The Psychology of the Offender* (New York: Plenum Press, 1979). Helen Benedict, *Recovery: How to Survive Sexual Assault* (Doubleday, 1985, and Columbia University Press, 1994) pp.6-9.

<sup>16</sup> Morris, "By Force of Arms," (1996), 680, 721.

Elizabeth L. Hillman, Professor of Law, in an email conversation and interview with me, March 14, 2008 and in "Front and Center: Sexual Violence in U.S. Military Law," unpublished paper, 2008.

<sup>17</sup> Lizette Alvarez, "Army Giving More Waivers in Recruiting," *TheNewYorkTimes.com*, Feb. 14, 2007.

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Mark Benjamin, "Out of jail, into the Army," *Salon.com*, Feb. 02, 2006.

<sup>18</sup> DOD, "Annual Report on Military Services Sexual Assault," March 14, 2007 and March 13, 2008. [www.sapr.mil](http://www.sapr.mil).

<sup>19</sup> DOD, "Annual Report on Military Services Sexual Assault," 2009. [www.sapr.mil](http://www.sapr.mil). And, [http://www.huffingtonpost.com/helen-benedict/the-pentagons-annual-repo\\_b\\_177563.html](http://www.huffingtonpost.com/helen-benedict/the-pentagons-annual-repo_b_177563.html)

<sup>20</sup> Robert Joy Lifton, "Conditions of Atrocity," *The Nation*, May 31, 2004, and several books.

#### Appendix

(Testimony received by author via email, June 22, 2009)

My name is Christina Baker and I am a civilian, a recent recipient of a Master's degree from the University of California-San Diego, a teacher, a dancer, a sister, a daughter, and an activist for victimized women.

On Feb. 1, 2009, I was raped by a Captain in the US Marine Corps and later physically assaulted by him (on St. Patrick's day - no alcohol or party involved). I reported the rape 10 days after the event occurred to both the San Diego Police Department and NCIS.

My assailant has been a member of the Marine Corps since 2001, and although he has served in Iraq, Okinawa, and other sites around the world, his actions are completely unjustifiable and out of line with the Marine Corps code of conduct. Being a civilian, my access to military resources is limited. This is only exacerbated by the fact that military officers do not return my phone calls, and give me inaccurate information, enervating my capacity to ensure my personal safety.

I reported the rape to the San Diego Police Department on February 12, 2009 and the Marine Corps on February 13, 2009. No NCIS Special Agent ever made unsolicited contact with me and I was not granted a meeting with my police detective until March 19, 2009.

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I had to personally appear at the NCIS office at MCAS Miramar to get an NCIS Special Agent to speak to me about my case. Not only that, but it was not until May 11, 2009 that I was given the name and contact information for the agent assigned to my case.

As a result of NCIS's failure to act on my initial report, my assailant was permitted to take leave en route for over a month and a half to Costa Rica. He was in Costa Rica for six weeks, awaiting his transfer to Okinawa, Japan. This vacation has stalled the San Diego Police Department's investigation.

The fact that my assailant was allowed a vacation sends the repulsive message that because I am a female civilian, the injustice committed against me does not matter. I protested and finally my assailant's orders to be stationed in Okinawa, Japan were cancelled. This member of the United States Marine Corps does not embody the ideals of an active, commissioned officer, let alone a law-abiding citizen in the civilian sector.

I am requesting that someone with the authority to make decisions regarding my case and my safety help me in ensuring this Marine is made available to the San Diego Police Department for investigation and punitive action. I implore those of you with authority to take my case seriously, as it is disconcerting the way I have been treated, the way I have been ignored.

Best regards,

Christina Baker

Mr. TIERNEY. Thank you very much.

We appreciate the testimony of all of our witnesses. Thank you for sharing it with us.

I am going to yield time initially on the questioning to Ms. Harman. Ms. Harman has, as Mr. Turner mentioned, been on the forefront of this issue for considerably longer than most Members of Congress and many others, and has really been a champion of trying to make sure that we address this in a responsible way and stay on it until it is effectively and fully addressed.

