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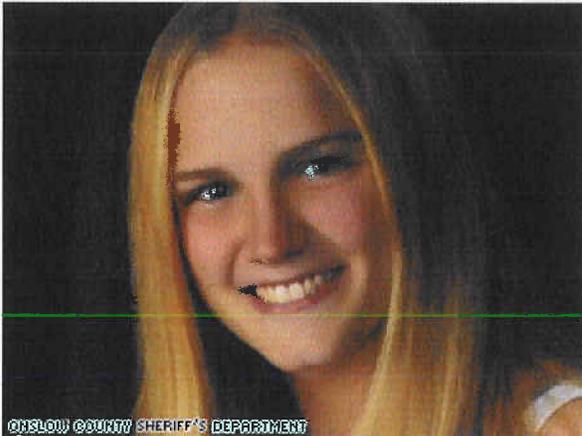
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Sexual assault in the military: Looking for a few good changes

BOOKMARK  By [Merle Wilberding](#) 8/4/08 7:07 AM

Merle Wilberding, the attorney for the family of slain Marine Maria Lauterbach, is a native of Breda, Iowa. He now lives in Dayton, Ohio.

More than six months have passed since the charred bodies of Lance Corporal Maria Lauterbach and her unborn child were found buried in a shallow fire pit in the backyard of fellow Marine Corporal Cesar Laurean. Maria had been missing for four weeks from Camp Lejeune, North Carolina, where she was stationed.



ONSLOW COUNTY SHERIFF'S DEPARTMENT

Maria Lauterbach

Throughout that period Marine officials had insisted to Maria's increasingly frantic family that the pregnant Marine had probably run away and there was no basis for a formal investigation. Shortly before the bodies were recovered by civilian

authorities, Laurean fled to Mexico. He has since been captured and awaits extradition to North Carolina to face first degree murder charges.

The horrific facts surrounding the murder have overshadowed underlying allegations of sexual assault and the Marines' responses to those allegations. I believe that Maria Lauterbach would be alive today if the Marines had provided a more effective system to protect victims of sexual assault, a more effective support program, and a more expeditious investigation and prosecution system. Six months before her murder, Maria Lauterbach filed a rape claim against Laurean, a superior in her unit at Camp Lejeune. The period while the claim was pending was a nightmare for Maria. She was subjected to intimidation and harassment. She was sucker-punched in the face one evening. Another evening, her brand new car was keyed -- "or rather screw-driven" - - from bumper to bumper.

Her real concerns were that her superiors and the NCIS investigators did not believe her. Worse yet, she was compelled to be in meetings and formations with her assailant, and she was unsuccessful in getting a base transfer. Finally, she told her mother, Mary Lauterbach, that she just wanted it to go away. She was sorry she had ever reported the rape. Maria's final telephone call to her mother was about an official Christmas party where she feared she might see Laurean.



As a young Army JAG captain, Merle Wilberding was assigned the responsibility to represent the Government in Lt. Calley's appeal of his conviction in the

infamous My Lai massacre. Merle Wilberding briefed and argued the case before the military appellate courts. Those arguments were memorialized in a series of courtroom sketches that appeared in a report by Bob Schieffer on the CBS Evening News on Dec. 4, 1972. After his own discharge, Merle Wilberding acquired one of those original courtroom sketches and is seen standing beside it in the accompanying photograph.

As a family, the Marines have been extraordinary in their outpouring of sympathy and support to Maria's family following the murders. I watched present and former Marines pour out their hearts in person and in their cards and letters. In late February I accompanied the Lauterbach family to a Memorial Service at Camp Lejeune that was simply extraordinary in its compassion and inspirational patriotism.

As an institution, the Marines have failed in their obligations to the Lauterbach family, and, more importantly, and failed in their obligations to women in the military who report sexual assaults. As legal counsel to the Lauterbach family I have had the opportunity to listen to the Marines' public explanations of the rape claim, their efforts to protect her, and their efforts to investigate and prosecute the claim. Their public statements have all been self-serving efforts to insulate themselves from criticism. Not once did they suggest that they have considered whether they could have done things differently in the past or would do things differently in the future. Instead of *mea culpa*, it has been *Maria culpa*.