So, Ms. Harman, we recognize you for 5 minutes.

Ms. HARMAN. Thank you, Mr. Chairman. Thank you. Thank you, Mr. Turner, for focusing the attention of the Oversight Committee on these issues. On the House floor, we did pass the DOD authorization bill. And that bill, as Mr. Turner said, contains some very useful language that he and I co-authored and tried to push DOD and the military services more about investigations, prosecutions, and protection. Mr. Turner gave me a shoutout a few minutes ago about the role that I played, and I just want to return the favor.

Mary Lauterbach, whose daughter and her unborn fetus were brutally murdered [remarks off mic] you, Mr. Chairman. I have been around here a long time, and these are issues that move me personally [remarks off mic] put their lives on the line for our country. But you have been there too, and we have met incredibly impressive women [remarks off mic] military services all over the world that have the capability and, in most cases, who serve with great distinction [remarks off mic] really appreciate the testimony from all the witnesses today.

Dr. Hillman, your testimony basically said in the military court system you can't find folks who will provide the justice we need, we have to go outside to the civilian sector, which we know does a much better job with this problem. I have talked about this issue personally to our current chairman of the Joint Chiefs of Staff, Mike Mullen, and to our immediate past Secretary of the Army, Pete Geren. All of these folks you wouldn't automatically think would [remarks off mic] but they all [remarks off mic].

In the case of Secretary Geren, he got so passionate about this that he personally pushed for 5 years a project that the Army called, "I Am Strong," the goal of which is to eliminate all rape and sexual assault in the Army in 5 years. He figured out that he had to go outside to get investigators to prosecute, and he did that to help train Army folks [remarks off mic]. I am not sure how far along his efforts are, but I am going to urge my colleague, John McHugh, who will succeed him, to take up the banner.

So, given that, given the fact that Admiral Mullen said to me "keep the pressure on" and that Secretary Gates was infuriated when the head of SAPRO [remarks off mic] charged with [remarks off mic] doing something with respect to the victims [remarks off mic] was prevented to testify by her senior officer, given their statements [remarks off mic] should we give up on the military now or do you think we can change the culture [remarks off mic] and that is that Pete Geren told me that he sees this as a challenge similar to racial integration [remarks off mic] it is the major cultural challenge [remarks off mic]. So given all that, do you want to reconsider?

Dr. HILLMAN. Thank you for the opportunity to respond. I wouldn't give up on the military. I have not given up on the military or on military lawyers or on military judges, but I think they need help on this issue now, and I think that civilians could do a better job. I actually think the parallel to racial integration is a powerful one. I remember when I was in the Air Force, I was nominated for company grade officer of the year. I went before the senior board and they asked me what the most important challenge was facing the military in the future, and I said handling the integration of women; and I was 22 and I knew a lot more than I do now, at least I thought I did then. Anyway, I agree that it is a huge problem.

I will say that the racial challenges of prosecuting sexual assault remain in the military. Capital defendants in the military are predominantly African American, those on death row are predominantly African American, the high-profile sexual assaults are predominantly prosecuted and have been against African Americans. It is not a place in which racial equality has resonated across military justice.

Ms. HARMAN. My time has expired, but I think it is a challenge that military leaders are taking on, and I think there are ways to do much better. This is a bright spot, I think, in a couple of committees in this Congress, one of which is this one, and I just want to conclude my testimony by thanking you both for the attention you are paying to this and will pay to it. If you are prepared to make the ultimate sacrifice for your country, your country has to be fighting for you.

Thanks very much.

Mr. TIERNEY. Thank you, Ms. Harman.

Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman. I also want to recognize Ms. Davis, who has joined us, who is the head of Personnel Subcommittee on Armed Services. Ms. Davis incorporated in her [remarks off mic] thank you for that. That is the bill [remarks off mic] talking about earlier and included provisions that hopefully will make a difference.