In the last six months I have been contacted by more than a dozen families and support groups, all seeking specific help for women in the military who have been sexually assaulted. The stories have been virtually identical, the complaining victim becomes isolated, taunted, and tormented. She is not guided or directed to appropriate support programs, she does not feel protected from her assailant, and she finds herself treated as the guilty party, not the victim.

The security and safety of all of these victims, including Maria Lauterbach, was punctured by the hard realities of being a victim of sexual assault in the military. They all report that the military does not believe them, that they live in fear of

harm from the perpetrator, and that they are in fear of harassment and intimidation from the rest of the unit.



Wilberding appeared on the TODAY SHOW with Matt Lauer (center) and Maria Lauterbach's mother, Mary.

After NBC Dateline aired a program on the Maria Lauterbach case, I received a telephone call from a mother who had watched the program. Her 20-year-old daughter was a member of the military and had just made a sexual assault claim. Now she feared for her life. When she asked for a Military Protective Order, her first sergeant told her that it would be of no value, because, in her view, if her assailant wanted to kill her, the MPO would not stop him. She was threatened with her own court-martial if her story did not hold up. She was obligated to stay in the same unit with the alleged attacker and was haunted by his presence. She did have a Military Victim Advocate assigned to her, but the victim advocate told her that there was not really anything she could do.

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

All of these families have spoken out of desperation and fear, desperation because no one could help them and fear that their daughters would be physically harmed or emotionally traumatized. Like Maria Lauterbach, these

victims had been threatened with court-martial, administrative reprimands, or in some cases being drummed out of the service. One mother said that the only difference between her daughter and Maria Lauterbach was that her daughter was still alive.

The Marines are not alone in their failures. All of the military services need to address this problem. I don't mean that they should write a manual on Military Protective Orders or prepare a Power Point presentation on the Victim Advocate Program. They already have these materials. They need to transform the Power Point presentations into life-style changes in the everyday treatment of our women in the military who report sexual assaults.

All too often the "Military Victim Advocate" is only a "Military Victim Listener." These military victim advocates need to have the authority and the freedom to guide and direct these victims to enter appropriate support programs, to insist on proper Military Protective Orders, and to stand up for their rights. Often these victims have been traumatized by the sexual assault, and they desperately need guidance and direction to struggle through the inherent emotional trauma that is besetting them.

Victim advocates in the civilian world are far more proactive, far more protective, and far more effective than victim advocates in the military. This can be explained, but not justified, by understanding that military victim advocates are in the military themselves and have to survive within the same chain of command. If they challenge the system too much, they run the risk that their own positions may be in jeopardy.

Some steps have already been taken. In May Congressman Mike Turner (3rd Ohio) successfully added two sections to HR 5658, the DOD Authorization Bill for FY 2009. Both of these sections strengthen military protective orders by adding automatic renewal provisions and by requiring the military to put the civilian authorities on notice of these military protective orders.

More needs to be done. The Marines, indeed all military services, need an outside assessment of this problem for they have shown neither the ability nor

the inclination to evaluate their own failings. Congress needs to hold hearings on sexual assault in the military, especially the victim advocate program. It needs to study how the military victim advocate system compares to the civilian victim advocate system and what changes can be made to provide more effective support. This is critical because the victims live in such a controlled environment. They need help from victim advocates who have the authority to direct and guide them to the appropriate resources and relief.

The goal of these programs should be to help the victims recover from their emotionally wrenching trauma and restore them as productive members of the military workforce. This would literally save the lives of the victims and at the same time would improve and enhance the performance of the military.

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

*Merle Wilberding, the attorney for the family of slain Marine Maria Lauterbach, is with a Dayton, Ohio, law firm. He is a native of Breda in western Iowa and has long been involved with high-profile military legal cases, most notably the My Lai massacre prosecution during the Vietnam War. As part of his work with the Lauterbach case, a sensational murder investigation, Wilberding has advocated a change in culture in the military to prevent sexual assault on women. **The Iowa Independent** previously profiled Wilberding [here](#).*