One of the things that I find really an opportunity in this topic is that although each case or circumstance may be unique, the issue of how it is handled comes up to the issue of culture, rules, and regulations and gives us a picture at times of things that we need to change. In a lot of our cases we were very surprised to find that the military protective order that had been issued had been allowed to lapse solely out of neglect, which led us to these should never lapse; it led us to the locals did not know that a military protection order had been issued. So when she came up missing and the police were called, they had no information whatsoever that there was someone else that they needed to check with.

The issue today that we have of the ability of someone who is the subject matter of a military protective order to transfer, where some of the people who are involved in the military protective order don't even have the appropriate information or the channels as to "how do I transfer?"

It is so different in a military setting because we have custodial care of the individuals that are involved. If someone deems it that

their work environment is unsafe and they are not in the military, they can quit their job, they can move out of town. They have freedom of movement, something that you lose once you have committed yourself to the military. So a lot of the things that we learn relate back to how do we change the rules and regulations to ensure protection and safety and prosecution.

But in looking at these, we still come back to the issue of culture. I am going to ask you each to speak about that for a moment, because the thing that is stunning to me is that it appears, even when you don't have a tragedy as in the Lauterbach case, where Maria came forward and made allegations [remarks off mic], that even if a woman does not have a safety issue, even if she comes forward and makes the allegation of rape and ultimately her life is not as at risk as Maria's was, there is still a tremendous career price to be paid. Frequently, if a woman comes forward, it is not merely that she has had the tragedy of the sexual assault that has occurred, but then there is the issue of how, in the military, it affects her career, and that is again something that you don't have in the private sector. In addition to freedom of movement, a woman in the private sector who is a victim of sexual assault, no one is ever going to say, well you are not going to be as good of a lawyer, you are not going to be able to pursue your career with vehemence, and her ability to continue to pursue her career is un-impacted.

I wonder if you would talk for a moment about the issue of culture and any of the issues that you might be familiar with with rules and regulations, because those are the ones that we can impact. I think the cultural issue is really important. How do we address this culture not just for prevention, which is incredibly important and we need to address, but when a sexual assault claim has been made, that individual is up against a culture that is either not necessarily supportive of their coming forward, but is also subject to a culture that I think they could be paying a price in their career. I would like your thoughts on that. Whoever would like to speak first.

Dr. VALLIERE. Well, I wanted to say that you are absolutely right, but this particularly military culture completely magnifies everything that women, or any victim, and I will include male victims of sexual assault, because as there is no room for female victims of sexual assault in the military, there is even less for male victims of sexual assault. But this culture incredibly magnifies what we find. As I said, it is a closed system. There is a return to the assault environment, there is reliance on that particular community; whereas a woman, not only do they have freedom of movement in the outside world, they have freedom to change support systems, which they do not in the military.

The other thing is there is an increased perception of benefits for false allegation in the military that I have noticed and there is an exacerbation of the idea that all of these are non-stranger rapes, which are very hard to prosecute generally, but extra hard to prosecute in the military as well.

Ms. BENEDICT. I would like to add that I think that on the level of the enlisted, where comradery and proof of loyalty is paramount, we are not going to be able to change the conception that anybody who tattles on anybody else about anything is somehow a traitor.

But I think it can come from the command. I have seen studies of this and I have also heard many troops testify to this to me, that when a commander of a given company or platoon or even down to a squad had the attitude that the way he or she keeps his platoon looking good and his career looking good is by following injustice and prosecuting and doing the proper things to protect his or her troops. It can make a huge difference to how much sexual assault actually happens and to how the troops treat each other every day.

But if the command is one of those who prefers his reputation squeaky clean by covering up any kind of wrongdoing and turning a blind eye, then the opposite happens. And this is a choice that a commander has, which kind of commander to be, and I think we can address that through education in the academies and through education of commissioned officers as well.

Dr. HILLMAN. Mr. Turner, I think it is a great point about what to do with those persons who are able to come forward and try to prosecute and initiate investigations of sexual assaults, what happens to them afterwards. I think it is possible, though, to integrate their experiences into the broader military culture, and here is why I think that is so. War is about survival in many ways. We want our soldiers to be able to handle things that are difficult and come through on the other side. What could be more difficult than surviving this sort of trauma, standing up before it, letting everybody know that it happened, and then working to resolve that?

I actually think a part of this is connected to our larger issues about mental health for service members and for veterans, and that we need to recognize that those persons who experience trauma can and in fact often do survive and are resilient and come back more powerful; and that is a cultural part of the armed forces and of our military culture that commanding officers need to not only do the right thing in terms of prosecuting and establishing a culture, but integrate stories of surviving incidents like this and standing up to prosecute them into the larger training environment of military life.

Mr. TIERNEY. Thank you. Thank you, Mr. Turner.

Ms. Davis, I want to first congratulate you on the work that you did on this bill, particularly with regard to this issue, and the work that you have had on an ongoing basis on the entire matter on that and give you an opportunity to question the witnesses.

Ms. DAVIS. Thank you so much. I am very sorry I wasn't able to be here for your testimony. I had a chance to look over a few of your statements, however, so I wanted to have a chance to ask you a few questions about that. I just appreciate the fact that you are talking about resilience here as well, and I think that what we are seeing in the military is that there are some families and there are some men and women who are able to take out of their experiences something that makes them stronger; whereas, others, as we know and we would assume, with the kind of adjustment problems that they have returning, but there would be some major troubles ahead trying to figure out how do you mitigate that for folks and how do you really support the resiliency. And it is a difficult question, whether we are dealing with sexual abuse and trauma or not, and that is something that really has to be dealt with.

I was also interested, and I think that this is probably to Professor Benedict, you mentioned what can we do, how can we help with this, and I think talking about the culture. One of the things that we heard at a hearing, this is pretty common-sensical, I think, is that in some ways, in the military, you have what is considered a toxic mix of sorts.

You have a lot of very risk-prone individuals who go into the services. We know 20 percent of the population essentially is fit physically, mentally, and goes into the services, and of that group a large number of people, as kids they were more ready to jump out of trees and take risks than other folks might be. So you have some of that. You also have the possibility that more women, according to some of the statistics, have had prior sexual trauma in their lives who go into the military. I don't know whether that is something that you all have found in your research or not, but if that is the case, then there are some possibilities there that might not be in other groups of individuals, and I wondered if you could comment on that.

Then going to some of your issues that you raised, I think, partly about the language that is used in training. That certainly plays a role. Is it an overwhelming role? Does it change people? Are people who are more apt to see women in that light, it is only confirming for them but maybe not necessarily life-changing for them. I wanted to have you talk a little bit about banning the sexist language of drill instructors, that issue, and also then just the penalties inherent in that.

One or two other quick questions. You just touched on it a little bit. How do we, within the services, use the ability to work well with the troops in this area as a career enhancement merit? And I don't know that you can necessarily say that if you haven't had to deal with this in your command, that therefore you are glossing over or you are avoiding it.

But, on the other hand, we ought to do something in the career path and in rewarding people who deal well with it. It ought to be just like a whole lot of other criteria that are used in terms of how you really evaluate the command. We have raised that on a number of occasions with the military and they basically say that, you know, it is really part of what we look at. But there may be something special that you have encountered that you could suggest, a better way of actually assessing the extent to which those in command are doing OK with this or actually educating their troops.

Ms. BENEDICT. Thank you very much for all the questions and bringing to mind several things that I wish I had a chance to say that I can now.

About the statistics, there were two really important studies, one done in the Army and one done in the Marines, that showed that about half of the men who enlist were physically abused as children and half the women were sexually abused, and many were both. So we do have a large population of the military who enlisted to escape violent homes.

Therefore, they are coming into the military with problems, which is why I mentioned very briefly that we need counselors within the military, on the ground, in Iraq with them, not only the combat stress counselors we already have in place, but people who

are trained to deal with childhood sexual trauma as well as whatever happens in the military to people to help them.

This goes to Dr. Berlin's point to help them before they start acting out, because there have been studies that have shown abused men often turn into abusive men. Not always, but often. So that is one way we could acknowledge that is an issue in the military and we can try and address it and stop it before it starts to become part of the problem.

Language, we do have a precedent. I mean, drill instructors are already banned from using racist ways and from cursing, so we have already done that. So I think it should be accepted to be able to say you can no longer call recruits by these denigrating words for women. And, in fact, it doesn't make any sense to put down recruits by calling them ladies, when some of them are ladies. That is archaic and needs to go.

The last thing, I know I am not going in order here, but, oh, yes, civilian culture. Part of training in boot camp, basic training, a great deal of it is about dismantling the civilian inside a recruit and building up a soldier instead. Some of the things that are dismantled I think are rather precious and it is too bad, but part of civilian training that we all get is a derogatory attitude toward women. So perhaps as part of breaking down the civilian and building up the soldier, it could be breaking down disrespect for women and building up respect instead, seeing women as comrades instead of as sexual prey.

And, finally, it occurred to me as I was speaking before that this idea of rewarding commanders who do followup justice for the victims in their command would be a splendid way to go about it, to acknowledge that they have done the right thing; not just to punish those who intimidate, which I think should be done too. I think there should be consequences with commanders when women are shut up, but rewarding those who do pursue the case and stand up for those who have been abused in their command.

Mr. TIERNEY. Thank you.

Thank you, Ms. Davis.

Dr. Valliere, let me ask you, you mentioned some of the traits that one might likely find in a perpetrator on that, and others have mentioned that as well. Are we doing enough to try to screen recruits to identify some of these indicators and then to try and begin counseling at that stage or setting up barriers to people that we know are going to be a problem, or can we identify people and identify that they are so likely to have a problem that we ought to do something about it at that stage?

Dr. VALLIERE. I don't really know what the screening process is, but I do know that when we refer back to culture, there are things in this military culture that actually encourage. When you have an us-versus-them mentality, you encourage callousness toward victims, especially if they are the enemy.

But along with what Professor Benedict says, I think the disregard and the disrespect for women isn't really ultimately a disregard for women, but it appears as a disregard for women because we devalue vulnerability and we condition in this culture to overvalue power, overvalue dominance, and overvalue some of the character traits that, when they are adapted, they may be successful

tools in the military. So part of when you talk about breaking down the civilian, you are also encouraging this idea that vulnerability equals weakness; and, in our society, weakness equals women, so there is this big attachment.

So one of the things there may be in terms of the education to educate some flexibility in that idea, some idea of honoring vulnerability and some flexibility. It is the personalities that are so criminal and narcissistic and callous that out of the context where they are useful they are not flexible. So you have a general callousness and entitlement and arrogance through the unit, as well as in a particular situation where those things might be necessary, say in a clinical setting with a surgeon. You have to have those characteristics of being confident and not get caught up in the emotion of it, and that has somehow gotten distorted with some of these personalities.

Mr. TIERNEY. Dr. Berlin, you mentioned that you thought that we sometimes legislate the exception, as opposed to the rule. Can you help us out with that? Show us where do you specifically point to on that regard and what might we do to change that?

Dr. BERLIN. Well, again, I want to make it clear. My area of expertise is simply in the area of sexual disorders and offenders in general, so I am not as well versed as some of you folks are in the military specifically. But examples have to do with the fact that most child abuse, for instance, is committed by people who are well known to the child, family, acquaintances, and yet, much of the legislation in the general public of reporting, of identifying individuals is centered around the idea they are somehow going to be unknown to others.

I think the broad brush approach that is out there is another example of what I am talking about. Years ago, when we first started the so-called war on drugs, and I am talking back in the 1970's, people could get a 50 year sentence for an ounce of marijuana because we didn't make distinctions about the various subgroups of people that existed who had difficulties with drugs.

Well, we have people now who are identified on registration lists as offenders who have looked at pictures and have never had a contact offense. Now, if there is evidence that this is a predisposer to contact offenses, that is one thing. But, if it isn't, we have to keep in mind that when we identify someone on a registry, we identify their family, we identify their children.

I don't want to get too much into anecdotes, but I had an example of a man who came in, the teacher was meaning well and reading out the list of people who had been registered offenders, and everyone turns to this one kid in the class and says, is that your father, and, by the way, were you the victim? Something that was intended to protect somebody who created all sorts of harm.

So just as with drug addiction, alcoholism and so on, there are huge distinctions, there are huge variabilities that I think we have to have laws that are going to take that into account and not this sort of throwing everything at everybody as though it is all the same. That is what I meant by what I said.

Mr. TIERNEY. Thank you.

Dr. Hillman, you mentioned that some of the current regulations that we have regarding this are unmanageable in some respects, or you fear they might be. Could you elucidate on that a little bit?

Dr. HILLMAN. The new Article 120 of the rape statute in the Uniform Code of Military Justice has not had much time on the ground for us to get a lot of evidence about it, but it sets out some 14 different crimes that used to be prosecuted under the general article of the UCMJ, Article 134 and now specified under Article 120, and we don't have a depth of jurisprudence on how those are going to be worked out, what standards will be applied, what sorts of crimes will end up under that statute.

Now, the attempts to codify and discuss are a good thing, a continued modernization of a system that has been modernized since World War II with the UCMJ, but it is part of what Dr. Berlin is talking about, it sweeps a tremendous amount of stuff into one umbrella, Article 120, what used to be the rape and carnal knowledge statute, that it is not clear it all comes from the same place or that the solutions are in especially aggressive prosecution.

More attention to deterrence, more attention to eliminating the workplace environment issues that actually Mr. Turner talked about, too, that are distinctive to the military, that is, the military is both workplace and home place for many persons, and it is not a place that people can opt out of easily, and to sweep all sorts of things, indecent exposure and access to materials and all the pornography offenses that are charged under that particular statute risks aligning the differences between things that are demonstrably different.

Mr. TIERNEY. Thank you. Maybe we have to revisit that. We will certainly consider that.

Mr. Turner, would you like to ask further questions?

Mr. TURNER. Well, again, I would like to thank each of you for your testimony. A lot of the testimony that we have that concerns the military is anecdotal, and I want to make it clear just for one footnote that even though we are pursuing this issue, sexual assault in the military, how do we address it, how do we do prevention, prosecution, and safety, how do we address culture, policy, and laws.

I wouldn't want anyone hearing this to get the mis-impression that anyone believes that there is something inherent to the military that is causing or is—our view is not that we are prosecuting the military in raising this issue; we are raising an issue that addresses the issue of men and women who are in the military.

When you pick up an issue that is what has happened to an individual or you look at culture, we are not here saying that the military is a bad place or that there are bad people there, but there are some times, even with good people, bad things that happen when you have a significant population such as in the military. The issues that we had talked about before of custodial possession of the people who are in the military, the close proximity, are things that also exacerbate the issue or things that we need to address in our laws.

I think sometimes when we talk about this, someone can get the impression that you pick up an issue that is a bad issue, that you want to go and figure out how to deal with it, how to address it,

how to resolve it; you are not using a broad brush to paint the entire institution of people who are serving their country in the military.

I have participated in a lot of these and I have a particular memo that I want to share with you, that I have shared in every hearing that I have participated in, and it gets right to the issue of culture. In culture, we have anecdotal stories. It is hard for us to pick up a culture and examine it. We can examine a policy; we can examine a law, rule, or regulation. But culture is a hard thing to ascertain. I am going to read to you an answer that was sent to me by Lieutenant General [remarks off mic], U.S. Marine Corps, Director of Marine Corps Staff, in a series of responses to questions I asked about the Lauterbach [remarks off mic].

When Maria Lauterbach was murdered, there was a press conference that occurred and there was a statement that I found troubling that seemed to indicate that the Marine Corps had no notice or no knowledge that she could be at risk, that her safety was a concern because there had been no violence that she had reported. Well, she reported sexual assault, and that is inherently violent. So that was very troubling to me, and I thought that if I asked a straightforward question to the Marine Corps, that I would get a straightforward answer that culturally would give us all a nice cleansing breath with respect to that, the implications of sexual assault on violence.

So I asked this question: "Doesn't a rape accusation inherently contain an element of force or threat?" And this is the answer I got: "As defined in Article 120 of the Uniform Code of Military Justice, rape is defined as the sexual intercourse by a person executed by force and without the consent of the victim." Then they go on to apply the specific facts of this case. They say, in May 2007, when Lauterbach formally made allegations of rape, the command was only made aware of two reported sexual encounters, one sexual encounter characterized as consensual by Lauterbach and the other alleged by her to be rape. Lauterbach never alleged any violence or threat of violence in either sexual encounter.

Now, that, to me, is an issue of culture. We even have the citation of the law. This is rape. Threat or threat of force of rape. Then we have facts that are applied, then we have policy, and out comes this cultural statement that Lauterbach never alleged any violence or threat of violence in either sexual encounter, one of which, in this answer, they identified as rape. I think that gives us a window to culture and that is why this has been such an important issue for me on the cultural side. I wonder if you would want to comment.

Dr. VALLIERE. I guess I don't hear any criminalization in the military in what you are saying, but the reality is this is a particular culture, it is a culture that is defined by different boundaries, rules, systems, hierarchy, prosecution, and what personality it attracts. In my testimony, I equated it similar to a prison culture, but we could also equate it to a college fraternity culture in which there are certain cultural challenges and certain aspects of that culture that not only attract certain personalities that can be problematic, but separate the victim from certain types of resources that they might otherwise have.

So it takes all the stereotypes, myths, everything we have, including the socio-cultural elements of male domination, degradation of women and vulnerability, the group psychology and it magnifies those and offers us particular challenges in not only the, like I described as the collusion and collaboration of the environment with a certain personality to create an offer, but then a certain collaboration with the offender to protect them from prosecution and to separate the victim from their supports.

Dr. BERLIN. I think your example also demonstrates the tremendous need for education. Here is somebody who is equating physical force with violence and doesn't understand that a violent act can occur even absent an actual physical act, and these are things that can be taught. It doesn't mean everyone is going to get it, but if you don't at least make the effort, some people who would have gotten it don't. So I think we are hearing something about culture that is based on a failure to understand and appreciate properly, and the importance of education in that, it seems to me, is obvious.

Dr. HILLMAN. I think that it is not a demonization of the military to recognize that we put service members in harm's way in a way that subjects them to emotional and mental stress that can have extraordinary consequences. The worst war crime in American history, the My Lai massacre, the mother of one of the perpetrators [remarks off mic] not a victim of that crime, the perpetrator [remarks off mic] she said they took a good boy and made them a murderer about her son, as having been recruited, having been drafted, actually, and served in the Army.

To say that soldiers are made more likely to be rapists is a very challenging thing to say, but there is no doubt that the sorts of [remarks off mic] consequences of being asked to do things that we are asking soldiers to do puts them at risk of behavior that they would in fact disown, that we deserve to give them support for recovering from, and that is a real part of understanding this problem in the military.

Ms. BENEDICT. I would like to add [remarks off mic] I actually did address this already in my testimony, but when I was interviewing women who had been serving in Iraq, I didn't go into this looking for stories of sexual assault. I didn't even know that is what I would find, but that is what I heard. When they described their everyday lives to me, I felt as if I was reading about a fraternity from 1940.

Attitudes toward rape are archaic, and your example illustrates that. It can be fixed with education, but there has to be a willingness to hear it. There is still a pervasive idea that women are really good for nothing but sex and that rape is just sex, with the women regretting it afterwards, and many of those other old-fashioned ideas that have been used to dismiss rape as a serious crime and to dismiss women as serious soldiers.

Mr. TIERNEY. Thank you.

Ms. Davis, do you have any further questions?

Ms. DAVIS. Perhaps this is a difficult one to ask you right on the spot, but one of the things that we have spoken about is what kind of messages, what kind of education is really helpful. Having watched a few of the videos, I was struck by the fact that I didn't think they were very compelling and wondered whether the men

and women in the field were a part of putting those together, because I think what they might see and the way they might say it was different. I was reminded of the teen pregnancy messages years ago. Adults were creating them and young people were looking at them and saying that wouldn't make any difference to me at all, but if you tell me I can't go out Saturday night. Those kinds of things.

And I am just wondering, have you seen any of the videos or the messages that are out there and do you have a sense of critiquing? If someone asked you what would you like to sort of stay in a kid's head [remarks off mic] and I appreciate what Mr. Turner was saying. I don't think any of us here, and certainly my experience has been this is not to say that the military is doing something which is counter to our values, necessarily, but we know that at the same time they are forced to create some values in the services because they are asking kids to do extraordinary, almost superhuman things. So it is a different way of managing one's emotions and one's physical prowess and all kinds of other things.

But what do you think should be out there? What is the message in a way that you would like to see the military developing as a foundation for their messages?

Dr. VALLIERE. One of the things, there are two main components that we see not only just for the military, but one, we really lack very good education on respectable, healthy sexuality, whether it is in the military or not, and that is even further exaggerated in these subcultures that are male-dominated. So we need to talk about that, how to be together and have sexuality, as well as educate for an intolerance of an exploitation of that.

The other thing we need to start educating is not just how not to be a victim, but how not to be an offender. What is consent? What is consensuality? What is exploitation? As well as there is a big movement in the public sector to educate about bystander apathy; basically, how to break that group norm when you are encountering sexual violence so that there is no collusion within the group to protect the offender, like in a fraternity or something like that.

Dr. BERLIN. Well, just briefly, since we are getting late. I think you touched on this earlier. We need to train people to be able to be violent in a controlled way, but we may also have to train them how not to lose their compassion, the sense that this woman is somebody's sister, this isn't just some object. So maybe we can do more in the process of instilling what needs to get into a soldier to be careful to instill, or at least not take away, some of the other human qualities that are so important to be preserved.

Dr. HILLMAN. I have seen some of the training materials. Some of them I think are very effective and some trainers are very effective, and others are not. I think the services are capable of sophisticated programs. The recruiting presence of the Army online, for instance, is an extraordinary marketing success, I would say. So it is clear that it is possible to reach, and I think it is mostly young people who would be the primary audience that we would find receptive to all these sorts of training.

I would also say that the policy messages that we send about consensual sexuality are critical to ending the criminalization of consensual sex in the military is a part of this answer, too; ending

the don't ask, don't tell policy; ending the criminalization of adultery absent aggravating factors. Those are critical to changing attitudes toward what really does constitute inappropriate criminal sexual behavior.

Ms. BENEDICT. I have to go back to my original point about the message from the top. As long as women are still being banned from certain jobs, especially from ground combat, which is sort of the essence of soldier in most people's eyes, they are still going to be seen as second-class, and I think the way to change attitudes in the military is not so much through trying to get men to see women as fellow human beings through abstract ideas, it is to give women the chance to win the respect and to have the power and to have the positions so that they really are equal, so that they are in command, so that they have real authority. And this is happening more, but women are still vastly outnumbered. But that is what works in the military; everybody has to win respect themselves.

And the trouble with the education that we have just been talking about is that there is a danger of condescension in it, there is a danger of looking at women as, well, we have to make allowances for them. And I have never met a single military woman who can stand that. So promotion and reexamining the Pentagon's ban against women in combat, I think that is essential.

Mr. TIERNEY. Well, thank you, Ms. Davis.

Thank all of you once again. Not only did you give us good and extensive testimony here today that we appreciate, but you have submitted written remarks and there are volumes of works that you are responsible for, very credible works that we appreciate and people have access to as well. We all have the list of things that you have reported on this subject, so I believe what you have said today and what you have written will be helpful as we assess whether or not there is recourse to come back at the end of the summer really to address and the way that we need to address this important issue.

Thank you for being here, thank you for your patience and the work that you do. Thank you to my colleagues. This meeting is adjourned.

[Whereupon, at 4:59 p.m., the subcommittee was adjourned.]

